



TOWN COUNCIL SPECIAL MEETING

Wednesday, October 2, 2024 at 5:30 pm

**Springerville Town Council Chambers - 418 E. Main St. Springerville, AZ
85938**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the Springerville Town Council and to the general public that the Council will hold a meeting open to the public at the Springerville Town Hall, 418 East Main Street, Springerville, Arizona. The Town Council reserves the right to adjourn into Executive Session in accordance with Arizona Revised Statutes Section 38-431.03 (A)(1)(3)(4) and (7) for legal consultation on any of the following agenda items.

TOWN COUNCIL SPECIAL MEETING: 5:30 PM

- 1. CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE:**
- 2. ROLL CALL:**

Members of the Town Council or Legal Counsel that are unable to be present in person at a scheduled Council meeting, may participate in the meeting by telephone or video conference.

NEW BUSINESS

- 3. 225 EAST MAIN STREET LEASE:**

Discussion and possible action on the proposed Lease Agreement for 225 East Main Street.

- 4. ADJOURNMENT:**

Submitted by: _____

Posted by: _____

Members of the public who only want to provide written comments can express their comments by emailing the Town Clerk at kmiller@springervilleaz.gov to be read if their is a call to the public. All comments must be submitted by 5:00 p.m. on the day of the meeting.

Americans with Disabilities Act (A.D.A.): The Town of Springerville intends to comply with A.D.A. If you are physically challenged or disabled and need special accommodations to participate in this town meeting, please contact the Town Clerk at (928) 333-2656 ext. 224 forty-eight (48) hours prior to the meeting to arrange necessary accommodations.

Contact: Kelsi Miller, Town Clerk (kmiller@springervilleaz.gov (928) 333-2656 x 224) | Agenda published on
09/30/2024 at 10:46 AM

**TOWN OF SPRINGERVILLE
MEMORANDUM**

TO: Springerville Town Council
FROM: Tim Rasmussen, Town Manager
DATE: August 30, 2024
SUBJECT: Lease Agreement 225 East Main Street

SUGGESTED MOTION:

I move we approve the two-year Lease Agreement for 225 East Main Street to Eclectica LLC for the monthly base rent of \$3,085.75 per month.

OR

I move we **do not** approve the two-year Lease Agreement for 225 East Main Street to Eclectica LLC for the monthly base rent of \$3,085.75 per month.

STAFF REPORT

Per Council's direction to investigate leasing the building at 225 East Main Street, town staff put together an RFP for the lease.

Posted date of advertisement September 13, 2024

Published dated in the WMI, September 13, 2024 & September 20, 2024.

Proposal due date September 26, 2024 @ 2 pm.

Bid Opening on September 26, 2024 @ 2:01 pm.

LEASE AGREEMENT

This Lease Agreement (“Lease”) is made effective the ___ day of _____, 2024, by and between the Town of Springerville, having its principal office at 418 East Main Street, Springerville, Arizona 85938 (“Landlord” or “Town”), and _____, a(n) _____, having its principal office at _____ (“Tenant”). For purposes of this Lease, each of Landlord and Tenant may be termed a “Party” and collectively may be termed “the Parties”.

AGREEMENT

1. Lease and Premises

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, on the terms and subject to the conditions specified in this Lease, the real property and improvements thereon which is commonly known as 225 East Main Street in Springerville, Arizona, consisting of approximately 5,358 square feet, and which is legally described in Exhibit A, attached and incorporated herein by reference, together with all and whatever improvements which are now existing or hereafter placed thereon (the “Improvements”) and any and all appurtenances thereto, all being referred to as the “Premises.” Landlord represents and warrants that it owns good and marketable title to the Premises, subject to restrictions, agreements, conditions and easements of record, conditions and notes on recorded plats or plans, and rights of any utility company.

2. Term

(A) This Lease shall commence on _____, 2024 (the “Commencement Date”), and shall terminate on _____, 2026 (the “Term”), unless sooner terminated as provided elsewhere herein.

(B) Tenant understands that the Term of this Lease is as stated in Section 2(A) and that it cannot be extended or renewed without going through the Request for Proposals (“RFP”) process again. It is acknowledged and agreed by Tenant that Landlord has no obligation to offer the Premises for lease under an additional RFP process and that any RFP process might not be contiguous with the timing of the expiration of this Lease.

(C) Either Party shall have the option to terminate the Lease without penalty by providing the other Party with ninety (90) days written notice of the intent to terminate. Such termination shall be effective as of the end of the month when the 90th day falls unless otherwise mutually agreed by the Parties.

3. **Rent**

Tenant agrees to pay to Landlord, at the location of notice or at such place as Landlord may designate in writing from time to time, rent for the Premises in the amount of _____ Dollars (\$_____) per month, payable monthly in advance without demand or notice, beginning on the Commencement Date and continuing on the first day of each calendar month of the Term of this Lease, except that for the final calendar month (or portion thereof) of the Term of this Lease, Tenant shall pay Landlord an amount which bears the same ratio to the monthly rate specified in this Lease as the number of days then remaining in such month bears to the total number of days in such month. Tenant does for itself, its successors and assigns, covenant and promise to pay rent without further notice and without demand, deduction, counterclaim or set-off of any kind. Any other sums due and payable to Landlord under this Lease shall be considered additional rent.

4. **Use of Premises**

The Premises may be used by Tenant for any lawful purpose reasonably related to operation of a _____. Tenant will not use or permit any use of the Premises in violation thereof, and will operate in a clean, safe and sanitary manner. Tenant shall be responsible to maintain and procure, at Tenant's own expense, all licenses, permits or inspection certificates required by any governmental authority respecting Tenant's use of the Premises.

5. **Taxes and Utilities**

(A) Tenant will pay all real estate taxes and assessments, if any, assessed, levied, confirmed, or imposed on the Premises during the term of this Lease, personal property, furniture, fixtures and equipment, and all replacements improvements or additions to them.

(B) Tenant will not be obligated to pay local, state or federal net income taxes assessed against Landlord; local state or federal capital levy of Landlord; or sales, excise, franchise, gift, estate, succession, inheritance, or transfer taxes of Landlord.

(C) Tenant shall pay for all utilities serving the Premises, including but not limited to internet and communication, water, gas, electricity, snow and trash removal.

(D) Tenant shall be liable for all business use and occupancy taxes due, if any, based on the occupancy and use of the Premises.

6. **Landlord Access**

Tenant shall permit Landlord and its agents, upon twenty four (24) hours' notice, to enter into and upon the Premises at reasonable times during normal business hours for the purpose of inspecting the Premises. For a period of ninety (90) days prior to the termination of this Lease, Landlord may: (i) enter upon the Premises during normal business hours to show the Premises to prospective tenants provided that such entry and showing does not interfere with the conduct of Tenant's operations and Landlord provides notice to Tenant not less than twenty-four (24) hours before entry; and (ii) erect signage upon the Premises for the purpose of advertising the availability of the Premises for lease. Landlord will have the right to use any means Landlord may deem proper to open doors in and to the Premises in an emergency to enter the Premises.

7. **Insurance; Self-Insurance; Indemnification**

(A) Tenant shall maintain during the term of this Lease adequate insurance as described in Exhibit B and incorporated by reference. Tenant shall not be responsible for maintaining insurance coverage for liability arising from the acts or omissions of the Landlord's agents or employees.

(B) The Landlord shall maintain during the term of this Lease adequate insurance or self-insurance to cover liability arising from the acts or omissions of the Landlord's agents or employees relating to the performance of this Lease. The Landlord shall not be responsible for maintaining insurance to cover liability arising from the acts or omissions of Tenant's agents or employees.

(C) To the fullest extent permitted by law, each Party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other Party (as "indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the acts, omissions, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

8. **Fire and Extended Coverage Insurance**

(A) Landlord shall throughout the Term of this Lease, at Landlord's expense, either through insurance or self-insurance coverage, keep the Premises and all Improvements on the Premises (but excluding equipment, furniture, and trade fixtures on the Premises) insured in an

amount equal to the full replacement cost against damages caused by fire, lightning, flood and all other causes of physical loss ("all risk" coverage). Landlord shall deliver to Tenant copies of insurance certificates evidencing the aforesaid insurance at the time of execution of this Lease.

(B) Tenant shall throughout the term of this Lease, at Tenant's expense, either through insurance coverage, keep the equipment, furniture and trade fixtures on the Premises ("FF&E") insured in an amount equal to the actual cash value of the FF&E against damages caused by fire, lightning, flood and all other causes of physical loss.

9. **[RESERVED]**

10. **Damages to Premises**

(A) In the event the Premises are damaged or destroyed by fire or any other cause Landlord shall, at Landlord's expense, repair or restore the Premises. Landlord shall complete such repairs or restorations in accordance with all applicable laws, rules, and regulations within one hundred twenty (120) days after such damage or destruction, provided however, if the completion of such repairs-or restoration shall be delayed by weather, strikes, inability to procure labor or materials, fire, flood, delays in obtaining permits, insurance proceeds, or other occurrences or conditions beyond Landlord's control, the aforesaid time periods shall be extended by the period of such delay. This paragraph shall not alter the right of either Party to terminate this Lease with a ninety (90) day notice to the other Party.

(B) If any such destruction or damage shall not be of such extent as to render the Premises wholly untenable for the use contemplated under Paragraph 4 above, then Tenant's liability to pay rent shall not cease but the amount of rent shall be abated proportionate to the amount of floor space lost as a result of such destruction or damage. If the destruction or damage shall be of such an extent that the Premises are wholly untenable, then the rent shall cease from the time the destruction or damage occurred until the Premises are restored or repaired to a condition suitable for the use as it existed prior to the destruction or damage occurrence.

11. **Condemnation**

If during the Term of this Lease the Premises or a portion of the Premises shall be taken as a result of the exercise or threat of the power of eminent domain (the "Parcel Taken"), Landlord and Tenant shall each have the right, at their option: (i) to terminate this Lease; or (ii) amend this Lease by deleting from the description of the Premises the Parcel Taken. As so

amended, this Lease and Landlord's and Tenant's obligations under this Lease, with the exception of the rent obligations specified in this Lease, which rent obligations will abate in proportion to the Parcel Taken, as of the day on which the condemning authority shall take possession, shall continue in full force and effect without change.

Following condemnation, if, in the opinion of Tenant, the property is no longer suitable for the operations of Tenant, this Lease shall be terminated as of the date on which legal title vests in the condemning authority or the date on which Landlord settles pursuant to a contract for the sale for public use or under the threat of condemnation, whichever first occurs, and all rental and other sums payable under this Lease shall be prorated to and shall cease as of such date.

The entire amount of any award for such taking shall belong to Landlord, and Tenant waives any right it may have to any portion of such award except for such amount as may reflect the value of improvements, if any, that Tenant has made to the Premises or to the value of FF&E, if any is taken.

12. Maintenance and Repairs; Environmental Matters

(A) Except as provided in Paragraph 12(B), Tenant, at its expense, shall at all times during the Term of this Lease keep the Premises, Improvements and appurtenances, fixtures, and equipment attached and related thereto, and all additions, replacements and expansions, in good condition and repair, and on termination of this Lease, will surrender all of same in good repair, broom-clean and free of trash, reasonable wear and use excepted. Tenant warrants that any new improvements, as may be provided by Tenant, shall comply with all applicable federal, state and local building codes and regulations. Tenant shall be responsible for routine maintenance and repair of the Premises, including but not limited to clearing of ice and snow from sidewalks and parking lot, sanding and/or salting, replacing broken window glass, janitor and cleaning services, window washing, repairs and maintenance to the building interior and exterior, construction and maintenance of any fence, and maintenance and repair of landscaping and the ground areas.

(B) Landlord shall be responsible for the replacement of the parking lot, replacement or removal of landscaping features, and the maintenance, repair and replacement of the roof, structural walls and foundation. Landlord shall be responsible for major repairs, including but not limited to the replacement of the heating, ventilation and air condition systems, plumbing and electrical systems, painting and repairs to the exterior of the building.

(C) As regards their respective responsibilities in Paragraph 12 (A) and (B), Landlord and Tenant shall, respectively, cause the Premises to remain in compliance with all applicable laws, ordinances, governmental permits and regulations (including consent decrees and administrative laws, ordinances, and regulations) relating to public health and safety and protection of the environment, all as amended and modified from time to time (collectively, the "Environmental Laws").

(D) Tenant will not permit to occur any release, spillage, emission, generation, manufacture, storage, treatment, transportation, or disposal of "hazardous material," as that term is defined in subparagraph (J) of this Paragraph 12, on, in or from the Premises, except for those hazardous materials that are necessary for Tenant's operations and then only strictly in accordance with all Environmental Laws. Tenant will promptly notify Landlord, in writing, if Tenant has or acquires notice or knowledge that any hazardous material has been or is threatened to be released, discharged, stored, disposed of or transported in violation of the Environmental Laws. In such event, Tenant will immediately notify Landlord, and Tenant, at its own cost and expense for those hazardous materials that have been brought onto the Premises in the course of Tenant's operations, will immediately take such action as is necessary to detain the spread of and remove the hazardous material in accordance with applicable Environmental Laws to the reasonable satisfaction of Landlord and as required by appropriate governmental environmental authorities.

(E) Tenant will keep the Premises free of any lien imposed pursuant to any Environmental Laws.

(F) [RESERVED]

(G) Landlord represents and warrants to Tenant that:

(1) Landlord has no knowledge and has received no notice of any pollution, health, safety, fire, environmental, sewerage or building code violation, as those terms are defined in any hazardous substance laws as that term is defined in subparagraph (J);

(2) neither the Premises nor the ground under or about the Premises is contaminated with or contains any hazardous or toxic substance, pollutant, contaminants, or petroleum, including crude oil or any fraction of it, or contains any underground storage tank;

(3) the Premises are not subject to investigation or currently in administrative or judicial litigation regarding any environmental condition, such as alleged noncompliance or alleged contamination.

(4) Landlord, at its own cost and expense, for those hazardous materials that were on the Premises prior to Tenant's occupation of the Premises, will immediately take such action as is necessary to detain the spread of and remove the hazardous material in accordance with applicable Environmental Laws as required by appropriate governmental environmental authorities.

(H) If any cleanup, repair, detoxification or other similar action is required by any governmental or quasi-governmental agency as a result of the storage, release or disposal of hazardous materials by Landlord, its agents or contractors at any time, or by any prior owner, possessor, or operator of any part of the Premises, and such action requires that Tenant's operations be closed or that access be denied for greater than a twenty-four (24) hour period, then the rent will be abated entirely during the period beyond twenty-four (24) hours. If the closure or denial of access persists in excess of thirty (30) days, then, at Tenant's election by written notice to Landlord given within ten (10) days after the end of the thirty (30) day period, this Lease will end as of the commencement of such closure.

(I) Tenant will have the right to contest by appropriate proceedings diligently conducted in good faith in the name of Tenant, or, with the prior consent of Landlord, in the name of Landlord, or both, without cost or expense to Landlord, the validity or application of any law, ordinance, order, rule, regulation or legal requirement of any nature. If compliance with any law, ordinance, order, rule regulation or requirement may legally be delayed pending the prosecution of any proceeding, without incurring any lien, charge or liability of any kind against the Premises or Tenant's interest in the Premises, and without subjecting Tenant or Landlord to any liability, civil or criminal, for failure to so comply, Tenant may delay compliance until the final determination of the proceeding. Even if a lien, charge or liability may be incurred by reason of delay, Tenant may contest and delay, provided that the contest or delay does not subject Landlord to criminal liability. Landlord will not be required to join any proceedings referred to in this paragraph unless the provisions of any applicable law, rule, or regulation at the time in effect requires that the proceedings be brought by or in the name of Landlord, or both. In

that event, Landlord will join the proceedings or permit them to be brought in its name if Tenant pays all related expenses.

(J) For purposes of this Lease, "hazardous material" means:

(1) "hazardous substances" or "toxic substances" as those terms are defined by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9601, et seq., or the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq., each as amended to this date and as amended after this date;

(2) "hazardous wastes," as that term is defined by the Resource Conservation and Recovery Act 42 U.S.C. §6902, et seq., as amended to this date and as amended after this date;

(3) any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders) relating to or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste substance or material, all as amended to this date or as amended after this date.

(K) The provisions of this Lease relating to hazardous material will survive the expiration or termination of this Lease.

13. Alterations

Tenant shall not make any alterations, improvements or additions to the Premises without first obtaining the written permission of Landlord, which consent shall not be unreasonably withheld. Landlord's prior written consent will not be necessary for any alteration, addition or improvement which: (i) costs less than Five Thousand Dollars (\$5,000.00) including labor and materials; (ii) does not change the general character of the Premises or reduce the fair market value of the Premises; and (iii) is in compliance with the laws, ordinances, orders, rules, regulations, certificates of occupancy or other governmental requirements.

14. Signs

Tenant shall have the right to erect signs for the purpose of identification and direction evidencing Tenant's operations on the Premises. Such signs shall conform to applicable state and/or local restrictions. Installation of signs will be permitted at the commencement of this Lease, or sooner as permitted by Landlord. On termination or expiration of this Lease or

vacating of the Premises, Tenant, at its own expense, shall remove any and all such signs and other indicia of Tenant's operations from the Premises.

15. Liens

A. If any act or omission of Tenant or claim against Tenant results in a lien or claim of lien against Landlord's title to the Premises, Tenant, upon notice thereof, shall promptly remove or release same by payment of bond or otherwise to fully satisfy said lien. If not so released within fifteen (15) days after notice to Tenant to do so, Landlord may (but need not) pay or discharge any lien without inquiry as to the validity thereof at Tenant's expense and Tenant shall, within ten (10) days after demand for payment of all costs and expenses incurred by Landlord, pay unto Landlord the full amount plus interest at the rate of one and one-half percent (1.5%) per month. Tenant may contest any lien by first furnishing Landlord with a good and sufficient surety bond issued by a reputable surety company.

B. Landlord warrants that during the Term of this Lease, Landlord shall not encumber the Premises in any manner that would impair the leasehold rights of Tenant.

16. Waivers

No waiver by either Party of any provision or default under this Lease, whether a single instance or repeatedly, shall be deemed a future waiver of such provision or default.

17. Landlord's Representations

Landlord represents and warrants that:

(A) Landlord is legally empowered to execute this Lease and that the person signing this Lease on behalf of Landlord has all authority to do so; and

(B) upon the payment by Tenant of the rent and other sums due Landlord, and upon performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Premises or the tenancy created under this Lease without hindrance or interruption by Landlord or any other person or persons lawfully or equitably claiming by, through or under Landlord, subject nevertheless to the terms and conditions of this Lease.

18. Defaults and Remedies

(A) If Tenant defaults in performing any of the covenants or obligations specified in this Lease to be performed by Tenant, Landlord shall notify Tenant of such default in writing. Upon notice of written default, Tenant shall have the right to cure any default in making a

payment of rent or any other payment required to be made under this Lease by tendering such payment together with any penalty, interest or deposit to the party entitled thereto within fifteen (15) days after such notice.

(B) If Tenant shall default in the performance of any covenant on its part to be performed under this Lease, other than payment of rent or other payment required to be made under this Lease, and shall fail to remedy such default within the time periods set forth in Paragraph 18(C) of this Lease, after Landlord shall have notified Tenant of such default, Landlord, without being obligated to do so and without thereby waiving such default, may take such action as is commercially reasonable and appropriate to cure such default. Landlord's expenditures and costs in connection therewith, together with one percent (1%) per month interest thereon, shall be at Tenant's expense and shall be payable as additional rent upon the thirtieth (30th) day of the month next following.

(C) Tenant shall have the right to cure any default other than nonpayment of rent or other payments due under this Lease by doing so within thirty (30) days after such notice, provided, however, that if any such other default cannot reasonably be cured within thirty (30) days, Tenant may cure it if Tenant commences such cure within thirty (30) days after such notice and thereafter diligently prosecutes such cure to completion and such cure is cured in full on or before the ninetieth (90th) day after such notice. If Tenant fails to cure in a timely manner any default of which it was given written notice, Landlord may, by giving further written notice to Tenant at any time thereafter during the continuance of such default, either: (i) perform as provided in Paragraph B of this Section 18; or (ii) terminate this Lease; or (iii) re-enter the Premises by summary legal proceedings or otherwise, expelling Tenant and removing all property therefrom and reletting the Premises at the best possible rent obtainable, making reasonable efforts therefor, and receive the rent therefrom; but Tenant shall remain liable for the equivalent of the amount of all rent payable under this Lease less the proceeds, if any, of reletting. Any and all deficiencies in payment by Tenant shall be paid monthly to Landlord on the date provided in this Lease for the payment of rent.

(D) If Landlord defaults in performing any of the covenants or obligations specified in this Lease to be performed by Landlord, Tenant shall notify Landlord of such default in writing. If Landlord shall fail to remedy such default within the time periods set forth Paragraph 18(E) of this Lease, after Tenant shall have notified Landlord of such default, Tenant, without being

obligated to do so and without thereby waiving such default, may take such action as is commercially reasonable and appropriate to cure such default.

(E) Tenant shall have the right to cure any default of Landlord within thirty (30) days after notice is provided to Landlord, provided, however, that if any such default cannot reasonably be cured within thirty (30) days, Landlord may cure it if Landlord commences such cure within thirty (30) days after such notice and thereafter diligently prosecutes such cure to completion and such cure is cured in full on or before the ninetieth (90th) day after such notice. If Landlord fails to cure in a timely manner any default of which it was given written notice, Tenant may, by giving further written notice to Landlord at any time thereafter during the continuance of such default: (i) perform as provided in Paragraph D of this Section 18; (ii) terminate this Lease; (iii) seek specific performance of Landlord's covenants or obligations; and/or (iv) seek entitlement to any other remedy available at law or in equity.

19. Late Payment

Any payment due under this Lease that is received thirty (30) or more days after the due date, shall be subject to a late charge equal to five percent (5%) of the amount then due.

20. Notices

All notices to be given to the Landlord or Tenant shall be in writing and delivered personally or by Certified Mail sent to the Party at the address below:

If to Landlord:

Town Manager
Town of Springerville
418 East Main Street
Springerville, AZ 85938

With copies to:

Mangum, Wall, Stoops & Warden, PLLC
P. O. Box 10
Flagstaff, AZ 86002-0010

If to Tenant:

With copies to:

21. Holding Over

If Tenant holds over after the expiration of the Term without the written consent of Landlord, then the term of this Lease following expiration shall be construed to be a tenancy from month to month, and shall be on the terms and conditions specified in this Lease; provided however, that the rent due monthly shall be an amount one hundred fifty percent (150%) of the rent paid the month immediately prior to the first month held over.

22. Meaning of Words

The words "Landlord" and "Tenant" shall mean respectively all parties of Landlord or Tenant, regardless of number, and the word "he" shall be synonymous with "she," "it" and "they," and the word "his" shall be synonymous with "her," "its" and "their." If the Term of this Lease is extended in the manner provided elsewhere in this Lease, the word "Term" shall thereafter mean the Term of this Lease as so extended.

23. Remedies Cumulative

All remedies of the parties are cumulative.

24. Captions

The captions of this Lease are for convenience only and shall not be construed as defining or modifying any of the provisions of this Lease.

25. Governing Law

This Lease is entered into in the State of Arizona and shall be construed and interpreted in accordance with its laws, which laws shall control in the event of any conflict of law. Venue shall be Apache County, Arizona.

26. Binding Effect

This Lease shall be binding upon and inure to the benefit of the parties and their respective officers, employees, shareholders, directors, agents, servants, representatives, parents, subsidiaries, affiliates, successors and assigns.

27. Entire Agreement

This Lease and any Exhibit attached to this Lease shall constitute the entire integrated agreement between the parties with respect to the Premises and shall not be subject to change, modification, amendment or addition without the express written consent of both parties.

28. Legal Fees

In the event that it becomes necessary for either party to retain the services of legal counsel to enforce the terms of this Lease, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys, expert and investigative fees, incurred in enforcing the terms of this Lease.

29. Due Diligence

Each party declares that the terms of this Lease have been completely read and are fully understood and voluntarily accepted by each Party, after having a reasonable opportunity to retain and confer with counsel. This Lease is entered into after a full investigation by the Parties, and the Parties are not relying upon any statements or representations not contained in this Lease.

30. Conflict of Interest/Israel Boycott/Ethnic Uyghurs

This Lease is subject to cancellation for conflict of interest by the Town under Arizona Revised Statutes Section 38-511. Pursuant to A.R.S. §§35-393 and 35-393.01, the Tenant certifies that they are not currently engaged in and agree, for the duration of the Lease, to not engage in a boycott of Israel as defined in the statute. Pursuant to Arizona Revised Statutes §35-394, Tenant certifies that it does not currently, and agrees for the duration of the Lease that it will not use the forced labor of ethnic Uyghurs in the People's Republic of China, any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China, or any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. Tenant acknowledges that a breach of the certifications in this section shall be deemed a material breach of this Lease that is subject to penalties up to and including termination of this Lease.

31. Immigration Law

As mandated by Arizona Revised Statutes § 41-4401, Tenant:

(i) warrants Tenant's compliance with all federal immigration laws and regulations that relate to Tenant's employees and their compliance with Arizona Revised Statutes §23-214(A);

(ii) acknowledges that a breach of the warranty in subsection (i) of this section shall be deemed a material breach of this Lease that is subject to penalties up to and including termination of this Lease; and

(iii) retains the legal right to inspect the papers of any contractor or subcontractor employee who works pursuant to this Lease to ensure compliance with the warranty.

32. [RESERVED]

33. Books and Accounts

All books, accounts, reports, files and other records relating to this Lease shall be subject at all reasonable times to inspection and audit by the Landlord, or its agents for five (5) years after completion of this Lease. Tenant shall produce such records as are requested by Landlord at the offices of Landlord noted above, or such other locations as designated by Landlord, upon reasonable notice to the Tenant.

34. Nondiscrimination

The Parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act, and affirmative action.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first written above.

FOR LANDLORD:

FOR TENANT:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A
LEGAL DESCRIPTION

Apache County APN 105-20-109

Lot 5, Survey of a City Block, Town of Springerville, according to Book 3 of Townsite Maps, Page 47, records of Apache County, Arizona.

Except any mine of gold, silver, cinnabar or copper or to any valid claim of possession held under existing laws of Congress as set forth in Patent from the United States of America.

EXHIBIT B
INSURANCE REQUIREMENTS

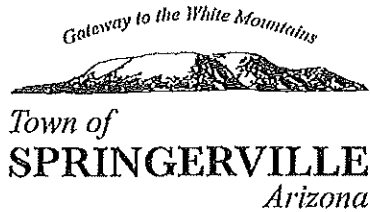
INVITATION TO BID
TOWN OF SPRINGERVILLE
Lease of 225 E Main Street

Notice is hereby given the Town of Springerville is accepting sealed proposals for the right to lease Town property located at 225 E Main Street in Springerville, AZ a 5,358 SF Commercial Building (insurance required). To obtain a bid packet, contact Tim Rasmussen at trasmussen@springervilleaz.gov or (928) 333-2656 et 226.

The Town of Springerville will receive sealed proposals until 2:00 PM MST on September 26, 2024 at the Office of the Town Manager, 418 E Main St, Springerville, Arizona 85938, (928) 333-2656 . Sealed bids received after that time will not be accepted. Bids will be opened by the Town Manager at 2:00 PM MST on September 26, 2024. The Town of Springerville reserves the right to reject any or all proposals and to award all or part of the proposal.

Tim Rasmussen
Town Manager

Posting Date: September 13, 2024
Publishing Dates: September 13, 2024
 September 20, 2024



Town of Springerville

418 East Main Street
 Springerville, AZ 85938
 (928)333-2656

Town of Springerville
 REQUEST FOR PROPOSALS
 225 East Main - City Owned Property

INTRODUCTION

The Town of Springerville will accept competitive sealed proposals to lease approximately 5,358 SF Town owned Commercial Building at the address or physical location until the date and time detailed below. Proposals shall be delivered to the location listed below and shall be in the actual possession of the Town on or prior to the exact date and time indicated below. Late proposals will not be considered. *Proposals shall be submitted in a sealed package with "RFP 225 East Main" and the Bidder's name and address clearly indicated on the front of the package.* All proposals shall be completed in ink or typewritten. Bidders are strongly encouraged to carefully read the *entire* Request for Proposal.

| | |
|---------------------------|---|
| Proposal Due Date: | September 26, 2024 |
| Proposal Time: | 2:00 PM MST |
| Number of Qualifications: | 1 unbound original |
| Contact: | Tim Rasmussen- Town Manager |
| Email: | trasmussen@springervilleaz.gov |
| Mailing Address: | 418 East Main Street, Springerville, AZ 85938 |
| Location: | 225 East Main Street, Springerville, AZ 85938 |

OFFER

To the Town of Springerville: The undersigned on behalf of the entity, firm, company, partnership, or other legal entity listed below offers on its behalf to the Town a proposal that contains all terms, conditions, specifications and amendments in the Notice of Request for Proposal issued by the Town. Any exception to the terms contained in the Notice of Request for Proposal must be specifically indicated in writing and are subject to the approval of the Town prior to acceptance. The signature below certifies your understanding and compliance with the Terms and Conditions contained in the Request for Proposal package issued by the Town.

| OFFEROR CONTACT INFORMATION | |
|---|--------------------------------------|
| For clarification of this offer contact: | |
| Name: _____ | Email: _____ |
| Federal Employer Identification Number: _____ | Authorizing Offeror Signature: _____ |
| Company Name _____ | Printed Name _____ |
| Address _____ | Title _____ |
| City _____ State _____ Zip Code _____ | Telephone: _____ |
| | Fax: _____ |



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1. PURPOSE AND INTENT:

The purpose of this *Request for Proposal* (RFP) is to solicit proposals from qualified bidders to enter into a Two-Year Lease with the Town for a 5,358 SF Commercial building located at 225 West Main Street in Springerville, AZ.

The tenant will be responsible, at the tenant's cost, for all repairs and maintenance of the building including all utilities.

The tenant will be responsible for paying county taxes for the property.

The intent is to have a lease term of two (2). Either party shall have the option to terminate the lease without penalty by providing the other party with ninety (90) days written notice.

The following criteria will be the basis for determining the best proposal:

- Ability to communicate with Town staff
- Type of business that is beneficial to the community.

2. PREPARATION OF PROPOSAL:

- a. Telegraphic (facsimile) or electronic bids will not be considered.
- b. The offer document shall be submitted with an original ink signature by a person authorized to sign the offer.



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- c. Erasures, interlineations, or other modifications in the proposal shall be initialed in original ink by the authorized person signing the Offer.
- d. It is the responsibility of all bidders to examine the entire RFP package and seek clarification of any item or requirement and to check all responses for accuracy before submitting a bid. Negligence in preparing a Proposal confers no right of withdrawal after proposal due date and time.

3. INQUIRIES:

Any question related to the RFP shall be directed in writing or via email **no later than three (3) days prior to the proposal opening date**, to the person whose name appears on the front. Questions submitted after that time and date may not be answered due to time constraints. Any correspondence related to the RFP should refer to the appropriate title, page, and paragraph number. However, the bidder shall not place the *Request for Proposal* title on the outside of any envelope containing questions since such an envelope may be identified as a sealed proposal and may not be opened until after the official RFP due date and time.

4. DUE DATE AND TIME:

Bidders must submit proposals to the Town of Springerville Town Hall by **2:00 PM MST on September 26, 2024**, at the address or physical location listed on the Introduction/Offer Sheet (Page 1 of RFP). Late proposals will not be accepted.

5. **WITHDRAWAL OF PROPOSAL:** At any time prior to the specified proposal due date and time, an Offeror (or designated representative) may withdraw the proposal. Telegraphic (facsimile) or electronic proposal withdrawals will not be considered.
6. **AMENDMENT OF PROPOSAL:** Receipt of an RFP Amendment shall be acknowledged by signing and returning the original document prior to the specified proposal due date and time.
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9. AWARD:

Notwithstanding any other provision of this Request for Proposal, the Town expressly reserves the right to:

- Waive any immaterial defect or informality: or
- Reject any or all proposals, or portions thereof, or
- Reissue a Request For Proposal

10. PROPOSAL EVALUATION AND SELECTION PROCESS:

10.1 Proposal Evaluation Committee

Proposals will be evaluated by an Evaluation Committee comprised of representatives from various departments within the Town of Springerville.

10.2 Oral Presentation and/or Clarification of Proposal

A bidder may be required to give an oral presentation to the Evaluation Committee concerning its proposal. The Evaluation Committee may also require a bidder to submit written responses to questions regarding its proposal.

10.3 Evaluation criteria

The following criteria will be the basis for determining the best proposal:

- 10.3.1 Experience in successfully running a business.
- 10.3.2 Ability for long term acceptance of the lease
- 10.3.3 Ability to communicate with Town staff

10.4 Selection Process

The proposal shall be awarded within reasonable promptness and by written notice to the responsible bidder whose proposal, conforming to the Request for Proposals, will be most advantageous to the Town, all factors considered. The successful bidder will enter into a lease with the Town in substantially and the final lease will be presented to the Mayor and City Council for approval.



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TERMS AND CONDITIONS

1. **Certification:** By signature in the Offer section of the Offer Award Page, the bidder certifies that:
 - a. The submission of the offer did not involve collusion or other anti-competitive practices.
 - b. The bidder shall not discriminate against any employee or applicant for employment in violation of the Federal Executive Order 11246.
 - c. The bidder has not given, offered to give, or intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor, or service to a public servant in connection with the submitted offer. Failure to sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the bidder may be debarred.

2. **Gratuities:** The Town may, by written notice to the bidder, cancel the resultant contract if it is found by the Town that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the bidder or any agent or representative of the bidder, to any officer or employee of the Town with a view toward securing an order, securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performing of such order. In the event the Town pursuant to this provision cancels the resultant contract, the Town shall be entitled, in addition to any other rights and remedies, to recover or withhold from the contractor the amount of gratuity. Paying the expense of normal business meals, which are generally made available to all eligible town government customers, shall not be prohibited by this paragraph.

3. **Applicable Law:** In the performance of the resultant lease, tenant shall abide by and conform to any and all laws of the United States, State of Arizona, and the Town of Springerville including but not limited to federal and state executive orders providing for equal opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to the contract.

The lease is subject to the provisions of ARS §38-511; the Town may cancel the lease without penalty or further obligations by the Town or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the lease on behalf of the Town or any of its departments or agencies, is at any time while the lease or any extension of the lease is in effect, an employee of any other party to the lease in any capacity or a consultant to any other party of the lease with respect to the subject matter of the lease.



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4. **Legal Remedies:** All claims and controversies in connection with this RFP shall be subject to resolution in accordance with the Bid Protest Procedures and Resolution Section of this RFP.
5. **Relationship to Parties:** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever.
6. **Public Record:** All offers submitted in response to this RFP shall become a matter of public record available for review, subsequent to the award notification.
7. **Indemnification:** To the fullest extent permitted by law, the tenant shall defend, indemnify and hold harmless the Town, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses, and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from tenant's or tenant's employees, agents, or invitees occupancy or use of the premises, or activities on the property, and any act, omission, or negligence of tenant or any employee, agent or invitee of tenant.
8. **Provisions Required by Law:** Each and every provision of law and any clause required by law to be in the lease will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not correctly inserted, then upon the application of either party, the lease will forthwith be physically amended to make such insertion or correction.
9. **Severability:** The provisions of the lease are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the lease which may remain in effect without the invalid provision or application.
10. **Assignment:** No right or interest in the lease shall be assigned by tenant without prior written permission of the Town.
11. **Authority:** This Solicitation as well as any resultant lease is issued under the authority of the Town. No alteration of any resultant lease may be made without the express written approval of the Town in the form of an official lease amendment. Any attempt to alter any lease without such approval is a violation of the lease. Any such action is subject to the legal and contractual remedies available to the Town inclusive of, but not limited to, lease cancellation.
12. **Term of Lease:** The term of any resultant lease shall be for two (2) year. Either party may terminate the lease for any reason and without penalty by giving written notice to



Town of Springerville

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the other party at least ninety (90) days before the proposed termination date.

- 13. Insurance:** The Town requires a complete and valid certificate of insurance prior to the commencement of the lease. The City will notify the successful bidder of the intent to issue a lease award. The successful bidder shall at that time submit a copy of the insurance certificate for coverage with minimum amounts stated in the insurance requirements set forth herein. The coverage shall be maintained in full force and effect during the term of the lease.

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INSURANCE REQUIREMENTS

Insurance. Tenant shall obtain and maintain in full force, with a company or companies authorized to transact the business of insurance in the State of Arizona and of sound and adequate financial responsibility, a policy or policies of insurance (either as part of any other policy or policies, or separately) covering its activities on the Premises as provided below:

A. Liability Insurance. During the term of this Lease, Tenant shall procure and maintain, in full force and effect, a comprehensive insurance policy or policies as follows:

i. General liability, including all direct or contingent loss or liability for damages for bodily injury, personal injury, death or damage to property, including loss of use thereof, occurring on or in any way related to Tenant's occupancy and use of the Premises.

ii. Worker's compensation and employer's liability coverage in the amounts required by law.

iii. Insurance covering all personal property in the Premises amounts not less than one hundred percent (100%) of the replacement value thereof, providing protection against any peril included within the classification of "Fire and Extended Coverage," including sprinkler damage, vandalism and malicious mischief, or Tenant shall provide a waiver of right of reimbursement for loss of Tenant's personal property.

B. Certificates. Tenant shall provide to Town a certificate of insurance each year this Lease is in effect showing proof of the above insurance coverage.

C. Additional Insurance. The provisions of this Lease as to insurance required to be procured and maintained shall not limit or prohibit, or be construed as limiting or prohibiting, Town or Tenant from obtaining any other or greater insurance with respect to the Premises or improvements thereon or the use and occupancy thereof that either or both of them may wish to carry, but in the event Town or Tenant, as the case may be, shall procure or maintain any such insurance not required by this Lease, the cost thereof shall be at the expense of the party procuring or maintaining the same.

D. Additional Insured. All required insurance shall be procured and maintained in the name of Tenant and shall add Town as an additional insured. All policies required under this Section for property and builder's risk insurance shall provide for payments of the losses to Tenant and Town as their respective interest may appear; provided that during the period of any construction, any builder's risk insurance carried pursuant hereto may provide for payment to the contractor, as its interest may appear.

E. Use of Proceeds. Proceeds of liability and property damage insurance



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required under this Section shall be applied toward extinguishing, satisfying or remedying the liability, loss, or damage with respect to which such proceeds may be paid.

F. Waiver of Subrogation. Each party hereto waives all claims for recovery from the other party for any loss or damage to any of its property on the Premises insured under valid and collectible insurance policies to the extent of any recovery collected from such policies. The parties agree that all material insurance policies shall be endorsed with a clause which waives subrogation against the other party.



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BID PROTEST; PROCEDURES AND RESOLUTION

Any interested party having a protest with the solicitation, a determination of not susceptible for award or the award of the contract shall file a protest with the Town of Springerville Town Manager.

EXHIBIT A

Apache County APN 105-20-109

Lot 5, Survey of a City Block, Town of Springerville, according to Book 3 of Townsite Maps, Page 47, records of Apache County, Arizona.

Except any mine of gold, silver, cinnabar or copper or to any valid claim of possession held under existing laws of Congress as set forth in Patent from the United States of America.

RFP 225 East Main

Proposal by Eclectica LLC

Virginia and Allen Harding

PO Box 972

Springerville AZ 85938



September 26, 2024

Town of Springerville, Arizona
418 E. Main Street
Springerville, AZ 85938
USA

Phone (928) 333-2656

SUBJECT: Proposed Business Plan for Lease Property at 225 E. Main St., Springerville

To the Town of Springerville:

Ginger Harding, representing the business interest Eclectica, LLC, an Arizona registered company, does hereby propose the following business plan tailored for the lease property located at 225 E. Main St., Springerville, AZ 85938 in response to "RFP 225 East Main".

1.) Type of Business:

- a. Piano and Wine Bar consisting of live music (piano) four days per week initially with options to expand. The Wine Bar would offer select Arizona and International wine options along with craft and micro-brewery beers combined with an intimate piano musical atmosphere where socializing and recreational exchange is encouraged in a relaxed setting. The Eclectica Piano and Wine Bar would also offer a limited menu of fresh fruit and cheese style appetizer accompaniments for customers to sample and enjoy with the wine and beer entrees. The Eclectica Piano Bar will not be offering any restaurant oriented main courses or dining options outside of the wine and beer supplements
- b. Co-located in the Piano & Wine Bar, Eclectica shall host an Art Gallery specializing in curated artist mid-range priced original signed lithographs, giclees, and multi-media paintings for retail sale emphasizing tourist draw and in support of local home decoration and staging. In addition to the curated artists, it would be the mission of the enterprise to promote and provide a brick-and-mortar retail outlet for key local White Mountain artists on an individually negotiated basis. The vision of the Art Gallery would be to provide short, intimate thirty-minute lectures on featured artists on a weekly basis during the tourist season and on a monthly basis outside the tourist season. In addition to the "brick-and-mortar" retail activity, business will be conducted via internet transaction and remote order options.
- c. In addition, Eclectica envisions a Custom Framing Service specializing in bespoke framing, shadow box arrangement, and mounting services for art supplied by customers and tailored for their home décor or personal taste. It is anticipated that in addition to the local and tourist markets, this custom framing shop would also service the greater Apache County area with a focus on interior

VBAD
Ginger



decoration for upscale homes being developed in Alpine, Nutrioso, Greer, and other nearby proximities.

2.) Percentage of Property Use for Proposed Business:

The property under consideration for lease under RFP 225 East Main consists of two main "areas" per the description offered by the Town of Springerville: the Main Building Area and the Accessory Building Area.

- a. The Accessory Building Area is not under consideration for lease at the present time.
- b. The Main Building Area consists of Office, Garage, Storage, and Covered Parking sub-sets. The building does have heating to the Office and Storage sub-sectors but does not have air-conditioning. The Garage is not under consideration as it will continue to be used by the Fire Department for vehicle parking and storage. The remaining leasable subsets consisting of the Office, Storage, and Covered Parking are listed in terms of square footage as follows:
 - i. Office 2,871 ft²
 - ii. Storage 1,243 ft²
 - iii. Covered Parking 1,244 ft²
- c. Eclectica proposes a monthly rental rate as follows for each of the subsectors based on their intended use with revenue-generating ability and value:

| | | | |
|------------------------------|-----------------------|------------------------|------------------|
| i. Office | 2,871 ft ² | \$0.75 ft ² | \$2,152.25 |
| ii. Storage | 1,243 ft ² | \$0.50 ft ² | \$ 621.50 |
| iii. Covered Parking | 1,244 ft ² | \$0.25 ft ² | <u>\$ 311.00</u> |
| iv. TOTAL Monthly Base Rent: | | | \$3,085.75 |
- d. Eclectica has determined that it can maintain the two-year term lease based on cash reserves and scaled sales activity over time from cash-flow.
- e. Eclectica anticipates that the formal lease agreement, after review and approval by Town Council, will go into effect on 01 November 2024.
- f. Eclectica respectfully requests that it be allowed access to the building to start deliveries, demo, painting, modifications and repairs at its own risk prior to the formal activation of the lease agreement.

3.) Modifications to the Building and Floor-plan:

- a. Eclectica expects to make minimal changes to the building and the floor-plan of the leased spaced. Any and all modifications approved by the Town of Springerville, would undoubtedly become an intrinsic part of the building owned by the Town of Springerville.
- b. Eclectica is requesting that the Town of Springerville re-install or make available the external canopy frames that used to be mounted to the front of the building so that they can be restored to add color and shade to the pane glass window.
- c. Modifications requested to be made by Eclectica in order to tailor the leased space to the specific needs of Eclectica for its vision would include:
 - i. Installation of a security system with cameras and access control,
 - ii. Installation of additional plumbing (water & drainage) to accommodate the point-of-sale wine bar,

VBA
[Signature]



- iii. Installation of bar and back-bar for wine/beer sales,
- iv. Enlargement of entrance to "Accounting" to match height of the Classroom/Art room header,
- v. Removal of the half-wall and floor covering replacement in the "Showroom" area, and,
- vi. Exterior installation of professional signage for the business.

4.) Anticipated Timeline for Proposed Business Opening:

- a. It is anticipated that the Piano & Wine Bar, Art Gallery and Custom Framing businesses will open, fully stocked, staffed and operational on or before 28 November 2024.

5.) Staffing Levels:

- a. It is anticipated that the business proposed by Eclectica will initially employ four (4) full-time and two (2) part time personnel. Depending on the success of the featured artist presentation series, that number may increase by two part time positions averaging from ten (10) to fifteen (15) hours per week during the tourist season.

6.) Capital Investment:

- a. The principals of Eclectica believe that they have sufficient capital to adequately support the business for a minimum period of two (2) years to include the initial costs of the remodel, purchase of specialty equipment, office equipment, staffing, inventory, advertising and other related fixed/operating costs associated with conducting this type of business enterprise.

7.) Experience and Success in Operating Businesses:

- a. The principals of Eclectica have a track record for viable business success based on the fact that they already operate the following enterprises within the Town of Springerville:

| | | | |
|------|------------------------|-----------------|-------------------------|
| i. | El Rio Theatre | 2014 to present | Movie Theater |
| ii. | Apache Industries, LLC | 2016 to present | WOSB Govt. Contracting |
| iii. | Caravansary LLC | 2024 to present | Office Leasing |
| iv. | AGM Global Vision | 2018 to present | Manufacturing (partner) |

8.) Communications with the Town of Springerville:

The principals of Eclectica feel that they and the Town of Springerville have nurtured positive and professional lines of communications with town officials and staff based on routine interaction for the other four businesses that are currently active. We feel that our communications with the Town of Springerville have been open and forthright and we feel, based on our experiences over the last ten years, that the Town has been supportive and that bilateral communications are healthy.

VBH
AK



9.) Attachments to RFP 225 East Main Response:

- a. RFP Response – RFP 225 East Main (handwritten response)
- b. Questions/Answers Submitted to Town of Springerville, AZ
- c. Floorplan for proposed business
- d. Sketch of wine bar configuration

We appreciate your time and consideration in evaluating the proposed business use plan for the Town of Springerville property located at 225 E. Main Street, Springerville, AZ 85938. If you have any questions or need clarification regarding any of the proposed elements, please do not hesitate to contact us.

Very Respectfully,



Virginia B. Harding

M: (480) 626-3140

Email: ginger@eclecticagalleria.com



Allen R. Harding

M: (480) 626-3150

Email: allen@eclecticagalleria.com

RFP 225 East Main Street

RESPONSE

By Eclectica LLC

INVITATION TO BID
TOWN OF SPRINGERVILLE
Lease of 225 E Main Street

Notice is hereby given the Town of Springerville is accepting sealed proposals for the right to lease Town property located at 225 E Main Street in Springerville, AZ a 5,358 SF Commercial Building (insurance required). To obtain a bid packet, contact Tim Rasmussen at trasmussen@springervilleaz.gov or (928) 333-2656 et 226.

The Town of Springerville will receive sealed proposals until 2:00 PM MST on September 26, 2024 at the Office of the Town Manager, 418 E Main St, Springerville, Arizona 85938, (928) 333-2656 . Sealed bids received after that time will not be accepted. Bids will be opened by the Town Manager at 2:00 PM MST on September 26, 2024. The Town of Springerville reserves the right to reject any or all proposals and to award all or part of the proposal.

Tim Rasmussen
Town Manager

Posting Date: September 13, 2024
Publishing Dates: September 13, 2024
 September 20, 2024

VBH
R



Town of Springerville

418 East Main Street
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Town of Springerville REQUEST FOR PROPOSALS 225 East Main - City Owned Property

INTRODUCTION

The Town of Springerville will accept competitive sealed proposals to lease approximately 5,358 SF Town owned Commercial Building at the address or physical location until the date and time detailed below. Proposals shall be delivered to the location listed below and shall be in the actual possession of the Town on or prior to the exact date and time indicated below. Late proposals will not be considered. *Proposals shall be submitted in a sealed package with "RFP 225 East Main" and the Bidder's name and address clearly indicated on the front of the package.* All proposals shall be completed in ink or typewritten. Bidders are strongly encouraged to carefully read the *entire* Request for Proposal.

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| Mailing Address: | 418 East Main Street, Springerville, AZ 85938 |
| Location: | 225 East Main Street, Springerville, AZ 85938 |

OFFER

To the Town of Springerville: The undersigned on behalf of the entity, firm, company, partnership, or other legal entity listed below offers on its behalf to the Town a proposal that contains all terms, conditions, specifications and amendments in the Notice of Request for Proposal issued by the Town. Any exception to the terms contained in the Notice of Request for Proposal must be specifically indicated in writing and are subject to the approval of the Town prior to acceptance. The signature below certifies your understanding and compliance with the Terms and Conditions contained in the Request for Proposal package issued by the Town.

OFFEROR CONTACT INFORMATION

For clarification of this offer contact:

| | |
|--|--|
| Name: <u>GINGER HARDING</u> | Email: <u>GINGER@ELECTICA.GALLERYA.COM</u> |
| Federal Employer Identification Number: <u>99-4028191</u> | Authorizing Offeror Signature: <u>Virginia Harding</u> |
| Company Name: <u>ELECTICA LLC</u> | Printed Name: <u>VIRGINIA HARDING</u> |
| Address: <u>PO BOX 972</u> | Title: <u>MANAGER</u> |
| City: <u>SPRINGERVILLE</u> State: <u>AZ</u> Zip Code: <u>85938</u> | Telephone: <u>480.626.3140</u> Fax: <u>N/A</u> |



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1. PURPOSE AND INTENT:

The purpose of this *Request for Proposal* (RFP) is to solicit proposals from qualified bidders to enter into a Two-Year Lease with the Town for a 5,358 SF Commercial building located at 225 West Main Street in Springerville, AZ.

The tenant will be responsible, at the tenant's cost, for all repairs and maintenance of the building including all utilities.

The tenant will be responsible for paying county taxes for the property.

The intent is to have a lease term of two (2). Either party shall have the option to terminate the lease without penalty by providing the other party with ninety (90) days written notice.

The following criteria will be the basis for determining the best proposal:

- Ability to communicate with Town staff
- Type of business that is beneficial to the community.

2. PREPARATION OF PROPOSAL:

- a. Telegraphic (facsimile) or electronic bids will not be considered.
- b. The offer document shall be submitted with an original ink signature by a person authorized to sign the offer.

A handwritten signature in blue ink, possibly reading "VBS" or similar, with a blue circular stamp or mark below it.



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- c. Erasures, interlineations, or other modifications in the proposal shall be initialed in original ink by the authorized person signing the Offer.
- d. It is the responsibility of all bidders to examine the entire RFP package and seek clarification of any item or requirement and to check all responses for accuracy before submitting a bid. Negligence in preparing a Proposal confers no right of withdrawal after proposal due date and time.

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- | | |
|--------|--|
| 10.3.1 | Experience in successfully running a business. |
| 10.3.2 | Ability for long term acceptance of the lease |
| 10.3.3 | Ability to communicate with Town staff |

10.4 Selection Process

The proposal shall be awarded within reasonable promptness and by written notice to the responsible bidder whose proposal, conforming to the Request for Proposals, will be most advantageous to the Town, all factors considered. The successful bidder will enter into a lease with the Town in substantially and the final lease will be presented to the Mayor and City Council for approval.



Town of Springerville

418 East Main Street
Springerville, AZ 85938
(928)333-2656

TERMS AND CONDITIONS

1. Certification: By signature in the Offer section of the Offer Award Page, the bidder certifies that:

- a. The submission of the offer did not involve collusion or other anti-competitive practices.
- b. The bidder shall not discriminate against any employee or applicant for employment in violation of the Federal Executive Order 11246.
- c. The bidder has not given, offered to give, or intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor, or service to a public servant in connection with the submitted offer. Failure to sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the bidder may be debarred.

2. Gratuities: The Town may, by written notice to the bidder, cancel the resultant contract if it is found by the Town that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the bidder or any agent or representative of the bidder, to any officer or employee of the Town with a view toward securing an order, securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performing of such order. In the event the Town pursuant to this provision cancels the resultant contract, the Town shall be entitled, in addition to any other rights and remedies, to recover or withhold from the contractor the amount of gratuity. Paying the expense of normal business meals, which are generally made available to all eligible town government customers, shall not be prohibited by this paragraph.

3. Applicable Law: In the performance of the resultant lease, tenant shall abide by and conform to any and all laws of the United States, State of Arizona, and the Town of Springerville including but not limited to federal and state executive orders providing for equal opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to the contract.

The lease is subject to the provisions of ARS §38-511; the Town may cancel the lease without penalty or further obligations by the Town or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the lease on behalf of the Town or any of its departments or agencies, is at any time while the lease or any extension of the lease is in effect, an employee of any other party to the lease in any capacity or a consultant to any other party of the lease with respect to the subject matter of the lease.

VBW
AKW



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4. **Legal Remedies:** All claims and controversies in connection with this RFP shall be subject to resolution in accordance with the Bid Protest Procedures and Resolution Section of this RFP.
5. **Relationship to Parties:** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever.
6. **Public Record:** All offers submitted in response to this RFP shall become a matter of public record available for review, subsequent to the award notification.
7. **Indemnification:** To the fullest extent permitted by law, the tenant shall defend, indemnify and hold harmless the Town, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses, and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from tenant's or tenant's employees, agents, or invitees occupancy or use of the premises, or activities on the property, and any act, omission, or negligence of tenant or any employee, agent or invitee of tenant.
8. **Provisions Required by Law:** Each and every provision of law and any clause required by law to be in the lease will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not correctly inserted, then upon the application of either party, the lease will forthwith be physically amended to make such insertion or correction.
9. **Severability:** The provisions of the lease are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the lease which may remain in effect without the invalid provision or application.
10. **Assignment:** No right or interest in the lease shall be assigned by tenant without prior written permission of the Town.
11. **Authority:** This Solicitation as well as any resultant lease is issued under the authority of the Town. No alteration of any resultant lease may be made without the express written approval of the Town in the form of an official lease amendment. Any attempt to alter any lease without such approval is a violation of the lease. Any such action is subject to the legal and contractual remedies available to the Town inclusive of, but not limited to, lease cancellation.
12. **Term of Lease:** The term of any resultant lease shall be for two (2) year. Either party may terminate the lease for any reason and without penalty by giving written notice to



Town of Springerville

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the other party at least ninety (90) days before the proposed termination date.

- 13. Insurance:** The Town requires a complete and valid certificate of insurance prior to the commencement of the lease. The City will notify the successful bidder of the intent to issue a lease award. The successful bidder shall at that time submit a copy of the insurance certificate for coverage with minimum amounts stated in the insurance requirements set forth herein. The coverage shall be maintained in full force and effect during the term of the lease.

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INSURANCE REQUIREMENTS

Insurance. Tenant shall obtain and maintain in full force, with a company or companies authorized to transact the business of insurance in the State of Arizona and of sound and adequate financial responsibility, a policy or policies of insurance (either as part of any other policy or policies, or separately) covering its activities on the Premises as provided below:

A. Liability Insurance. During the term of this Lease, Tenant shall procure and maintain, in full force and effect, a comprehensive insurance policy or policies as follows:

i. General liability, including all direct or contingent loss or liability for damages for bodily injury, personal injury, death or damage to property, including loss of use thereof, occurring on or in any way related to Tenant's occupancy and use of the Premises.

ii. Worker's compensation and employer's liability coverage in the amounts required by law.

iii. Insurance covering all personal property in the Premises amounts not less than one hundred percent (100%) of the replacement value thereof, providing protection against any peril included within the classification of "Fire and Extended Coverage," including sprinkler damage, vandalism and malicious mischief, or Tenant shall provide a waiver of right of reimbursement for loss of Tenant's personal property.

B. Certificates. Tenant shall provide to Town a certificate of insurance each year this Lease is in effect showing proof of the above insurance coverage.

C. Additional Insurance. The provisions of this Lease as to insurance required to be procured and maintained shall not limit or prohibit, or be construed as limiting or prohibiting, Town or Tenant from obtaining any other or greater insurance with respect to the Premises or improvements thereon or the use and occupancy thereof that either or both of them may wish to carry, but in the event Town or Tenant, as the case may be, shall procure or maintain any such insurance not required by this Lease, the cost thereof shall be at the expense of the party procuring or maintaining the same.

D. Additional Insured. All required insurance shall be procured and maintained in the name of Tenant and shall add Town as an additional insured. All policies required under this Section for property and builder's risk insurance shall provide for payments of the losses to Tenant and Town as their respective interest may appear; provided that during the period of any construction, any builder's risk insurance carried pursuant hereto may provide for payment to the contractor, as its interest may appear.

E. Use of Proceeds. Proceeds of liability and property damage insurance

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required under this Section shall be applied toward extinguishing, satisfying or remedying the liability, loss, or damage with respect to which such proceeds may be paid.

F. Waiver of Subrogation. Each party hereto waives all claims for recovery from the other party for any loss or damage to any of its property on the Premises insured under valid and collectible insurance policies to the extent of any recovery collected from such policies. The parties agree that all material insurance policies shall be endorsed with a clause which waives subrogation against the other party.

VBA
AM



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BID PROTEST; PROCEDURES AND RESOLUTION

Any interested party having a protest with the solicitation, a determination of not susceptible for award or the award of the contract shall file a protest with the Town of Springerville Town Manager.

VBI
AM

RFP 225 East Main Street

Q & A Submitted to Town

By Eclectica LLC

Questions for Town Manager regarding RFP 225 East Main Street

In writing as per the RFP

September 23, 2024

1. The RFP asserts 5,358 square feet of space to be rented. The measurements for habitable space total 4,114 square feet per Town's documents. The "Covered Parking" area (1,244 sq ft) is not habitable per ARS definitions.

- a. Will rent taxes be collectable for outdoor uninhabitable space? If so, at what rate?

It is not included in the building for taxes. I added the S.F. of the 1,244 for your purpose to be able to utilize the back covered area if you desire. I do not know how the taxes work with Apache County. I plan on meeting with the Assessors Office after the building is leased to make sure that the S.F. of 4,114 is used for tax purposes.

2. As Tenant will be paying the property tax for the rental space, what is the Rental Tax Rate for a municipality owned property that Tenant will be required to pay?

I don't know the process or Tax rate of Apache County. As discussed once I have a executed lease, I will go visit the Assessors Office, Plans in hand with the lease making sure that they understand what is leased and what should be taxed.

The taxes from 2022 were \$2,743.37 but for the entire property.

3. Section 2. (B) of the LEASE AGREEMENT requires a new RFP at the end of the first rental term of two years. We request that no RFP be required at the potential renewal time. Tenant will have made substantial improvements to the property and it would be detrimental for someone to come in after the fact and take advantage of our improvements.

Direction and discussion from the Council was to lease it out for two years then determine if the Town has the funds to convert it into the RVPD. It was also talked about, selling the building if the town does not go forward with the RVPD, it is very likely to RFP the sale of the property.

4. Section 5. (C) indicates that Tenant will be responsible for all utilities. Are there separate meters for each of the sections of the spaces? Electricity, water/sewer, propane and trash expense used for other sections of the property's lighting, water, heat, and garbage disposal usage should not be billed to this fractional tenant.

I am only aware of one meter for water services. Sewer is based off the water usage. The heat will be off to the bays as there is no use to heat the bays. There is no heat to the "accessory building" to the north nor electricity use, just outlets and electric roll up doors. There is only one electric meter.

5. Perhaps "Gross Rent" concept paid by the Town and then Tenant's responsibility will be billed by the Town to Tenant.

RFQ was not written up this way. Lease Agreement were written based off the RFQ.

6. Section 6. Tenant intends to change locks on the premises to be rented as the current key has been historically used by many individuals. Is there a way to securely separate the garage area from access to the Tenant's rented space? Tenant is willing to provide the Town Manager with one key, to be held securely and for emergency access only.

Yes, 100%. We want you to secure the building and will work with you to ensure it is.

7. Section 12. (A) Tenant shall be responsible for repairs and maintenance to the building interior and exterior. We request an exclusion for the items already in disrepair and ask that the gutter/roofing issues on the west side of the building, along with the resultant interior ceiling/wall/door damage, along with the restrooms plumbing issues be addressed by the Town and any future issues with these areas be the responsibility of the Town.

Yes, 100%. We would do a walkthrough (interior and exterior) with both parties signing off with pictures being taken.

FYI, PW did do some roof repair in the area in question. Black Jack was applied and we will continue to monitor.

There is more flooring in one of the accessory buildings.

8. Regarding improvements proposed by Tenant, we propose the three following changes, please indicate the Town's acceptance of these changes which are crucial to the vision of operations:

- a. Adding a fully plumbed bar to the space defined as "Accounting", drawing attached.
- b. Enlarging the entrance to the bar space by opening the wall between the "Showroom" and "Accounting" spaces. Matching the height of the current double door opening into the "Conference Room".
- c. Removing the half-wall currently standing in the "Showroom". This would entail removal of the wall and adding flooring to cover the existing footprint.

Has the Town discovered the additional flooring to match what was recently installed?

The town will accept these changes.

Flooring, Yes.

9. Town has verbally agreed to re-install the canopy frames to exterior of building façade. Is this still agreeable?

Yes

10. Possession: Will the Town permit early access of 10-15 days prior to formal rental possession for deliveries and the build-out period?

Yes, as soon as an executed lease is agreed upon, we will work with you. Keep in mind that the lease will have to go before Council. I plan on holding a special meeting if you have been chosen for the RFP. We want to see your business be successful.

I was informed today that there is not an AC unit on the building. I just found out today.

The heater had a service, per PW, a year within the FD moving.

We tested it today with no issues.

Attachments:

Bar Build Drawing

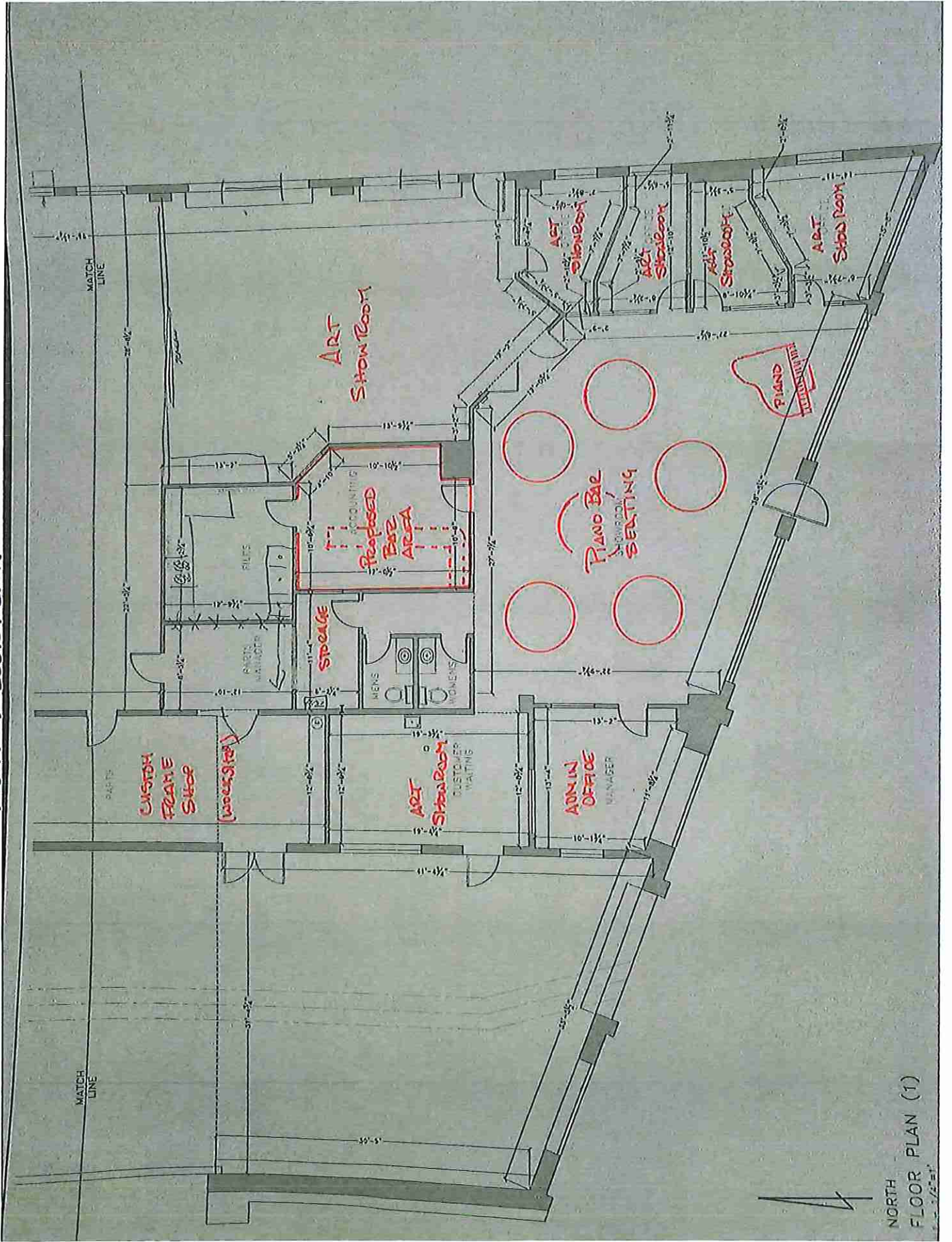
Town Floor Plan

RFP 225 East Main Street

Proposed Floor Plan

By Eclectica LLC

Town Floor Plan



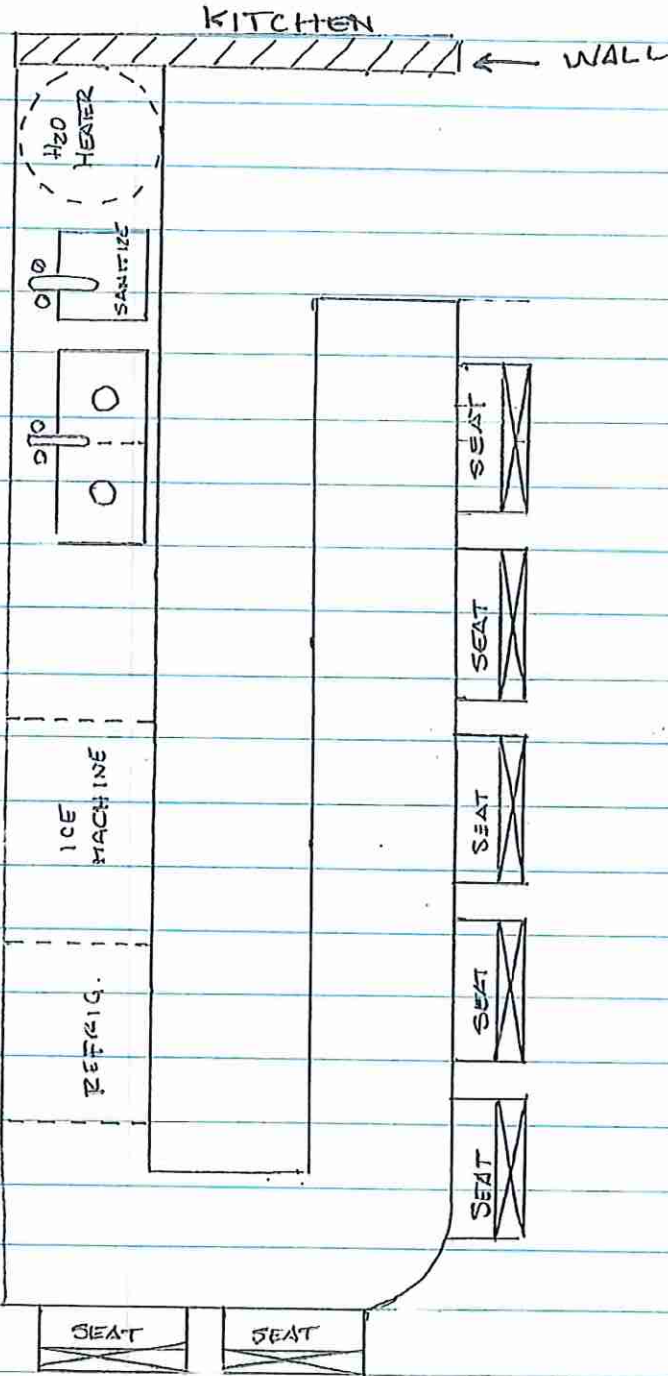
NORTH
FLOOR PLAN (1)

RFP 225 East Main Street

Wine Bar Sketch

By Eclectica LLC

WINE BAR CONCEPT



SCALE: 1 CM = 1 FOOT

Town of Springerville
225 East Main Street Bid Opening
Sign in Sheet
September 26, 2024 2:00 p.m.

Alex Miller
JIM RASMUSSEN

Town of Springerville

225 East Main Street

Tally of Bids

**Bids are listed in the order of opening at Springerville Town Hall on
September 26, 2024 2:00pm**

| Name of Bidder | Bid Amount |
|-----------------------|--------------------|
| ELECTRICA LLC | \$3,085.75 Monthly |
| | |
| | |
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