

Bastrop, TX City Council Meeting Agenda
Bastrop City Hall City Council Chambers
1311 Chestnut Street
Bastrop, TX 78602
(512) 332-8800



March 07, 2023

Special Called Council Meeting at 4:30 PM

City of Bastrop City Council meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary at (512) 332-8800 or write 1311 Chestnut Street, 78602, or by calling through a T.D.D. (Telecommunication Device for the Deaf) to Relay Texas at 1-800-735-2989 at least 48 hours in advance of the meeting.

The City of Bastrop reserves the right to reconvene, recess, or realign the Regular Session or called Executive Session or order of business at any time prior to adjournment.

PLEASE NOTE: ANYONE IN ATTENDANCE WISHING TO ADDRESS THE COUNCIL MUST COMPLETE A CITIZEN COMMENT FORM AND GIVE THE COMPLETED FORM TO THE CITY SECRETARY PRIOR TO THE START OF THE CITY COUNCIL MEETING. ALTERNATELY, IF YOU ARE UNABLE TO ATTEND THE COUNCIL MEETING, YOU MAY COMPLETE A CITIZEN COMMENT FORM WITH YOUR COMMENTS AT CITYOFBASTROP.ORG/CITIZENCOMMENT AT LEAST TWO HOURS BEFORE THE MEETING STARTS ON THE REQUESTED DATE. COMMENTS SUBMITTED BY THIS TIME WILL BE GIVEN TO THE CITY COUNCIL DURING THE MEETING AND INCLUDED IN THE PUBLIC RECORD, BUT NOT READ ALOUD. COMMENTS FROM EACH INDIVIDUAL IN ATTENDANCE WILL BE LIMITED TO THREE (3) MINUTES.

- 1. CALL TO ORDER**
- 2. CITIZEN COMMENTS**

At this time, three (3) minute comments will be taken from the audience on any topic. Anyone in attendance wishing to address the Council must complete a citizen comment form and give the completed form to the City Secretary prior to the start of the City Council meeting. Alternately, if you are unable to attend the council meeting, you may complete a citizen comment form with your comments at www.cityofbastrop.org/citizencommentform at least two hours before the meeting starts on the requested date. Comments submitted by this time will be given to the City Council during the meeting and included in the public record, but not read aloud. In accordance with the Texas Open Meetings Act, if a citizen discusses any item not on the agenda, City Council cannot discuss issues raised or make any decision at this time. Instead, City Council is limited to making a statement of specific factual information or a recitation of existing policy in response to the inquiry. Issues may be referred to City Manager for research and possible future action.

It is not the intention of the City of Bastrop to provide a public forum for the embarrassment or demeaning of any individual or group. Neither is it the intention of the Council to allow a member of the public to slur the performance, honesty and/or integrity of the Council, as a body, or any member or members of the Council individually or collectively, or members of the City's staff. Accordingly, profane, insulting or threatening language directed toward the Council and/or any person in the Council's presence will not be tolerated.

3. CONSENT AGENDA

The following may be acted upon in one motion. A Council Member or a citizen may request items be removed from the Consent Agenda for individual consideration.

3A. Consider action to approve Resolution No. R-2023-40 of the City Council of the City of Bastrop, Texas confirming appointment by the Mayor of Michael Lucas, Place 3 of the Parks Board, as required in Section 3.08 of the City's Charter, and establishing an effective date.

Submitted by: Ann Franklin, City Secretary

3B. Consider action to approve Resolution No. R-2023-42 of the City Council of the City of Bastrop, Texas, approving a Joint Agreement between the City of Bastrop (City) and Bastrop Independent School District (BISD), City of Elgin, City of Smithville, Elgin Independent School District (EISD), Lexington Independent School District, McDade Independent School District and Wildwood Municipal Utility District for the May 6, 2023 Special and General Election for Bastrop, Texas, attached as Exhibit A; authorizing the City Manager to execute all necessary documents; and providing an effective date.

Submitted by: Ann Franklin, City Secretary

3C. Consider action to approve Resolution No. R-2023-43 of the City Council of the City of Bastrop, Texas, authorizing participation with the State of Texas, through the office of the Attorney General, in the latest Global Opioid Settlements and approving settlement participation form submission to Attorney General Office; authorizing the City Manager to execute all related documents; and providing for an effective date.

Submitted by: Sylvia Carrillo, City Manager

4. ITEMS FOR INDIVIDUAL CONSIDERATION

4A. Consider action to approve Resolution No. 2023-33 revising the agreement for subdivision plat regulation in the City of Bastrop's ETJ in Bastrop County also known as the (1445 agreement); providing for repeal; and providing an effective date

Submitted by: Sylvia Carrillo, City Manager

4B. Consider action to approve Resolution No. R-2023-27 of the City Council of the City of Bastrop, Texas approving an agreement between the City of Bastrop and Bastrop River Company providing for a five year lease of a .52 acre portion of A11 Bastrop town tract, acres 5.100 (city park) located in Fisherman's Park with an option to renew for three additional two-year term upon mutual agreement; authorizing the city manager to execute said lease agreement on behalf of the city; and declaring an effective date.

Submitted by: Trey Job, Assistant City Manager

- 4C. Consider action to approve amendments to the Development agreement between the City of Bastrop and Colorado Bend, LLC. Authorizing the city Manager to execute all necessary documents; providing for repeal; and providing an effective date.

Submitted by: Sylvia Carrillo, City Manager

- 4D. Hold a public hearing and consider action to approve the first reading of Ordinance No. 2023-04 of the City Council of the City of Bastrop, Texas, amending the Bastrop Building Block (B³) Code, Chapter 6, Section 6.5.003 amending the Authentic Bastrop Pattern Book, and amending Bastrop Code of Ordinances Section 3.01.001 International Code Council (ICC); International Code Family; and providing for findings of fact, repealer, severability, codification, effective date, proper notice and meeting; and move to include on the March 28, 2023, consent agenda for second reading.

Submitted by: Jennifer C. Bills, Director of Planning & Development

5. EXECUTIVE SESSION

- 5A. City Council shall convene into closed executive session pursuant to Texas Government Code section 551.071 to seek the advice of legal counsel regarding the City Council's oversight of the Bastrop Economic Development Corporation, including personnel, financial, and other related matters.

6. TAKE ANY NECESSARY OR APPROPRIATE ACTION ON MATTERS POSTED FOR CONSIDERATION IN CLOSED/EXECUTIVE SESSION

7. ADJOURNMENT

All items on the agenda are eligible for discussion and action unless specifically stated otherwise.

The Bastrop City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.087 (Economic Development), and §551.086 (Competitive Matters regarding Electric Utility).

I, the undersigned authority, do hereby certify that this Notice of Meeting as posted in accordance with the regulations of the Texas Open Meetings Act on the bulletin board located at the entrance to the City of Bastrop City Hall, a place of convenient and readily accessible to the general public, as well as to the City's website, www.cityofbastrop.org and said Notice was posted on the following date and time: Friday, March 3, 2023, at 4:30 p.m. and remained posted for at least two hours after said meeting was convened.

/s/Ann Franklin
Ann Franklin, City Secretary



STAFF REPORT

MEETING DATE: March 7, 2023

TITLE:

Consider action to approve Resolution No. R-2023-40 of the City Council of the City of Bastrop, Texas confirming appointment by the Mayor of Michael Lucas, Place 3 of the Parks Board, as required in Section 3.08 of the City's Charter, and establishing an effective date.

AGENDA ITEM SUBMITTED BY:

Ann Franklin, City Secretary

BACKGROUND/HISTORY:

Section 3.08, Mayor and Mayor Pro Tem, of the City Charter states that the Mayor shall appoint members to all City boards and commissions, subject to confirmation by the City Council.

FISCAL IMPACT:

N/A

RECOMMENDATION:

Recommend approval of Resolution No. R-2023-40 of the City Council of the City of Bastrop, Texas confirming appointment by the Mayor of Michael Lucas, Place 3 of the Parks Board, as required in Section 3.08 of the City's Charter, and establishing an effective date.

ATTACHMENTS :

- Resolution

RESOLUTION NO. R-2023-40

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, CONFIRMING APPOINTMENT BY THE MAYOR OF MICHAEL LUCAS TO PLACE 3 OF THE PARKS BOARD, AS REQUIRED IN SECTION 3.08 OF THE CITY’S CHARTER; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Section 3.08, Mayor and Mayor Pro Tem, of the City Charter states that the Mayor shall appoint members to all City boards and commissions, subject to confirmation by the City Council; and

WHEREAS, Mayor Connie Schroeder has appointed Michael Lucas to Place 3 of the Parks Board; and

WHEREAS, City Council must confirm this appointment as required by the City Charter.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

Section 1: That Mayor Connie Schroeder has appointed Michael Lucas to Place 3 of the Parks Board; and

Section 2: That the City Council of the City of Bastrop confirms Mayor Schroeder’s appointment of Michael Lucas to Place 3 of the Parks Board.

Section 3: That this Resolution shall take effect immediately upon its passage, and it is so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 7th day of March 2023.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney



STAFF REPORT

MEETING DATE: March 7, 2023

TITLE:

Consider action to approve Resolution No. R-2023-42 of the City Council of the City of Bastrop, Texas, approving a Joint Agreement between the City of Bastrop (City) and Bastrop Independent School District (BISD), City of Elgin, City of Smithville, Elgin Independent School District (EISD), Lexington Independent School District, McDade Independent School District and Wildwood Municipal Utility District for the May 6, 2023 Special and General Election for Bastrop, Texas, attached as Exhibit A; authorizing the City Manager to execute all necessary documents; and providing an effective date.

AGENDA ITEM SUBMITTED BY:

Ann Franklin, City Secretary

POLICY EXPLANATION:

Texas Election Code

Chapter 271. Joint Elections

Sec. 271.002. JOINT ELECTIONS AUTHORIZED.

- (a) If the elections ordered by the authorities of two or more political subdivisions are to be held on the same day in all or part of the same county, the governing bodies of the political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.
- (b) If an election ordered by the governor and the elections ordered by the authorities of one or more political subdivisions are to be held on the same day in all or part of the same county, the commissioners court of a county in which the election ordered by the governor is to be held and the governing bodies of the other political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.
- (c) If another law requires two or more political subdivisions to hold a joint election, the governing body of any other political subdivision holding an election on the same day in all or part of the same county in which the joint election is to be held may enter into an agreement to participate in the joint election with the governing bodies of the political subdivisions holding the joint election.
- (d) The terms of a joint election agreement must be stated in an order, resolution, or other official action adopted by the governing body of each participating political subdivision.
- (e) The document containing the joint election agreement shall be preserved for the period for preserving the precinct election records.

FISCAL IMPACT:

Estimated Amount:

- Joint Election with Bastrop Independent School District (BISD), City of Elgin, City of Smithville, Elgin Independent School District (EISD), Lexington Independent School District, McDade Independent School District and Wildwood Municipal Utility District—\$20,051.37

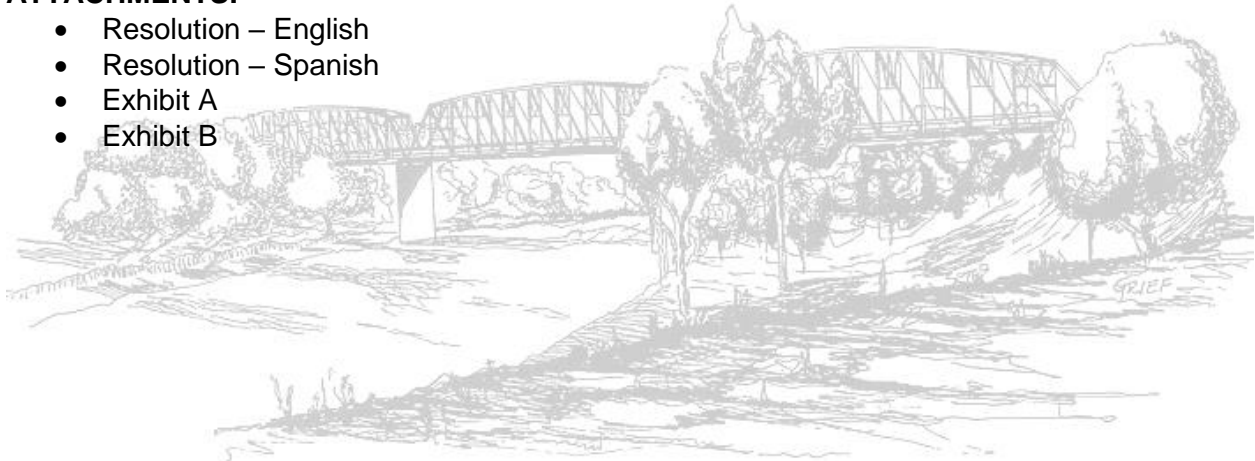
This cost was approved in the 2022-2023 FY budget in account 101 04-00-5681.

RECOMMENDATION:

Consider action to approve Resolution No. R-2023-42 of the City Council of the City of Bastrop, Texas, approving a Joint Agreement between the City of Bastrop (City) and Bastrop Independent School District (BISD), City of Elgin, City of Smithville, Elgin Independent School District (EISD), Lexington Independent School District, McDade Independent School District and Wildwood Municipal Utility District for the May 6, 2023 Special and General Election for Bastrop, Texas, attached as Exhibit A; authorizing the City Manager to execute all necessary documents; and providing an effective date.

ATTACHMENTS:

- Resolution – English
- Resolution – Spanish
- Exhibit A
- Exhibit B



RESOLUTION NO. R-2023-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING A JOINT AGREEMENT BETWEEN THE CITY OF BASTROP (CITY) AND BASTROP INDEPENDENT SCHOOL DISTRICT (BISD), CITY OF ELGIN, CITY OF SMITHVILLE, ELGIN INDEPENDENT SCHOOL DISTRICT (EISD), LEXINGTON INDEPENDENT SCHOOL DISTRICT, MCDADE INDEPENDENT SCHOOL DISTRICT AND WILDWOOD MUNICIPAL UTILITY DISTRICT FOR THE MAY 6, 2023 SPECIAL AND GENERAL ELECTION FOR BASTROP, TEXAS, ATTACHED AS EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bastrop (“the City”) has called a special and general election for Saturday, May 6, 2023; and

WHEREAS, Bastrop Independent School District (BISD), City of Elgin, City of Smithville, Elgin Independent School District (EISD), Lexington Independent School District, McDade Independent School District and Wildwood Municipal Utility District have also called an election for Saturday, May 6, 2023; and

WHEREAS, Bastrop Independent School District (BISD), City of Elgin, City of Smithville, Elgin Independent School District (EISD), Lexington Independent School District, McDade Independent School District and Wildwood Municipal Utility District have expressed their desire for a joint election with the City; and

WHEREAS, state law allows local governments holding elections on the same day to do so jointly, thereby making voting more convenient; and

WHEREAS, Bastrop Independent School District (BISD), City of Elgin, City of Smithville, Elgin Independent School District (EISD), Lexington Independent School District, McDade Independent School District and Wildwood Municipal Utility District as agreed upon by the Bastrop County Elections Administrator and each entity through separate contracts; and

WHEREAS, it is necessary to authorize an agreement in accordance with Section 271.002 of the Texas Election Code, whereby the City, Bastrop Independent School District (BISD), City of Elgin, City of Smithville, Elgin Independent School District (EISD), Lexington Independent School District, McDade Independent School District and Wildwood Municipal Utility District agree to hold a joint election on May 6, 2023.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

Section 1. The City Council of the City of Bastrop hereby authorizes that the May 6, 2023 Special and General Election be held jointly with Bastrop Independent School District (BISD), City of Elgin, City of Smithville, Elgin Independent School District (EISD), Lexington Independent School District, McDade Independent School District and Wildwood Municipal Utility District.

Section 2. The City Manager is hereby authorized to execute an agreement with Bastrop Independent School District (BISD), City of Elgin, City of Smithville, Elgin Independent

School District (EISD), Lexington Independent School District, McDade Independent School District and Wildwood Municipal Utility District for a joint election on Saturday May 6, 2023. The agreement is attached hereto as Exhibit A.

Section 3. That this Resolution shall take effect immediately upon its passage, and it is so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 7th day of March, 2023.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

**AGREEMENT TO CONDUCT JOINT ELECTION BETWEEN
THE CITY OF BASTROP,
BASTROP INDEPENDENT SCHOOL DISTRICT, THE CITY OF SMITHVILLE, THE
CITY OF ELGIN, ELGIN INDEPENDENT SCHOOL DISTRICT, LEXINGTON
INDEPENDENT SCHOOL DISTRICT, MCDADE INDEPENDENT SCHOOL
DISTRICT AND WILDWOOD MUNICIPAL UTILITY DISTRICT
FOR THE MAY 6, 2023 ELECTION**

**THE STATE OF TEXAS §
 §
COUNTY OF BASTROP §**

This Agreement to Conduct Joint Election (this “**Contract**”) is entered into by and among City of Bastrop, a political subdivision of the State of Texas (“**COB**”), Bastrop Independent School District, a political subdivision of the State of Texas, (“**BISD**”), City of Smithville, a political subdivision of the State of Texas (“**COS**”), City of Elgin, a political subdivision of the State of Texas (“**COE**”), Elgin Independent School District, a political subdivision of the State of Texas, (“**EISD**”), Lexington Independent School District, a political subdivision of the State of Texas, (“**LISD**”), McDade Independent School District, a political subdivision of the State of Texas, (“**MISD**”), and Wildwood Municipal Utility District, a political subdivision of the State of Texas, (“**WMUD**”), each individually, a “**Party**” or, collectively, the “**Parties,**” pursuant to Chapter 271 of the Texas Election Code.

RECITALS

WHEREAS, the COB, BISD, COS, COE, EISD, LISD, MISD and WMUD each expect to call an election to be held on May 6, 2023; and

WHEREAS, the COB, BISD, COS, COE, EISD, LISD, MISD and WMUD desire to conduct such elections jointly pursuant to Chapter 271 of the Texas Election Code, and

WHEREAS, the COB, BISD, COS, COE, EISD, LISD, MISD and WMUD desire to enter into a contract setting out the respective responsibilities of the Parties;

NOW, THEREFORE, the Parties agree as follows:

**ARTICLE I
PURPOSE**

1.01 The Parties have entered into this Contract to conduct a joint election on May 6, 2023. The purpose of this agreement is to maintain consistency and accessibility in voting practices, polling places, and election procedures in order to best assist the voters of the Parties.

**ARTICLE II
JOINT ELECTION**

2.01 The Parties agree to conduct their respective May 6, 2023 elections jointly pursuant to Chapter 271 of the Texas Election Code. Specifically, the Parties agree to the use of common polling places for both early voting and election day. The Parties also agree that the election officers may be appointed to serve both elections and that a common ballot may be used where appropriate and that common equipment and ballot boxes may be used for both elections for all relevant purposes as provided in Chapter 271.

**ARTICLE III.
TERM**

3.01 Except as hereinafter set out, the term of this Contract shall be from the time of execution until all items with respect to this Contract have been completed.

**ARTICLE IV
EACH PARTY RESPONSIBLE FOR ITS PRO RATA COST OF SERVICE AS BILLED**

4.01 The Parties acknowledge that they have each separately contracted for election services to be provided by Bastrop County Elections Administrator for the elections. All costs incurred by the Parties attributable to the coordination, supervision, and running of the election and incurred on behalf of the Parties, including expenses for supplies in connection with the election school(s), election supplies, wages paid for election workers, any paper ballots to be used for the election, and any other expenses reasonably and directly related to the election, including, without limitation, rental and programming of direct recording electronic voting devices and audio ballots shall be borne by the Parties based on their respective Election Services Agreement with the County Elections Administrator, and each Party will be responsible for their pro rata portion.

**ARTICLE V
GENERAL PROVISIONS**

5.01 This Contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Bastrop County, Texas.

5.02 In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provision, and this Contract shall be construed as if the invalid, illegal, or unenforceable provision had never been a part of the Contract.

5.03 This Contract constitutes the only agreement of the Parties hereto and supersedes any prior understanding or written or oral agreement between the parties respecting the written subject matter.

5.04 No amendment, modification, or alteration of this Contract shall be binding unless it is in writing, dated subsequent to the date of the Contract and duly executed by all of the Parties.

5.05 Any notice to be given hereunder by any party to the other shall be in writing and may be affected by personal delivery, by certified mail, or by common carrier. Notice to a party shall be addressed as follows:

Agreement to Conduct Joint Election

May 6, 2023

Pg 2

CITY OF BASTROP:

Ann Franklin
City Secretary
City of Bastrop
PO Box 427
Bastrop, TX 78602

BASTROP ISD:

Kristi Lee
Executive Director of
Communications & Community Services
Bastrop Independent School District
906 Farm Street
Bastrop, TX 78602

CITY OF SMITHVILLE:

Jennifer Lynch
City Secretary
City of Smithville
317 Main St.
Smithville, TX 78957

CITY OF ELGIN:

Jennifer Stubbs
City Secretary
City of Elgin
310 N Main Street/PO Box 591
Elgin, TX 78621

ELGIN ISD:

Dr. Jana Rueter
Superintendent of Schools
Elgin Independent School District
1002 N. Ave. C/PO Box 351
Elgin, TX 78621

LEXINGTON ISD:

Rene Dodd
Superintendent's Administrative Assistant
Lexington Independent School District
8403 N. Hwy 77
Lexington, TX 78947

MCDADE ISD:

Heather Stidham, M.Ed.
Superintendent of Schools
McDade Independent School District
156 Marlin St./PO Box 400
McDade, TX 78650

WILDWOOD MUD:

Kimberly Studdard
Paralegal
Winstead PC
401 Congress Ave., Ste. 2100
Austin, TX 78701

Notice by hand-delivery is deemed effective immediately, notice by certified mail is deemed effective three days after deposit with a U.S. Postal Office or in a U.S. Mail Box, and notice by a common carrier, is deemed effective upon receipt. Each party may change the address for notice to it by giving notice of such change in accordance with the provisions of this Section.

Executed to be effective the ____ day of _____, 2023.

CITY OF BASTROP:

BY: _____
Sylvia Carrillo, City Manager
City of Bastrop

Executed to be effective the ____ day of _____, 2023.

BASTROP ISD:

BY: _____
Barry Edwards, Superintendent
Bastrop Independent School District

Executed to be effective the ____ day of _____, 2023.

CITY OF SMITHVILLE:

BY: _____
Robert Tamble, City Manager
City of Bastrop

Executed to be effective the ____ day of _____, 2023.

CITY OF ELGIN:

BY: _____
Jennifer Stubbs, City Secretary
City of Elgin

Executed to be effective the ____ day of _____, 2023.

ELGIN ISD:

BY: _____
Dr. Jana Rueter, Superintendent
Elgin Independent School District

:

Executed to be effective the ____ day of _____, 2023.

LEXINGTON ISD:

BY: _____
Dr. Cliff Lightfoot, Superintendent
Lexington Independent School District

Executed to be effective the ____ day of _____, 2023.

MCDADE ISD:

BY: _____
Heather Stidham, Superintendent
McDade Independent School District

Executed to be effective the ____ day of _____, 2023.

WILDWOOD MUD:

BY: _____
Board Secretary
Wildwood MUD

ELECTION DAY POLLING LOCATIONS ELECTION

- Wyldwood Baptist Church, 398 Union Chapel Rd., Cedar Creek**
- River Valley Christian Fellowship, 1224 W. Hwy 71, Bastrop**
- Ascension Catholic Church, 804 Pine St., Bastrop**
- Paige Community Center, 107 S. Main St., Paige**
- Calvary Baptist Church, 3001 Loop 150 East, Bastrop**
- Smithville Rec Center, 106 Royston St., Smithville**
- Bastrop County Cedar Creek Annex, 5785 FM 535, Cedar Creek**
- The Gathering, 287 FM 20, Bastrop**
- Red Rock Community Center, 114 Red Rock Rd., Red Rock**
- Elgin Recreation Center, 361 N. Hwy 95, Elgin**
- Faith Lutheran Church, 230 Waco St., McDade**
- Bastrop County ESD#2 Station 4, 1432 N. Hwy 95, Bastrop**

ESTIMATED COST OF ELECTION

CITY OF BASTROP

Optical Ballots and Programming Expenses	\$ 18,028.52
Rental Fee for ExpressVote and Vote Tabulator (voting equipment)	
Staff Time and Mileage, Early Voting Clerks, Election Judges & Clerks, and Ballot Board	
Election Kits & other precinct supplies	\$ 200.00
SUBTOTAL	\$ 18,228.52
10% ADMINISTRATIVE FEE	<u>\$ 1,822.85</u>
TOTAL	<u>\$20,051.37</u>



STAFF REPORT

MEETING DATE: March 7, 2023

TITLE:

Consider action to approve Resolution No. R-2023-43 of the City Council of the City of Bastrop, Texas, authorizing participation with the State of Texas, through the office of the Attorney General, in the latest Global Opioid Settlements and approving settlement participation form submission to Attorney General Office; authorizing the City Manager to execute all related documents; and providing for an effective date.

AGENDA ITEM SUBMITTED BY:

Sylvia Carrillo, City Manager

RECOMMENDATION:

Consider action to approve Resolution No. R-2023-43 of the City Council of the City of Bastrop, Texas, authorizing participation with the State of Texas, through the office of the Attorney General, in the latest Global Opioid Settlements and approving settlement participation form submission to Attorney General Office; authorizing the City Manager to execute all related documents; and providing for an effective date.

ATTACHMENTS:

- Resolution
- Form Settlement Participation Allergan
- Form Settlement Participation CVS
- Form Settlement Participation Walgreens
- Form Settlement Participation Walmart

RESOLUTION NO. R-2023-43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, AUTHORIZING PARTICIPATION WITH THE STATE OF TEXAS, THROUGH THE OFFICE OF THE ATTORNEY GENERAL, IN THE LATEST GLOBAL OPIOID SETTLEMENTS AND APPROVING SETTLEMENT PARTICIPATION FORM SUBMISSION TO ATTORNEY GENERAL OFFICE; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL RELATED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Bastrop obtained information indicating that drug retailers, along with certain drug companies, corporate affiliates, parents, subsidiaries, and such other defendants as may be added to the litigation (collectively, “Defendants”) engaged in fraudulent and/or reckless marketing and/or distribution of opioids that have resulted in addictions and overdoses; and

WHEREAS, these actions, conduct and misconduct have resulted in significant financial costs to the City of Bastrop (the “City”); and

WHEREAS, on May 13, 2020, the State of Texas, through the Office of the Attorney General, and a negotiation group for Texas political subdivisions entered into an Agreement entitled Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet (hereafter, the Texas Term Sheet) approving the allocation of any and all opioid settlement funds within the State of Texas; and

WHEREAS, on November 9, 2021 the City approved the Texas Term Sheet via Resolution No. R-2021-105; and

WHEREAS, Counsel and the State of Texas have recommended that the City Council of the City of Bastrop support the approval and submission of the latest four settlement participation forms pertaining to Walgreens, CVS, Walmart, and Allergan. The forms are attached hereto as Exhibit “A”.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS THAT:

SECTION 1. The City supports the approval and submission of the latest four settlement participation forms pertaining to Walgreens, CVS, Walmart, and Allergan.

SECTION 2. There is a substantial need for repayment of opioid-related expenditures and payment to abate opioid-related harms in and about the City.

SECTION 3. The City supports and reaffirms the allocation method for opioid settlement proceeds as set forth in the STATE OF TEXAS AND TEXAS POLITICAL SUBDIVISIONS’ OPIOID ABATEMENT FUND COUNCIL AND SETTLEMENT ALLOCATION TERM SHEET, attached hereto as Exhibit A.

SECTION 4. The City understands that the purpose of these participation forms and the Texas Term Sheet is to permit collaboration between the State of Texas and Political Subdivisions to explore and potentially effectuate resolution of the Opioid Litigation against Pharmaceutical Supply Chain Participants as defined therein.

SECTION 5. The City also understands that an additional purpose is to create an effective means of distributing any potential settlement funds obtained under this Texas Term Sheet between the State of Texas and Political Subdivisions in a manner and means that would promote an effective and meaningful use of the funds in abating the opioid epidemic in this City and throughout Texas.

SECTION 6. The City manager is hereby authorized to execute and submit all necessary related documents. This Resolution shall become effective immediately from and after its passage.

PASSED & APPROVED this, the 7th day of March 2023.

City of Bastrop:

By: _____
Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

EXHIBIT A

**[Attach here settlement participation forms pertaining to:
Walgreens, CVS, Walmart, and Allergan.]**

EXHIBIT K
Subdivision and Special District Settlement Participation Form

Governmental Entity:	State:
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Agreement dated November 22, 2022 (“*Allergan Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Allergan Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Allergan Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Allergan Settlement as provided therein.
2. Following the execution of this Settlement Participation Form, the Governmental Entity shall comply with Section III.B of the Allergan Settlement regarding Cessation of Litigation Activities.
3. The Governmental Entity shall, within fourteen (14) days of the Reference Date and prior to the filing of the Consent Judgment, file a request to dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the MDL Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal With Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
4. The Governmental Entity agrees to the terms of the Allergan Settlement pertaining to Subdivisions and Special Districts as defined therein.
5. By agreeing to the terms of the Allergan Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
6. The Governmental Entity agrees to use any monies it receives through the Allergan Settlement solely for the purposes provided therein.

7. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Allergan Settlement.
8. The Governmental Entity has the right to enforce the Allergan Settlement as provided therein.
9. The Governmental Entity, as a Participating Subdivision or Participating Special District, hereby becomes a Releasor for all purposes in the Allergan Settlement, including, but not limited to, all provisions of **Section V (Release)**, and along with all departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Allergan Settlement are intended to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Allergan Settlement shall be a complete bar to any Released Claim.
10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision or Participating Special District as set forth in the Allergan Settlement.
11. In connection with the releases provided for in the Allergan Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Allergan Settlement.

12. Nothing herein is intended to modify in any way the terms of the Allergan Settlement, to which the Governmental Entity hereby agrees. To the extent this Settlement Participation Form is interpreted differently from the Allergan Settlement in any respect, the Allergan Settlement controls.



I have all necessary power and authorization to execute this Settlement Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____



EXHIBIT K

Subdivision Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“Governmental Entity”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated November 14, 2022 (“Walmart Settlement”), and acting through the undersigned authorized official, hereby elects to participate in the Walmart Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Walmart Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Walmart Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event within 14 days of the Effective Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in In re National Prescription Opiate Litigation, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal With Prejudice substantially in the form found at <https://nationalopiodsettlement.com/>.
3. The Governmental Entity agrees to the terms of the Walmart Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Walmart Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Walmart Settlement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Walmart Settlement.
7. The Governmental Entity has the right to enforce the Walmart Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Walmart Settlement, including but not limited to all provisions of Section X (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Walmart Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Walmart Settlement shall be a complete bar to any Released Claim.
9. In connection with the releases provided for in the Walmart Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Walmart Settlement.

10. Nothing herein is intended to modify in any way the terms of the Walmart Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Walmart Settlement in any respect, the Walmart Settlement controls.

I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____



EXHIBIT K

Subdivision Participation and Release Form

Governmental Entity:	State:
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated December 9, 2022 (“*CVS Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the CVS Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the CVS Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the CVS Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
3. The Governmental Entity agrees to the terms of the CVS Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the CVS Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the CVS Settlement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the CVS Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the CVS Settlement.
7. The Governmental Entity has the right to enforce the CVS Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the CVS Settlement, including without limitation all provisions of Section XI (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the CVS Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The CVS Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the CVS Settlement.
10. In connection with the releases provided for in the CVS Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the CVS Settlement.

11. Nothing herein is intended to modify in any way the terms of the CVS Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the CVS Settlement in any respect, the CVS Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

EXHIBIT K

Subdivision Participation and Release Form

Governmental Entity:	State:
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated December 9, 2022 (“*Walgreens Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Walgreens Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Walgreens Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Walgreens Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
3. The Governmental Entity agrees to the terms of the Walgreens Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the Walgreens Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Walgreens Settlement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Walgreens Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the Walgreens Settlement.
7. The Governmental Entity has the right to enforce the Walgreens Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Walgreens Settlement, including without limitation all provisions of Section XI (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Walgreens Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Walgreens Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Walgreens Settlement.
10. In connection with the releases provided for in the Walgreens Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Walgreens Settlement.

11. Nothing herein is intended to modify in any way the terms of the Walgreens Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Walgreens Settlement in any respect, the Walgreens Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____



STAFF REPORT

MEETING DATE: March 7, 2023

TITLE:

Consider action to approve Resolution No. 2023-33 revising the agreement for subdivision plat regulation in the City of Bastrop's ETJ in Bastrop County also known as the (1445 agreement); providing for repeal; and providing an effective date

AGENDA ITEM SUBMITTED BY:

Submitted by: Sylvia Carrillo, City Manager

BACKGROUND/HISTORY:

In 2001, the Texas Legislature approved HB 1445 which required municipal and county governments to enter into an interlocal agreement regarding development regulations in the City's extra territorial jurisdiction (ETJ). The agreements are commonly referred to as 1445 agreements.

In 2018, the City and County approved and entered into such an interlocal agreement. The agreement divided the County into 4 areas, statutory ETJ, Area A, Area B, and Voluntary.

The City's statutory ETJ is 1 mile as defined by state statute in Sec. 42.021 of the Texas Local Government Code.

Attachment 3 in this document shows the prior boundaries of Area A, Area B, and Area V.

Attachment 4 in this document shows the proposed boundaries of the revised areas.

The revised areas include the following:

- 1) The City will continue to review and have jurisdiction over areas where the following exists:
 - a. The area is in the City's Water or Wastewater Certificate of Convenience and Necessity (CCN)
 - b. The area is covered by a development agreement between the City and the developer
 - c. Areas where the City has entered into or is currently negotiating a wholesale agreement for water and wastewater
- 2) The County will review all other areas of the county where the conditions above do not apply.
- 3) The County and City will enter into tri-party agreements in areas where City or County needs necessitate an agreement to cover the interests of either.

FISCAL IMPACT:

None

RECOMMENDATION:

City Manager Carrillo recommends approval of Resolution No. R-2023-33.

ATTACHMENTS:

1. Resolution R-2023-33
2. Proposed draft agreement.
3. 2018 Interlocal Agreement Map.
4. Proposed 2023 Interlocal Agreement Map.

RESOLUTION NO. R-2023-33

A RESOLUTION OF THE CITY OF BASTROP, TEXAS, APPROVING THE ATTACHED AGREEMENT AS EXHIBIT A, AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS RELATED TO THE AGREEMENT FOR SUBDIVISION PLAT REGULATION IN THE CITY OF BASTROP'S ETJ IN BASTROP COUNTY; PROVIDING FOR REPEAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has properly identified its incorporated municipal boundary ("City Limits") and its Extraterritorial Jurisdiction ("ETJ") within the County; and

WHEREAS, the County has adopted and is enforcing subdivision and property development regulations pursuant to Texas Local Government Code Chapter 232; and

WHEREAS, the City has adopted and is enforcing subdivision and property development regulations pursuant to Texas Local Government Code Chapter 212; and

WHEREAS, the Parties are governmental entities authorized to enter into an interlocal cooperation agreement pursuant to Texas Government Code Chapter 791 ("Chapter 791"); and

WHEREAS, Texas Local Government Code Chapter 242 ("Chapter 242", commonly referred to as *House Bill 1445*) mandates that a municipality and a county enter into an agreement providing for the regulation of the subdivision of land and approving of related permits in the ETJ; and

WHEREAS, pursuant to Chapter 242, the City and the County may apportion the area within the ETJ and each entity may regulate subdivision plats and approve related permits; and

WHEREAS, the Parties intend implementation of this Agreement to ensure fair, reasonable, effective, and efficient administration of development regulations and procedures related to subdivision plats and infrastructure, which the Parties agree are worthwhile and important public objectives that will be accomplished through this Agreement; and

WHEREAS, the Parties concur that this Agreement is reasonable, prudent, and necessary for the public health, safety, and general welfare, and provides for safe, orderly, and responsible development.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bastrop:

Section 1: All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Bastrop, Texas, and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Section 2: The City Council hereby approves the Agreement for Subdivision Plat Regulation in the City of Bastrop’s ETJ in Bastrop County.

Section 3: The City Council hereby authorizes the City Manager to execute all necessary documents related to the Agreement for Subdivision Plat Regulation in the City of Bastrop’s ETJ in Bastrop County.

Section 4: This Resolution shall be in full force and effect from and after its passage.

Section 5: The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered, and formally acted upon, all as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

DULY RESOLVED & ADOPTED by the City Council of the City of Bastrop, TX, on this, the 7th day of March 2023.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

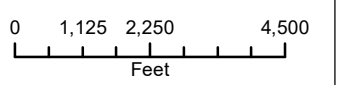
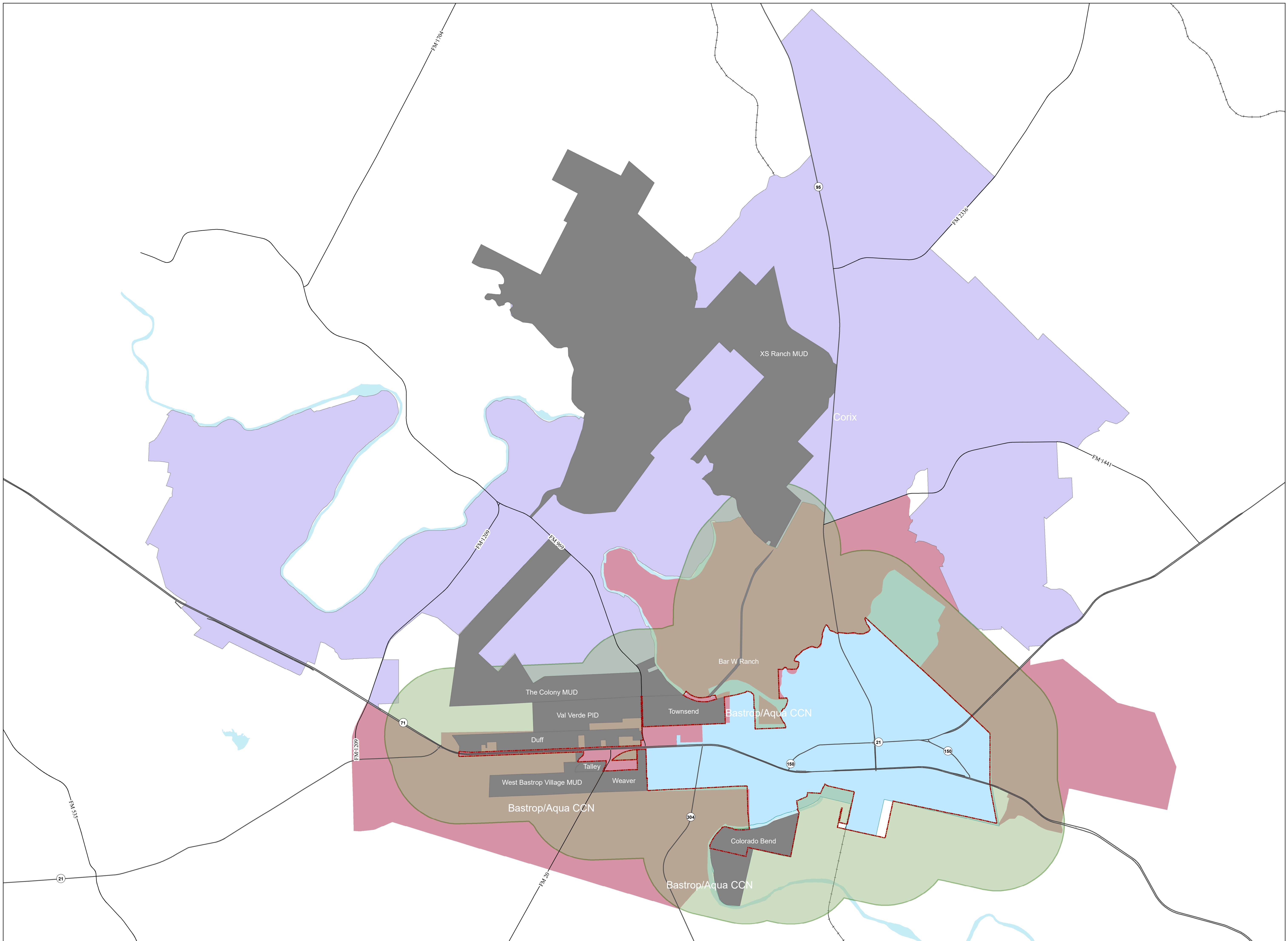
Alan Bojorquez, City Attorney



City of Bastrop Development & CCN Agreements

Legend

- City Limit
- Development Agreements
- Statutory (one-mile)
- Corix Wastewater CCN
- Bastrop WW CCN in Aqua Water CCN
- City of Bastrop Water CCN



1 inch = 3,200 feet Date: 2/22/2023

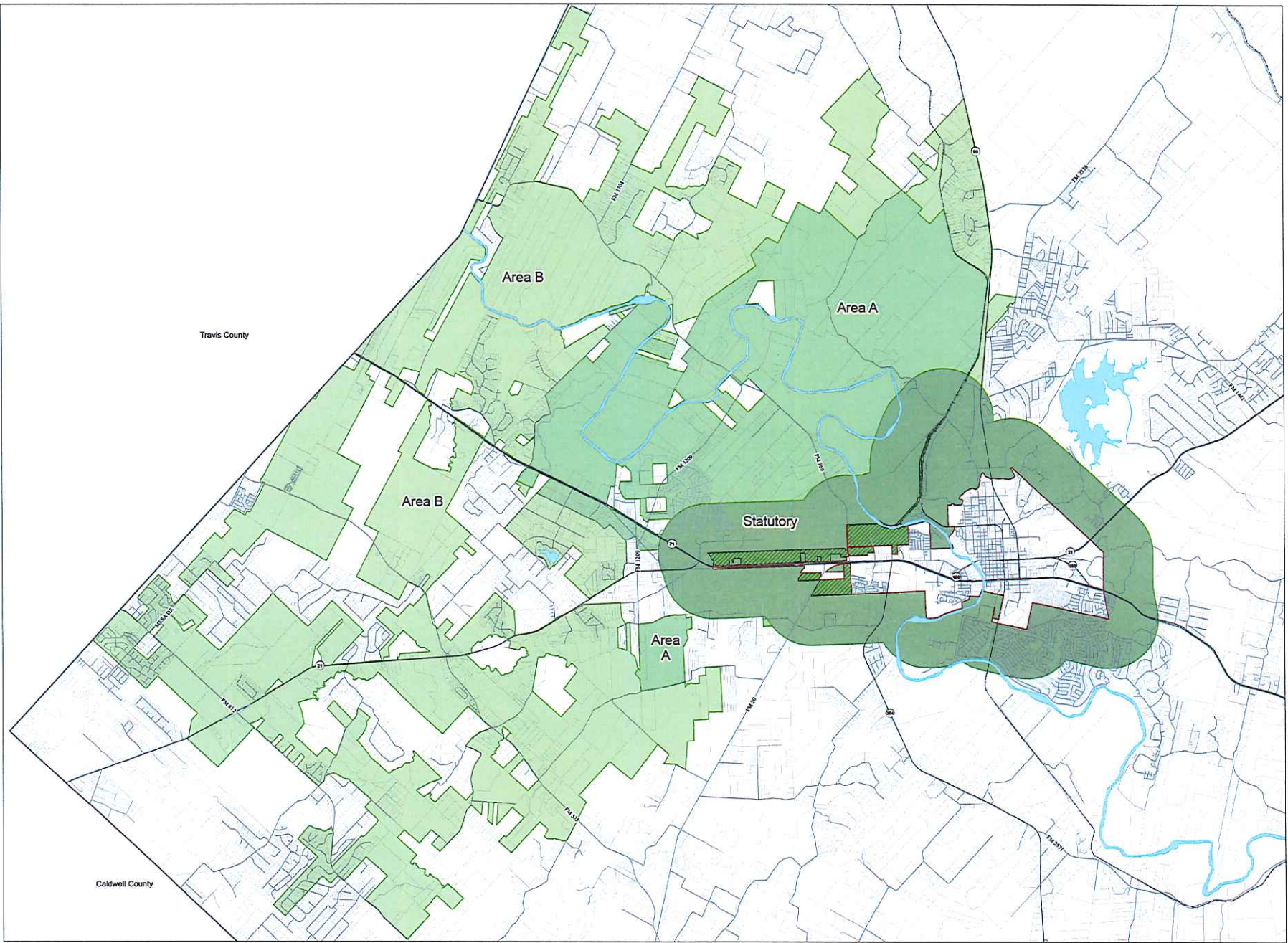
The accuracy and precision of this cartographic data is limited and should be used for information planning purposes only. This data does not replace surveys conducted by registered Texas land surveyors nor does it constitute an "official" verification of zoning, land use classification, or other classification set forth in local, state, or federal regulatory processes. The City of Bastrop, nor any of its employees, do not make any warranty of merchantability and fitness for particular purpose, or assumes any legal liability or responsibility for the accuracy, completeness or usefulness of any such information, nor does it represent that its use would not infringe upon privately owned rights.



City Limits & ETJ

Legend

- Parcels
- City Limit
- City Boundary
- County
- ETJ Areas**
 - Statutory
 - Area A
 - Area B
 - Development Agreements



0 0.25 0.5 1 Miles Date: 12/19/2018

The accuracy and precision of the cartographic data is limited and should be used for information purposes only. The data does not replace surveys conducted by registered surveyors. The City of Bastrop, TX, and its employees, do not make any warranty of merchantability and fitness for particular purposes, or assumes any legal liability or responsibility for the accuracy, completeness or usefulness of any such information, nor does it represent that its use would not infringe upon privately owned rights.

AGREEMENT FOR SUBDIVISION PLAT REGULATION IN THE CITY OF BASTROP'S ETJ IN BASTROP COUNTY

PREAMBLE & RECITALS

THIS AGREEMENT for Subdivision Plat Regulation in the City of Bastrop's ETJ in Bastrop County ("Agreement"), is by and between **Bastrop County**, Texas ("County"), a duly organized and operating county of the State of Texas, and the **City of Bastrop**, Texas ("City"), a duly organized Home-Rule municipality of the State of Texas. The County and City may be referred to jointly as "Parties" and individually as a "Party".

WHEREAS, the City has properly identified its incorporated municipal boundary ("City Limits") and its Extraterritorial Jurisdiction ("ETJ") within the County; and

WHEREAS, the County has adopted and is enforcing subdivision and property development regulations pursuant to Texas Local Government Code Chapter 232; and

WHEREAS, the City has adopted and is enforcing subdivision and property development regulations pursuant to Texas Local Government Code Chapter 212; and

WHEREAS, the Parties are governmental entities authorized to enter into an interlocal cooperation agreement pursuant to Texas Government Code Chapter 791 ("Chapter 791"); and

WHEREAS, Texas Local Government Code Chapter 242 ("Chapter 242", commonly referred to as *House Bill 1445*) mandates that a municipality and a county enter into an agreement providing for the regulation of the subdivision of land and approving of related permits in the ETJ; and

WHEREAS, pursuant Chapter 242, the City and the County may apportion the area within the ETJ each entity may regulate subdivision plats and approve related permits; and

WHEREAS, the Parties intend implementation of this Agreement to ensure fair, reasonable, effective, and efficient administration of development regulations and procedures related to subdivision plats and infrastructure, which the Parties agree are worthwhile and important public objectives that will be accomplished through this Agreement; and

WHEREAS, the Parties concur that this Agreement is reasonable, prudent, and necessary for the public health, safety, and general welfare, and provide for safe, orderly, and responsible development.

NOW, THEREFORE, in consideration of the representations, obligations, promises, warranties, and conditions of this Agreement, and the consideration herein described, the sufficiency of which is acknowledged, the Parties hereby agree as follows:

TERMS & CONDITIONS

1. INTRODUCTION

1.1 Definitions

City Limits: The "City Limits" shall mean the incorporated municipal boundary.

City's Area: The "City's Area" shall mean the following:

- (a) Statutory ETJ; or
- (b) Area of the Voluntary ETJ covered by a Development Agreement in which the City is a party; or
- (c) Area of the Voluntary ETJ in which the City holds a Certificate of Convenience and Necessity ("CCN") for Water or Wastewater service; or
- (d) Area of the Voluntary ETJ in which the City is a party to a Wholesale agreement for Water or Wastewater service (e.g., with a MUD, WCID, Aqua, Corix, etc.); or

Area of the Voluntary ETJ within three hundred feet (300') of a City utility connection. Or in accordance with Chapter 13 Sec 13.04.008- Development of organized disposal systems latest approved version.

County's Area: The "County's Area" shall mean the remainder of the City's ETJ that is not encompassed by the "City's Area".

Developer: A "Developer" shall mean the owner of real property for which subdivision plats or related permits are sought in the City's ETJ. The term shall also include any agent, prospective buyer, or builder acting on behalf of the owner or the real property pursuant to a lawful Power of Attorney filed with the City.

Development Agreement: A "Development Agreement" shall mean a contract authorized under Texas Local Government Code Chapter 43 and/or 212.

Extraterritorial Jurisdiction (ETJ): The ETJ shall mean the unincorporated area that is contiguous to the City Limits of the City in which the City has certain regulatory authority, including the regulation of subdivision plats.

- (a) **Statutory ETJ:** The City's ETJ determined by Texas Local Government Code Chapter 42 ("Statutory ETJ"), that is located within one mile of the City Limits, as shown on the attached Exhibit "A" ("ETJ Map").

- (b) **Voluntary ETJ:** The unincorporated areas of the County outside of the City's Statutory ETJ that have been designated by the City as ETJ upon request of the property owners ("Voluntary ETJ").

- 1.2 Purpose.** It is the general objective of the Parties to detail their roles and responsibilities and to identify the applicable regulations that will be applied by each,

to all subdivisions that are developed in the City's ETJ. The purpose of this Agreement is to ensure consistent regulation, clarity of applicability, and governmental responsibility and oversight of landowners and developers in the City's ETJ regarding the platting of subdivisions and the approval of related permits. This Agreement is intended to promote the public health, safety, and general welfare, and provide for safe, orderly, and responsible development.

1.3 Public Benefits. In addition to providing for the orderly and healthful layout and development of land, this Agreement fosters the responsible planning and construction of vital infrastructure, including drainage, recreation, transportation, and utility improvements.

1.4 Applicability. This Agreement shall apply to the unincorporated land located in Bastrop County, Texas, that is within the City's ETJ, as now existing or hereafter expanded or diminished as allowed by law. In the event that the City's ETJ changes during the term of the Agreement, the City will promptly notify the County of such change providing documentation related to same.

2. IN CITY'S AREA

2.1. Assignment, Delegation & Acknowledgment. The County hereby assigns, delegates, and acknowledges that the City has exclusive regulatory authority and responsibility to administer subdivision plats and related authorizations for land in the City's Area, except as provided by this Agreement.

2.2. Standards. The City shall be responsible for performing its standard review for acceptance and approval of subdivision plat applications and related plat documentation pursuant to applicable state, federal and City regulations set forth in the Bastrop Code of Ordinances, as amended, except as specifically otherwise noted herein. All required documents for a plat application and related plat approval for subdivisions shall be filed with the City, unless exempted from filing by the proper application of a federal or state statute, or authorized local regulation.

2.3. Infrastructure. For all subdivisions that will be annexed into the City, the City shall require Owners to comply with the City's public road, drainage and other public infrastructure development standards and subdivision standards and requirements. For all subdivisions that not scheduled to be annexed into the City, the City shall require Developers to comply with the City's public road, drainage and other public infrastructure development standards and subdivision standards and requirements.

2.4. Maintenance. When the City's ordinances or regulations require a Developer to dedicate, construct, install, or improve public road, drainage, or other public infrastructure (including but not limited to lighting, signage, traffic lights, sidewalks, parking areas, storm sewers or other drainage infrastructure), and when the subdivision infrastructure will require future maintenance by a governmental entity after acceptance, the City shall require an expressly worded 'plat note' to be shown

- on the final, approved plat documentation stating that all public infrastructure shall be maintained by the Developer, until such time that it is accepted, if at all, by a governmental entity for maintenance. The City shall provide for the administration of all required forms of fiscal security (e.g., fees, certificates of deposit, letters of credit, warranty or bonds, etc.) for infrastructure covered by this Agreement.
- 2.5. Address for Submittals.** Developers shall submit all subdivision applications and construction plans subdivisions and plats for land in the City's Area to the City of Bastrop's Department of Planning and Development, at 1311 Chestnut Street, Bastrop, Texas 78602, for review and processing by the City.
- 2.6. Copies to County.** The City shall deliver a courtesy copy of same to the County, complete with copies of all attached or related documents within 10 calendar days of its receipt of a subdivision plat application or related permit.
- 2.7. County Comments.** The City shall include any written recommendations or comments received from the County in the agenda backup materials and administrative record for plat or related permit approvals.
- 2.8. Notice of City Action.** The City shall deliver written notice of the action to the County, complete with copies of all documents which memorialize that action within 10 calendar days from its action on a subdivision plat application or related permit.
- 2.9. Application Fees.** The City shall provide for the administration of all required fees and deposits from the Developer, and the remittance of the County's funds to the County as applicable. Applicable fees shall be in accordance with the City and County's most recently approved fee schedules.
- 2.10. Inspections.** The City shall be responsible for scheduling all inspections on the subdivision construction, retaining all inspection fees paid by the Developer related to the subdivision, and providing the County with copies of inspection reports. These inspections include those performed by the County for infrastructure intended for public dedication to the County. The City shall allow County inspectors access to constructions sites as necessary.
- 2.11. Administration of Ancillary Agreements.** The City shall provide for the administration and completion of any required subdivision construction agreement, phasing agreement and other planning and construction issues.
- 2.12. Fiscal Assurances.**
- 2.12.1. Fiscal Security Deposits.** The City shall be responsible for any requisite fiscal security deposits made by developers and for holding any applicable escrow fees deposited by developers for same, for the joint benefit of the Parties, as applicable.

2.12.2. Performance Bonding & Assurance. Unless otherwise approved as an exception to the City's standard fiscal assurance process, the City shall require, as a condition for plat approval, that Developers who construct public road, utility, drainage, or other public infrastructure required for a subdivision shall post fiscal assurance in a form and amount approved by the City, to assure final and complete construction of all required subdivision infrastructure. As appropriate and applicable, such fiscal assurance shall conform to the standards of the City's subdivision regulations.

2.12.3. Infrastructure Warranty & Maintenance Guaranty. The City shall require, as a condition for plat approval, that Developers who construct public road, utility, drainage, or other public infrastructure required for a subdivision shall provide to the City a post-inspection/post-acceptance infrastructure warranty and maintenance guarantees, made to the City and County as co-beneficiaries, as set forth in the City's Code of Ordinances. As appropriate and applicable, such fiscal assurance shall conform to the standards of the City's subdivision regulations.

3. IN THE COUNTY'S AREA

3.1. Assignment, Delegation & Acknowledgment. The City hereby assigns, delegates, and acknowledges that the County has exclusive regulatory authority and responsibility to administer subdivision plats and related authorizations for land in the County's Area, except as provided by this Agreement.

3.2. Standards. The County shall be responsible for performing its standard review for acceptance and approval of subdivision plat applications and related plat documentation pursuant to applicable state, federal and County regulations, as amended, except as specifically otherwise noted herein. All required documents for a plat application and related plat approval for subdivisions shall be filed with the County, unless exempted from filing by the proper application of a federal or state statute, or authorized local regulation.

3.3. Infrastructure. The County shall require Owners to comply with the County's public road, drainage and other public infrastructure development standards and subdivision standards and requirements. The County shall require Developers to comply with the County's public road, drainage and other public infrastructure development standards and subdivision standards and requirements.

3.4. Maintenance. When the Counties orders or regulations require a Developer to dedicate, construct, install, or improve public road, drainage, or other public infrastructure (including but not limited to lighting, signage, traffic lights, sidewalks, parking areas, storm sewers or other drainage infrastructure), and when the subdivision infrastructure will require future maintenance by a governmental entity after acceptance, the County shall require an expressly worded 'plat note' to be shown on the final, approved plat documentation stating that all public infrastructure

- shall be maintained by the Developer, until such time that it is accepted, if at all, by a governmental entity for maintenance. The County shall provide for the administration of all required forms of fiscal security (e.g., fees, certificates of deposit, letters of credit, warranty or bonds, etc.) for infrastructure covered by this Agreement.
- 3.5. Address for Submittals.** Developers shall submit all subdivision applications and construction plans subdivisions and plats for land in the County's Area to the Bastrop County Engineer, 211 Jackson Street, Bastrop, Texas 78602, for review and processing by the City.
- 3.6. Copies to City.** The County shall deliver a courtesy copy of same to the City, complete with copies of all attached or related documents within 10 calendar days of its receipt of a subdivision plat application or related permit.
- 3.7. City Comments.** The County shall include any written recommendations or comments received from the City in the agenda backup materials and administrative record for plat or related permit approvals.
- 3.8. Notice of County Action.** The County shall deliver written notice of the action to the City, complete with copies of all documents which memorialize that action within 10 calendar days from its action on a subdivision plat application or related permit.
- 3.9. Application Fees.** The County shall provide for the administration of all required fees and deposits from the Developer, and the remittance of the City's funds to the City as applicable. Applicable fees shall be in accordance with the County and City's most recently approved fee schedules.
- 3.10. Inspections.** The County shall be responsible for scheduling all inspections on the subdivision construction, retaining all inspection fees paid by the Developer related to the subdivision, and providing the County with copies of inspection reports. These inspections include those performed by the City for infrastructure intended for public dedication to the City. The County shall allow City inspectors access to constructions sites as necessary.
- 3.11. Administration of Ancillary Agreements.** The County shall provide for the administration and completion of any required subdivision construction agreement, phasing agreement and other planning and construction issues.
- 3.12. Fiscal Assurances.**
- 3.12.1. Fiscal Security Deposits.** The County shall be responsible for any requisite fiscal security deposits made by developers and for holding any applicable escrow fees deposited by developers for same, for the joint benefit of the Parties, as applicable.

3.12.2. Performance Bonding & Assurance. Unless otherwise approved as an exception to the County's standard fiscal assurance process, the County shall require, as a condition for plat approval, that Developers who construct public road, utility, drainage, or other public infrastructure required for a subdivision shall post fiscal assurance in a form and amount approved by the County, to assure final and complete construction of all required subdivision infrastructure. As appropriate and applicable, such fiscal assurance shall conform to the standards of the County subdivision regulations.

3.12.3. Infrastructure Warranty & Maintenance Guaranty. The County shall require, as a condition for plat approval, that Developers who construct public road, utility, drainage, or other public infrastructure required for a subdivision shall provide to the City a post-inspection/post-acceptance infrastructure warranty and maintenance guarantees, made to the City and County as co-beneficiaries, as set forth in the County's regulations. As appropriate and applicable, such fiscal assurance shall conform to the standards of the County's subdivision regulations.

4. TRI-PARTY AGREEMENTS

4.1. Requirement. The Parties shall be required to mutually enter into negotiations with a Developer in a good faith effort to draft and execute the appropriate agreement covering the subdivision plat, or related permits, in the following instances:

- (a) The subdivision is in the City's Area, but public infrastructure will be dedicated to the County; or
- (b) The subdivision is in the County's Area, but:
 - (1) Developer intends to utilize on-site sewage facilities (OSSFs); and
 - (2) City or the City's wholesale customer has water and/or wastewater utilities in proximity to the subdivision.

5. ADMINISTRATIVE PROVISIONS

5.1. Entire Agreement. This instrument is intended by the Parties as the final, complete and exclusive statement of the terms and conditions of this Agreement and is intended to supersede all previous agreements and understandings between the Parties relating to its specific subject matter. No prior stipulation, agreement, understanding or course of dealing between the Parties with respect to the specific subject matter of this Agreement shall be valid or enforceable unless embodied in this Agreement. No amendment, modification or waiver of any provision of this Agreement shall be valid or enforceable unless in writing and signed by all Parties. Each of the Parties shall pay all of its own costs and expenses (including travel expenses and attorney's fees) incurred in negotiating and preparing this Agreement and carrying out the transactions contemplated by this Agreement.

- 5.2. Severability.** If any provision of this Agreement is held to be illegal, unenforceable or invalid, it shall be severed and the remaining provisions of this Agreement shall not be affected thereby and shall remain in full force and effect.
- 5.3. Attorney Fees, Interest & Expenses.** In the event a Party commits a default of this Agreement, and litigation is filed regarding this Agreement, the prevailing Party in the litigation shall be entitled to recover its reasonable and necessary attorney's fees, court costs, interest, and expenses allowed by law and incurred by said Party in that litigation.
- 5.4. No Waiver & Assignment.** The failure of a Party in any one or more instances to insist upon the performance of any provision of this Agreement shall not be construed as a waiver of that Party's rights with respect to that or any continuing or subsequent default of the Agreement, and the Agreement shall remain in full force and effect. This Agreement is not assignable without the express written consent of all Parties.
- 5.5. Governing Law & Venue.** This Agreement shall be construed and interpreted in accordance with the law of the State of Texas, with venue being in Bastrop County.
- 5.6. Signatory Authority, Representations & Warranties.** This Agreement shall inure to the benefit of and be binding upon the Parties and their legal representatives, successors and permitted assigns, subject to the proper application of the doctrine of governmental immunity which protects both Parties. Each Party warrants and represents to each other the following:
- (a) The Party has read the Agreement in its entirety and understands all of its terms and provisions.
 - (b) The person signing this Agreement on behalf of the Party has the authority and power to execute it on behalf of the Party.
 - (c) This Agreement was approved by the governing body of the Party at a public meeting properly noticed and conducted pursuant to Texas Government Code Chapter 551 (the Texas Open Meetings Act).
 - (d) Pursuant to Texas Government Code Chapter 791 (the Interlocal Cooperation Act), as amended, this Agreement:
 - (1) is an authorized inter-local governmental contract;
 - (2) provides for a governmental function and service that each Party is authorized to perform for the other Party; and
 - (3) all monetary payment required by this Agreement to be paid from one Party to the other Party:
 - (a) shall constitute payment for the performing Party's performance of a governmental function and service to the paying Party,
 - (b) shall be paid from current revenues available to the paying Party, and
 - (c) are for an amount that fairly compensates the performing Party for said governmental function and service.
- 5.7. Notices.** All notices required by this Agreement shall be in writing, correctly

addressed to the required addressee, and delivered by: (a) certified United States mail, return receipt requested; or (b) courier or hand-delivery. No notice required by this Agreement shall be effective if delivered only by facsimile, e-mail, or other electronic transmission. The addresses and designated notice representatives of the Parties for notice under this Agreement are as follows, and a Party may revise this information by giving the other Party 3 days advance written notice of the change:

If to the County:

County Judge
Bastrop County Courthouse
804 Pecan Street
Bastrop, Texas 78602

If to the City:

City Manager
City Hall
1311 Chestnut Street
Bastrop, Texas 78602

Any notice required by this Agreement must be correctly addressed to the required addressee, and shall be deemed to have been given on the day the notice is delivered to the addressee by: (a) hand-delivery or courier service; or (b) United States certified mail, return receipt requested.

5.8. Document Creation, Usage & Preamble Interpretation. The rule of construction that ambiguities in a document are construed against the Party who drafted it shall not apply in interpreting this Agreement. As used in this Agreement, singular nouns and pronouns shall include the plural, and the masculine gender shall include the feminine gender, and vice versa, where necessary for a correct meaning. If not specifically defined in this Agreement, words and phrases used in this Agreement shall have their ordinary meaning as defined by common usage. All statements made in the preamble and preliminary recitals of this Agreement, and all attached documents, are incorporated by reference for all purposes. The Parties agree that to the full extent possible, each has a duty to mitigate damages.

6. TERM, TERMINATION & DEFAULT

6.1. Term. The term of this Agreement shall begin on the Effective Date and shall run for a 2- year term unless otherwise terminated by the Parties, and shall *automatically renew* on its anniversary date every 2 years, unless otherwise amended or terminated by the Parties.

6.2. Termination. This Agreement may be terminated as follows:

6.2.1. The Parties may unilaterally or mutually agree to terminate this Agreement, for cause or no cause, by giving the other party a minimum of 90 days written notice of the desire to terminate. During the period prior to the termination the Parties shall work together to wind-up any then-existing subdivision matters and pending issues. However, because an agreement of this type is required by State law to be in place between the Parties, in the event either or both Parties provide notice of termination, both Parties agree that they will voluntarily initiate good faith discussions to negotiate the provisions of a new

agreement to take the place of the terminated contract, if such is required by law at that time, within 30 days of the termination date of the then existing Agreement, or as soon as is feasible thereafter.

- 6.2.2.** Should a Party commit a default of this Agreement, the Parties shall communicate with each other in good faith to resolve the default. Should resolution not occur, the non-defaulting Party may terminate this Agreement by giving written default/termination notice to the defaulting Party at least 90 days prior to the termination date chosen by the non-defaulting Party. During that 90 day period, the Parties shall reasonably work together to wind-up and conclude all pending issues related to the Agreement.
- 6.3. Mediation.** This Agreement shall be performed in Bastrop County, Texas, The Parties agree that prior to initiating the mandatory dispute resolution remedy set forth in Chapter 242 of the Texas Local Government Code, as amended, the Parties shall jointly participate in non-binding mediation to resolve any disputes related to this Agreement. In the event of such mediation, each Party shall pay its own expenses incurred for the mediation, including attorney fees, mediator fees, and travel expenses. The mediator shall be selected by the Parties; however, should the Parties fail to agree on a mediator, the dispute shall be submitted to the Center for Public Policy Dispute Resolution, School of Law, University of Texas at Austin, 727 East Dean Keeton Street, Austin, Texas 78705, for mediated resolution. Notwithstanding the above, a Party may file suit solely for injunction or mandamus relief regarding this Agreement without first submitting that dispute to mediation.
- 6.4. Counterparts & Captions.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument. Signed counterparts of this Agreement may be delivered by facsimile or by scanned pdf image, each of which shall have the same force and effect as an original signed counterpart. Copies of signatures to this Agreement are effective as original signatures. The captions of the paragraphs or subparagraphs of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect the provisions of this Agreement.
- 6.5. Default Survives Termination.** Notwithstanding anything to the contrary stated in this Agreement, and subject to the proper application of the doctrine of governmental immunity which protects both Parties, should a Party commit a default regarding any obligation, promise, representation, or warranty contained in this Agreement, including the payment or use of funds, that default event, any related default claim, and this provision, shall survive the termination of this Agreement and can be asserted in litigation against the defaulting Party. A defaulted payment amount or other monetary default shall accrue prejudgment interest in favor of the non-defaulting Party at the highest amount allowed by law until the default is paid in full.

6.6. Time. Time is of the essence. Unless otherwise designated in this Agreement, all references in this Agreement to "days" shall mean calendar days. Business days, if used in this Agreement, shall exclude Saturdays, Sundays, and legal public holidays as then recognized and observed by the County. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday as then recognized and observed by the County, the date for performance will be the next following regular business day.

6.7. No Immunity Waiver. By signing this Agreement, neither Party waives or relinquishes any protection afforded by the proper application of the doctrine of governmental immunity. Nothing in this Agreement shall be construed or interpreted as waiving or attempting to waive any protection afforded a Party by the proper application of the doctrine of governmental immunity.

6.8. No Third Party Beneficiaries. This Agreement is not intended to confer any rights on any third parties, and it shall not be construed as doing so.

6.9. No Special Relationships. There are no third-party beneficiaries regarding this Agreement. The Parties' relationship is that of an ordinary, arms-length contractual relationship, and the Parties do not intend by this Agreement or otherwise to create the relationship of principal and agent, partner(s), joint venture(s), or any other special relationship.

6.10. Ratification & Validation. The County and City hereby ratify all plats approved by the County and the City pursuant to, and in accordance with, the Interlocal Agreement effective on January 10, 2006, executed by the City and the County for the review of subdivision applications in Bastrop County and in the City's ETJ ("2006 Interlocal Agreement"). A plat approved since January 11, 2011, is conclusively presumed valid, and in full force and effect, and to have been approved in accordance with all applicable statutes, orders and ordinances, if a lawsuit to annul or invalidate the plat was not filed on or before the Effective Date of this Agreement.

THIS AGREEMENT is executed by the Parties and will become effective on the later of the dates shown below (the "Effective Date").

BASTROP COUNTY:

CITY OF BASTROP:

by: _____
Gregory Klaus, County Judge
Bastrop County, Texas
_____, 2023

by: _____
Connie Schroeder, Mayor
City of Bastrop, Texas
_____, 2023

**EXHIBIT A
(ETJ Map)**

DRAFT



STAFF REPORT

MEETING DATE: March 7, 2023

TITLE:

Consider action to approve Resolution No. R-2023-27 of the City Council of the City of Bastrop, Texas approving an agreement between the City of Bastrop and Bastrop River Company providing for a five year lease of a .52 acre portion of A11 Bastrop town tract, acres 5.100 (city park) located in Fisherman's Park with an option to renew for three additional two-year term upon mutual agreement; authorizing the city manager to execute said lease agreement on behalf of the city; and declaring an effective date.

STAFF REPRESENTATIVE:

Trey Job, Assistant City Manager

BACKGROUND/HISTORY:

In 2020 the Bastrop City Council was approached by the Bastrop River Company requesting consideration to lease a small tract of land within Fisherman's Park as a test to determine if business within the City of Bastrop Parks system is a possible fit for the City of Bastrop. After much consideration and discussion about the subject it was determined that this met the intent of previous parks board discussions and meets the goals set forth during a previous joint Parks board and City Council meeting where the Parks Board was tasked with finding additional funding for the City of Bastrop's Parks system.

Bastrop River Company has requested a renewal of the lease. There have been some requested changes that the city manager and I have discussed with Mr. Harle and believe we have reached consensus based on the discussion with City Council in January.

POLICY EXPLANATION:

Texas Local Government Code Section 51.001 provides the City general authority to adopt an Ordinance or policy regulations that are for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City.

FUNDING SOURCE:

N/A

RECOMMENDATION:

ACM Job recommends approval of Resolution No. R-2023-27.

ATTACHMENTS:

- Resolution No. R-2023-27
- Draft Lease
- List of requested amendments

RESOLUTION NO. R-2020-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS APPROVING AN AGREEMENT BETWEEN THE CITY OF BASTROP AND BASTROP RIVER COMPANY PROVIDING FOR A FIVE YEAR LEASE OF A .52 ACRE PORTION OF A11 BASTROP TOWN TRACT, ACRES 5.100 (CITY PARK) LOCATED IN FISHERMAN'S PARK WITH AN OPTION TO RENEW FOR THREE ADDITIONAL TWO-YEAR TERM UPON MUTUAL AGREEMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASE AGREEMENT ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Bastrop owns a certain parcel of real property that is located at Fisherman's Park in Bastrop, Bastrop County, Texas, and more particularly shown in Exhibit "A", of the proposed lease agreement attached hereto and incorporated herein by this reference ("The Agreement"); and

WHEREAS, the City of Bastrop City Council and City of Bastrop Parks Board and Tree Advisory Committee understand the value private vendors providing recreational opportunities enhance the city of Bastrop Park's system as a whole; and

WHEREAS, the City of Bastrop deems it advantageous to itself and to its operations to lease and demise certain rights, privileges and uses of the Premises as hereinafter contained; and

WHEREAS, the City of Bastrop Parks Board has expressed interest in finding opportunities to help fund park maintenance and improvements.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

Section 1. The attached Lease Agreement between the City of Bastrop and Bastrop River Company, (the "Agreement") is hereby approved.

Section 2. The City Manager is hereby authorized to execute the Agreement on behalf of the City.

Section 3. This Resolution shall become effective immediately upon adoption.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 7th day of March, 2023.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

This lease agreement ("Lease") is made as of the Effective Date set forth above, by and between the City of Bastrop, Texas, a municipal corporation (the "Lessor") and Bastrop River Co., LLC (the "Lessee"), a Texas Limited Liability Company.

WHEREAS, the Lessor owns a certain parcel of real property that is located at Fisherman's Park in Bastrop, Bastrop County, Texas, and more particularly shown in Exhibit "A", attached hereto and incorporated herein by this reference ("Premises"); and

WHEREAS, Lessee wishes to enter into a five (5) year lease with a five year renewal option for the Premises to manage and operate a River Outfitting Company; and

WHEREAS, the City of Bastrop deems it advantageous to itself and to its operations to lease and demise certain rights, privileges and uses of the Premises as hereinafter contained; and

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee (hereinafter "Parties") hereby agree as follows:

Article 1. Lease of Premises; Acceptance of Existing Conditions; Compliance with Regulations

1.1. Leased Premises: In consideration of the obligation of the Lessee to pay rent and in consideration of the other terms, covenants and conditions of this Lease, the Lessor leases to the Lessee, and the Lessee leases from the Lessor that approximately 22,651 square foot portion described as 0.052 ACRE PORTION OF A11 BASTROP TOWN TRACT, ACRES 5.100 (CITY PARK) LOCATED IN FISHERMAN'S PARK as shown in Exhibit "A", attached hereto and made a part hereof for all purposes (the "Leased Premises") in Bastrop County, Texas. The Lessor agrees that the Lessee shall also have access to and shared use of the public parking lot adjacent to the leased Premises and the public restrooms in the City Park, all as shown in Exhibit "A", subject to Lessor's exclusive control and management of said public facilities.

1.2. No Warranty: The Lessee acknowledges that 1) the Lessor makes no representations or warranties regarding the suitability of the Leased Premises for the Lessee's intended purposes, or the presence of environmental, geologic, or other site conditions that may affect the Lessee's use of the Leased Premises; 2) the Lessee accepts full responsibility for determining the suitability of the Leased Premises for its intended purposes; and 3) the Lessee has inspected the Leased Premises to satisfy itself as to the suitability of the Leased Premises for its intended purposes.

1.3. Compliance with Rules: In addition to other requirements in this Lease, Lessee agrees to comply with all ordinances, rules and regulations governing City Park within which the Leased Premises are located. Included herein is the limitation that Lessee's Hours of Operation are limited to the Park's Hours of Operation as established by the Lessor.

Article 2. Term and Rent

2.1. Term: Subject to and upon the terms and condition set forth in this Lease, this Lease shall be in force for a term of five (5) years, with two three (3) year renewal options upon mutual agreement of Lessor and Lessee. The renewal option shall be exercised by providing the Lessor sixty (60) days written notice of Lessee's desire to renew. Renewal shall be subject to City Council approval and be denied at Council's discretion.

2.2. Rent: The Lessee agrees to pay to the Lessor a fixed rental in the sum of one thousand dollars and zero cents (\$1,000.00) per month, The first monthly rent shall be due and payable on the Effective Date of the Lease. Subsequent monthly rental amounts shall be payable in advance on or before the first (1st) day of each respective month for the entire Lease term.

2.3. Lessee shall collect on behalf of and remit to the City any fees, assessments or charges arising by virtue of or related to its activities under this Lease as may be required by any ordinance, law, order or regulation. Additionally, the City may submit an invoice or invoices to Lessee for the above mentioned or other fees, assessments or charges due and payable to the City. Such invoice or invoices must be paid by the Lessee with the next monthly rent payment, except when earlier payment may be due under applicable ordinance, law, order or regulation.

2.4. Delinquent Rent/ Late Payment: In the event the monthly rent (including any additional rent due hereunder) is not paid on or before the fifteenth (15th) day of the month, an amount equal to five percent (5%) of that month's rent shall be added to such rent and shall be considered additional rent hereunder. The addition of such amount and the collection thereof shall not operate to waive any other rights of Lessor hereunder for nonpayment of rent or for any other reason.

2.5. Termination: Lessee shall surrender and vacate the Leased premises on the last day of the term of this Lease. Upon termination of the lease, Lessee shall also remove all personal property, equipment from the Leased premises within 14 days. Lessor may retain, destroy, or dispose of any property left on the Leased Premises at the end of the Term. In the event the Lessee is in arrears of sixty (60) days in the payment of any amount that is owed to the Lessor hereunder, the Lease shall automatically terminate unless an exception is approved in writing prior to the 60th day by the City Council of the City of Bastrop.

Article 3. Use and Care of Premises

3.1. The use of the Leased Premises by the Lessee shall be restricted to conducting a river outfitting operation (with related equipment), together with the activities of selling snacks, non-alcoholic beverages, T-shirts and other items related to river recreation. Use of the Leased Premises for any purpose other than permitted by this Lease without prior written consent of the Lessor shall constitute a default.

3.2. The Lessee shall not place or keep anything on the Leased Premises or use the Leased Premises for any purpose which increases the insurance premium cost or invalidates any insurance policy carried on the Leased Premises without the Lessor's prior written consent. The Lessee agrees that the risk of loss and damage for all property kept, stored or maintained by it within the Leased Premises shall be the Lessee's.

3.3. The Lessee shall not use or permit the use of the Leased Premises in any manner that results in waste of the Leased Premises, or constitutes a nuisance, or violates any statute, ordinance, rule or regulation that applies to the Leased Premises.

3.4. The Lessee shall keep the Leased Premises used by Lessee, neat, clean, and free from spoils and trash at all times.

3.5. The Lessor shall be responsible for cleaning and maintaining the public restrooms in the City Recreation Building to be used by Lessee in connection with its authorized activities according to Lessor's usual and customary cleaning schedules and standards, as determined by Lessor in its sole discretion. Although Lessor has primary responsibility to clean and maintain the restrooms, Lessee agrees to and will clean the restrooms on an as needed basis between the Lessor's regular cleanings. The Lessor shall provide trash bin liners, paper towels, and toilet paper to the Lessee, and the Lessee shall replace these items in the public restrooms as necessary.

3.6. The Lessee shall store all equipment, materials and supplies within the confines of the Leased Premises. Outside storage is specifically prohibited without the advance written consent of the Lessor. Staging of vehicles shall be allowed within the premises for shuttle operations. When the premises is not suitable for staging due to inclement weather the lessee shall contact the Director of Public Works to coordinate a temporary solution that causes minimal disruption to the public parking areas.

3.7. Failure to use the Leased Premises for any purpose other than that permitted by this Lease shall constitute a default.

3.8. The Lessee shall give prompt notice to the Lessor of any accident on the Leased Premises, and of defects in the Leased Premises of which the Lessee is aware.

3.9. Lessee agrees to allow Lessor to enter the Leased Premises to perform Lessor's obligations, inspect the Leased Premises. When the Premises are not in use by Lessee, the Lessor may conduct activities in the Premises that do not interfere with the Permitted Uses with prior written consent from the Lessee.

Article 4. Maintenance and Repair of Premises

4.1. The Lessee shall keep the Leased Premises in good, clean condition and will maintain the personal property, removable fixtures, and equipment owned or controlled by Lessee in good repair and condition. The Lessee shall comply with all governmental laws, ordinances and regulations that apply to the Leased Premises, at its sole cost and expense. At the expiration of this Lease, the Lessee shall surrender the Leased Premises in good condition, reasonable wear and tear excepted.

4.2. Lessee shall repair and pay for any damage to the Leased Premises caused by negligence of Lessee or Lessee's directors, officers, employees, contractors, agents, invitees or guests. Lessor shall have no obligation to clean, maintain, repair, or replace any portion of the Premises or any alterations made by Lessee, and Lessee accepts the Leased Premises in its "AS IS", "WHERE-IS" condition, with all faults and without any warranty or representation (express or implied) by the Lessor as to the condition of the Leased Premises or its fitness or suitability for any purpose.

4.3. Lessee shall at its sole expense clean, maintain, replace and repair the Leased Premises, including, without limitation, any temporary structures and mowing and maintenance of the site.

Article 5. Alterations and Fixtures

5.1. The Lessee shall not make any alterations, modifications, additions, or improvements, (including, but not limited to, structural, electrical, plumbing and painting) to the Leased Premises without the prior written consent of Lessor.

5.2. The Lessee shall ensure that no lien or similar obligation is imposed upon the Leased Premises for any alteration, repair, labor performed or materials furnished to the Leased Premises, and the Lessee shall immediately discharge any lien or charge after the lien occurs or charges become due and payable. The Lessee shall hold harmless, indemnify and defend the Lessor, its officers, agents and employees from and against any claims, demands or suits related to such liens or obligations.

5.3. The Lessee shall not install any exterior lighting, shades or awnings, or any exterior decorations or paintings on the Leased Premises or erect, permanently install or change any signs, window or door lettering, placards, decorations, or advertising media of any type without the prior written approval of the Lessor. Notwithstanding temporary signage such as price boards, safety notices or rules. Temporary signage shall be taken in every day at the end of business,

Article 6. Utilities/Taxes

6.1. The Lessee shall promptly pay all charges for electricity, telephone service, and other utilities furnished to the Leased Premises. No such utilities shall be connected or installed until the Lessor approves in writing the location and specifications for such connections and installations.

6.2. The Lessor shall not be liable for any interruption or impairment whatsoever in utility services to the Leased Premises for non-payment or acts of God outside of the utility provider's control.

6.3. The Lessee shall pay when due all taxes and assessments, if any, against the Leased Premises or underlying real property attributable to the Lessee's use of the Leased Premises under this Lease. The Lessee shall pay when due all sales, excise, income and other taxes, if any, levied upon its business operations on the Leased Premises.

Article 7. Insurance and Indemnity

7.1. Insurance: Lessee shall be responsible for providing, at Lessee's own expense, insurance coverage insuring Lessee's goods, furniture or property against loss or damage from fire or other causes. Lessee's coverage shall provide a waiver of subrogation for the benefit of the Lessor.

The Lessee will purchase and maintain in full force and effect during the term of the lease insurance as provided below, proof of which will be in a form acceptable to the Lessor:

- A.** Commercial General Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000) per occurrence, combined single limit, written on an occurrence form, and an annual aggregate not less than Two Million Dollars (\$2,000,000);
- B.** Commercial Automobile Liability insurance at minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage, written on an occurrence form; and
- C.** Workers compensation insurance within statutory limits, if applicable.

All of this insurance shall be primary over any other insurance coverage the Lessor may have and shall be written so that the Lessee and the Lessor will be notified in writing at least 30 calendar days in advance in the event of cancellation, restrictive amendment or non-renewal. Commercial general liability and business automobile insurance coverage will be written with the City of Bastrop, Texas as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City of Bastrop.

7.2. Approval Before Occupancy: The Lessee will submit certificates of insurance to the Lessor for approval prior to taking occupancy of the Premises.

7.3. Continuing Responsibility: In any event, the Lessee is fully responsible for all losses arising out of, resulting from or connected with operations under this Lease whether or not the losses are covered by insurance. The Lessor's acceptance of insurance certificates that do not comply with these requirements will not release the Lessee from compliance with these provisions.

7.4. Indemnity, Hold Harmless, and Waiver of Claims:

A. TO THE FULLEST EXTENT PERMITTED BY LAW, LESSEE AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY OF BASTROP, TEXAS, TOGETHER WITH ITS RESPECTIVE OFFICERS, DIRECTORS, FORMER AND PRESENT ELECTED AND APPOINTED OFFICIALS, LEGAL REPRESENTATIVES, AGENTS, SERVANTS, EMPLOYEES (IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES), VOLUNTEERS, SUCCESSORS, AND ASSIGNS (HEREINAFTER COLLECTIVELY *BASTROP*), OF, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, DEFENSE COSTS, OR LIABILITY OF ANY KIND OR NATURE (COLLECTIVELY REFERRED TO HEREINAFTER AS "CLAIMS") ASSERTED BY ANY PERSON OR ENTITY AGAINST *BASTROP* WHETHER ARISING OUT OF, TOUCHING UPON OR IN ANY WAY RELATING TO LESSEE'S (OR LESSEE'S CONTRACTORS', SUBCONTRACTORS', AGENTS', EMPLOYEES', SERVANTS', INVITEES', OR LICENSEES') (I) ACTS, ERRORS, OR OMISSIONS, (II) PERFORMANCE OR FAILURE TO PERFORM, (III) GOODS OR SERVICES PROVIDED, (IV) WORK PERFORMED BY, OR ON BEHALF OF LESSEE, OR (V) USE OF THE LEASED PREMISES, RELATIVE TO THIS LEASE, EXCEPT ANY SUCH CLAIMS, DAMAGES, CAUSES OF ACTION, COSTS AND EXPENSES ARISING OUT OF THE SOLE NEGLIGENCE OR WILLFUL ACT OF *BASTROP*, ITS EMPLOYEES, AGENTS OR REPRESENTATIVES.

B. The Lessee shall use the Leased Premises and use, occupy and store property on the Leased Premises at its own risk, and the Lessee agrees to hold harmless and release the Lessor, and its officers, agents and employees from all claims, suits and actions by the Lessee for loss of life, personal injury or property damage resulting therefrom.

C. In case the Lessor is made a party to any litigation commenced by or against the Lessee that is covered by this paragraph, then the Lessee shall hold the Lessor harmless from and pay all costs and expenses of the Lessor related to the litigation, including the fees of attorneys and expert witnesses.

D. Waiver of Claims. Anything in this Lease to the contrary notwithstanding and to the extent permitted by applicable law, Lessee hereby releases and waives all claims, rights of recovery and causes of action that such party or any party claiming by, through, or under such party (including Lessee's insurers), by subrogation or otherwise, may now or hereafter have against Lessor or any of Lessor's directors, officers, employees, contractors or agents for any loss or damage that may occur to the Property, or any of the contents by reason of fire, act of God, the elements, or any other cause, excluding gross negligence or willful misconduct, but including negligence of the Lessor or its directors, officers, employees, or agents, that could have been insured against under the terms of customary fire and extended coverage insurance policies. Lessor shall not be liable to Lessee for any inconvenience or loss to Lessee in connection with any repair, maintenance, damage, destruction, restoration, or replacement referred to in this Lease. Lessor shall not be obligated to insure any of Lessee's goods, furniture, or otherwise be liable for any damage to or destruction of any of the foregoing.

Article 8. Hotel Occupancy Data

Lessee agrees to record at the point of rental, in a method and on a form approved by the City Manager of the Lessor: The information collected if appropriate allows the lessee an opportunity to request Hotel Occupancy Tax funds.

Article 9. River Clean Up

The Lessee shall assist in the cleanup of the Colorado River in and around the area of the Lease premises during City of Bastrop designated river cleanup events.

Article 10. Condemnation

10.01. Total: If the whole of the Leased Premises is taken by eminent domain, then this Lease shall terminate as of the date the title vests in the proceeding.

10.2 Partial: If a portion of the Leased Premises is taken by eminent domain, and the partial taking renders the remaining portion unsuitable for the business of the Lessee, then this Lease shall terminate. If the partial taking is not extensive enough to render the premises unsuitable for the business of the Lessee, then this Lease shall continue in effect, except that the fixed monthly rent amount shall be reduced and adjusted in an appropriate manner.

10.3 Rent Payments: If this Lease is terminated as provided in this section, rent shall be paid up to the date that possession is taken by the condemning authority, and the Lessor shall make an equitable refund of any rent paid by the Lessee in advance.

10.4 Division of Award: The Lessor and the Lessee shall each be entitled to receive and retain separate awards, or portions of lump sum awards, as are allocated to their respective interests in the condemnation proceeding. The termination of this Lease under this Paragraph shall not affect the rights of the respective parties to such awards.

Article 11. Damage by Casualty

11.1. The Lessee shall give immediate verbal notice, and prompt written notice to the Lessor of any damage caused to the Leased Premises by fire or other casualty.

11.2. If the Leased Premises are damaged by casualty and can be restored within 30 days, Lessor will, at its expense, restore the Leased Premises to substantially the same condition that existed before the casualty and Lessee will, at its expense, replace any of its damaged furniture, fixtures, and personal property and restore any authorized leasehold improvements installed by Lessee. If Lessor fails or is unable to complete the portion of the restoration for which Lessor is responsible within 30 days from the date of written notification by Lessee to Lessor of the casualty, Lessee may terminate this lease by written notice delivered to Lessor before Lessor completes Lessor's restoration obligations.

11.3. To the extent the Premises are untenantable after the casualty, the Rent will be prorated for the period of time that the Premises cannot be used by Lessee. The request shall be submitted to the Public Works Director for review and approval of the adjusted monthly rate. The formula for calculating adjusted monthly rate shall be the monthly rent divided by the number of active days within the defined season as shown in exhibit B

11.4. Any insurance or risk pool coverage against casualty loss which may be carried by either the Lessor or the Lessee shall be under the sole control of the party carrying the insurance or risk pool coverage, and the other party shall have no interest in any proceeds thereof. Lessor and Lessee expressly waive any cause of action or right of recovery which either of them may have against the other for any loss or damage to the Leased Premises or to the contents caused by fire, explosion, or other risk covered by the casualty insurance or risk pool coverage.

Article 12. Assignment and Subletting

Lessee may not assign this Lease or sublet the Leased Premises without prior written consent of the Lessor. Any such unauthorized assignment or subletting shall constitute a default.

Article 13. Events of Default and Remedies

13.1. Default: The following events shall be events of default by the Lessee under this Lease:

A. The Lessee fails to pay when due any rental or any other sums or charges due under this Lease.

B. The Lessee fails to comply with any other term, provision, or covenant of this Lease, and does not cure the failure within 30 days after written notice to the Lessee. For any subsequent default by the Lessee for the same or any other reason, the Lessor may terminate the Lease if that subsequent default continues for more than three days after notice of the subsequent default.

C. The Lessee commences, or another party commences against the Lessee, proceedings in bankruptcy, for reorganization, or for the readjustment or arrangement of its debts under the bankruptcy laws of the United States or under any other law. The acceptance by the Lessor of the Lessee's monthly payments subsequent to the occurrence of this event of default, or that set forth in subparagraph E below, shall be as compensation for use and occupancy of the Leased Premises, and shall in no way constitute a waiver by the Lessor of its right to exercise any remedy provided for any event of default.

D. A receiver or trustee is appointed for all or substantially all of the assets of the Lessee.

E. The Lessee abandons or vacates all or any substantial portion of the Leased Premises for more than 30 consecutive days during the periods of conducting its authorized activities under paragraph 3.01.

13.2. Remedies: Upon the occurrence of any of the events of default, the Lessor shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

A. Terminate this Lease. In this event the Lessee shall immediately surrender the Leased Premises to the Lessor, and if the Lessee fails to do so, the Lessor may enter and take possession of the Leased Premises and remove the Lessee and any other person occupying the premises, without prejudice to any other remedy it may have for possession or arrearages in rent, and without being liable for any resulting damages. The Lessee agrees to pay to the Lessor the amount of all resulting costs, losses and damages incurred by the Lessor within 30 days of the Lessor's issuance of a statement to the Lessee.

B. Relet the Leased Premises to any lawfully approved tenant and receive the rent. The Lessee agrees to pay to the Lessor any resulting costs, and any deficiency that may arise by reason of reletting, within 30 days of the Lessor's issuance of a statement to the Lessee.

C. The Lessor's pursuit of any of these remedies will not preclude pursuit of any other remedies provided under this Lease or by law, nor will pursuit of any remedy constitute a waiver of any rent due to the Lessor or of any damages caused to the Lessor by any violation of this Lease by the Lessee. Any failure by the Lessor to enforce a remedy upon an event of default shall not be deemed to constitute a waiver of the default or of the Lessor's right to insist on strict compliance with this Lease.

13.3. Attorney Fees: If it becomes necessary for the Lessor to employ an attorney to enforce or defend any of the Lessor's rights or remedies because of any breach or default by the Lessee under this Lease, the Lessee agrees to pay all reasonable attorney's fees incurred by the Lessor, within 30 days of the Lessor's issuance of a statement for the fees to the Lessee.

Article 14. Prohibited Use

Lessee shall not use or permit any other party to use any part of the Leased Premises for any purpose not authorized in this Lease. Lessee shall not do or permit anything to be done in or about the Leased Premises, or bring or keep or permit anything to be brought to or kept therein, which is prohibited by or which will in any way conflict with City's insurance, any law, statute, ordinance or governmental rule or regulation now in force or hereafter enacted or promulgated. Lessee shall not cause, maintain, or permit any nuisance in, on or about the Leased Premises or commit or suffer to be committed any waste to, in or about the Leased Premises. Lessee additionally agrees that the Leased Premises shall only be used in compliance with this Lease, and in the interest of avoidance of waste. Lessee further agrees that should Lessee for whatever reason allow the Leased Premises to remain in a state of abandonment, the penalty of such shall be rescission of this lease.

Article 15. Holding Over

If Lessee does not vacate the Leased Premises following termination of this Lease, Lessee will become a tenant at will and must vacate the Premises on receipt of notice from Lessor. No holding over by Lessee, whether with or without the consent of Lessor, will extend the Term.

During the period of holding over the Lessee shall be liable for the payment of rent on a prorated basis equal to two times the annual rent in effect as of the last lease term before the lease termination date.

Article 16. Mechanic's Liens

Lessee shall not permit a mechanic's lien or other lien to be placed upon the Leased Premises or the improvements constituting a part thereof.

Article 17. City's Access

Lessor shall have the right, at all reasonable times during the Term of the Lease or any extension to enter the Leased Premises to inspect the condition thereof, to determine if Lessee is performing its obligations, to cure any defaults of Lessee hereunder that Lessor elects to cure, and to remove any improvements or property placed on the Leased Premises in violation of this Lease.

Article 18. Legal Interpretation and Severability

Each paragraph and provision hereof is severable from the entire Lease and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect. Any clause or provision of this Lease found to be illegal, invalid, or unenforceable; under the present or future laws effective during the term of this Lease, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby, and it is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added as part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable. All obligations of either party requiring any performance after the expiration of the Term shall survive the expiration of the Term and shall be fully enforceable in accordance with those provisions pertaining thereto. Section titles are for convenient reference only and shall not be used to interpret or limit the meaning of any provision of this lease.

Article 19. Miscellaneous

19.1. Words and Phrases: When the singular number is used in this Lease, it will include the plural when appropriate, and the neuter gender will include the feminine and masculine genders when appropriate.

19.2. Amendment: This Lease may be amended only by an instrument in writing signed by both parties.

19.3. Waiver: Either party's failure to insist at any time on the strict performance of any covenant or agreement, or such party's failure to exercise any option, right, power or remedy contained in this Lease, shall not be construed as a waiver or a relinquishment thereof for the future. The waiver of or failure to seek redress for any violation of any term, covenant, or condition contained in this Lease shall not prevent a subsequent act from being a violation. A party shall be considered to have waived a provision of this Lease only if specifically expressed in writing signed by such party. No expressed waiver shall affect any matter other than the one specified in the waiver and only for the time and in the manner specifically stated.

19.4. Force Majeure: Whenever a period of time is prescribed for action to be taken by the Lessor, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes beyond the reasonable control of the Lessor shall be excluded from the computation of any such period of time.

19.5. No Joint Venture: This Lease shall not be construed as creating the relationship of principal and agent or of partnership or of joint venture between the parties. The only relationship between the parties is only that of Lessor and Lessee.

19.6. Law and Venue: The parties agree that the laws of the State of Texas shall govern this Lease and that exclusive venue for enforcement of this Lease shall lie in Bastrop County, Texas.

19.7. Notice: Each notice required or permitted to be given hereunder by one party to the other shall be in writing with a statement therein to the effect that notice is given pursuant to this Lease, and the same shall be given and shall be deemed to have been delivered, served and given if placed in the United States mail. Postage prepaid, by United States registered or certified mail, return receipt requested, addressed to such party at the address provided for such party herein. Wherever any notice is required or permitted under this Lease, the notice shall be in writing and sent by certified mail, return receipt requested, addressed to the respective party at the following addresses. The Lessee shall provide the Lessor with advance written notice of any change in its address.

Lessor:

City of Bastrop Attention:
City Manager 1311
Chestnut Street
Bastrop, Texas 78602

Lessee:

EXECUTED to be effective as of ----- 2023

Point of Contact for the City of Bastrop:

Director of Public Works or Designee

1311 Chestnut Street Bastrop, Texas 78602

Phone # 512 332-8920.

Point of Contact for Bastrop River Co.,LLC



EXHIBIT "A"

Exhibit B

Winter Hours (December – February ... 7 days a week)
Open by reservation / appointment

Regular Season (March – November)

Saturday & Sunday

8AM to 5PM

Monday thru Friday

Open by reservation / appointment

DRAFT

This lease agreement ("Lease") is made as of the Effective Date set forth above, by and between the City of Bastrop, Texas, a municipal corporation (the "Lessor") and Bastrop River Co., LLC (the "Lessee"), a Texas Limited Liability Company.

WHEREAS, the Lessor owns a certain parcel of real property that is located at Fisherman's Park in Bastrop, Bastrop County, Texas, and more particularly shown in Exhibit "A", attached hereto and incorporated herein by this reference ("Premises"); and

WHEREAS, Lessee wishes to enter into a five (5) year lease with a five year renewal option for the Premises to manage and operate a River Outfitting Company; and

WHEREAS, the City of Bastrop deems it advantageous to itself and to its operations to lease and demise certain rights, privileges and uses of the Premises as hereinafter contained; and

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee (hereinafter "Parties") hereby agree as follows:

Article 1. Lease of Premises; Acceptance of Existing Conditions; Compliance with Regulations

1.1. Leased Premises: In consideration of the obligation of the Lessee to pay rent and in consideration of the other terms, covenants and conditions of this Lease, the Lessor leases to the Lessee, and the Lessee leases from the Lessor that approximately 22,651 square foot portion described as 0.052 ACRE PORTION OF A11 BASTROP TOWN TRACT, ACRES 5.100 (CITY PARK) LOCATED IN FISHERMAN'S PARK as shown in Exhibit "A", attached hereto and made a part hereof for all purposes (the "Leased Premises") in Bastrop County, Texas. The Lessor agrees that the Lessee shall also have access to and shared use of the public parking lot adjacent to the leased Premises and the public restrooms in the City Park, all as shown in Exhibit "A", subject to Lessor's exclusive control and management of said public facilities.

1.2. No Warranty: The Lessee acknowledges that 1) the Lessor makes no representations or warranties regarding the suitability of the Leased Premises for the Lessee's intended purposes, or the presence of environmental, geologic, or other site conditions that may affect the Lessee's use of the Leased Premises; 2) the Lessee accepts full responsibility for determining the suitability of the Leased Premises for its intended purposes; and 3) the Lessee has inspected the Leased Premises to satisfy itself as to the suitability of the Leased Premises for its intended purposes.

1.3. Compliance with Rules: In addition to other requirements in this Lease, Lessee agrees to comply with all ordinances, rules and regulations governing City Park within which the Leased Premises are located. Included herein is the limitation that Lessee's Hours of Operation are limited to the Park's Hours of Operation as established by the Lessor.

Article 2. Term and Rent

2.1. Term: Subject to and upon the terms and condition set forth in this Lease, this Lease shall be in force for a term of five (5) years, with two three (3) year renewal options upon mutual agreement of Lessor and Lessee. The renewal option shall be exercised by providing the Lessor sixty (60) days written notice of Lessee's desire to renew. Renewal shall be subject to City Council approval and be denied at Council's discretion.

2.2. Rent: The Lessee agrees to pay to the Lessor a fixed rental in the sum of one thousand dollars and zero cents (\$1,000.00) per month, rent for the specified periods stated in Exhibit C "The monthly rent shall be due and payable in advance on or before the first (16th) day of each respective month and will be billed through the lessee monthly utility bill for the entire Lease term.

2.3. Lessee shall collect on behalf of and remit to the City any fees, assessments or charges arising by virtue of or related to its activities under this Lease as may be required by any ordinance, law, order or regulation. Additionally, the City may submit an invoice or invoices to Lessee for the above mentioned or other fees, assessments or charges due and payable to the City. Such invoice or invoices must be paid by the Lessee with the next monthly rent payment, except when earlier payment may be due under applicable ordinance, law, order or regulation.

2.4. Delinquent Rent/ Late Payment: In the event the monthly rent (including any additional rent due hereunder) is not paid on or before the fifteenth (15th) day of the month, an amount equal to five percent (5%) of that month's rent shall be added to such rent and shall be considered additional rent hereunder. The addition of such amount and the collection thereof shall not operate to waive any other rights of Lessor hereunder for nonpayment of rent or for any other reason.

2.5. Termination: Lessee shall surrender and vacate the Leased premises on the last day of the term of this Lease. Upon termination of the lease, Lessee shall also remove all personal property, equipment from the Leased premises within 14 days. Lessor may retain, destroy, or dispose of any property left on the Leased Premises at the end of the Term. In the event the Lessee is in arrears of sixty (60) days in the payment of any amount that is owed to the Lessor hereunder, the Lease shall automatically terminate unless an exception is approved in writing prior to the 60th day by the City Council of the City of Bastrop.

Article 3. Use and Care of Premises

3.1. The use of the Leased Premises by the Lessee shall be restricted to conducting a river outfitting operation (with related equipment), together with the activities of selling snacks, non-alcoholic beverages, T-shirts and other items related to river recreation. Use of the Leased Premises for any purpose other than permitted by this Lease without prior written consent of the Lessor shall constitute a default.

3.2. The Lessee shall not place or keep anything on the Leased Premises or use the Leased Premises for any purpose which increases the insurance premium cost or invalidates any insurance policy carried on the Leased Premises without the Lessor's prior written consent. The Lessee agrees that the risk of loss and damage for all property kept, stored or maintained by it within the Leased Premises shall be the Lessee's.

3.3. The Lessee shall not use or permit the use of the Leased Premises in any manner that results in waste of the Leased Premises, or constitutes a nuisance, or violates any statute, ordinance, rule or regulation that applies to the Leased Premises.

3.4. The Lessee shall keep the Leased Premises used by Lessee, neat, clean, and free from spoils and trash at all times.

3.5. The Lessor shall be responsible for cleaning and maintaining the public restrooms in the City Recreation Building to be used by Lessee in connection with its authorized activities according to Lessor's usual and customary cleaning schedules and standards, as determined by Lessor in its sole discretion. Although Lessor has primary responsibility to clean and maintain the restrooms, Lessee agrees to and will clean the restrooms on an as needed basis between the Lessor's regular cleanings. The Lessor shall provide trash bin liners, paper towels, and toilet paper to the Lessee, and the Lessee shall replace these items in the public restrooms as necessary.

3.6. The Lessee shall store all equipment, materials and supplies within the confines of the Leased Premises. Outside storage is specifically prohibited without the advance written consent of the Lessor. Staging of vehicles shall be allowed within the premises for shuttle operations. When the premises is not suitable for staging due to inclement weather the lessee shall contact the Director of Public Works to coordinate a temporary solution that causes minimal disruption to the public parking areas.

3.7. Failure to use the Leased Premises for any purpose other than that permitted by this Lease shall constitute a default.

3.8. The Lessee shall give prompt notice to the Lessor of any accident on the Leased Premises, and of defects in the Leased Premises of which the Lessee is aware.

3.9. Lessee agrees to allow Lessor to enter the Leased Premises to perform Lessor's obligations, inspect the Leased Premises. When the Premises are not in use by Lessee, the Lessor may conduct activities in the Premises that do not interfere with the Permitted Uses with prior written consent from the Lessee.

Article 4. Maintenance and Repair of Premises

4.1. The Lessee shall keep the Leased Premises in good, clean condition and will maintain the personal property, removable fixtures, and equipment owned or controlled by Lessee in good repair and condition. The Lessee shall comply with all governmental laws, ordinances and regulations that apply to the Leased Premises, at its sole cost and expense. At the expiration of this Lease, the Lessee shall surrender the Leased Premises in good condition, reasonable wear and tear excepted.

4.2. Lessee shall repair and pay for any damage to the Leased Premises caused by negligence of Lessee or Lessee's directors, officers, employees, contractors, agents, invitees or guests. Lessor shall have no obligation to clean, maintain, repair, or replace any portion of the Premises or any alterations made by Lessee, and Lessee accepts the Leased Premises in its "AS IS", "WHERE-IS" condition, with all faults and without any warranty or representation (express or implied) by the Lessor as to the condition of the Leased Premises or its fitness or suitability for any purpose.

4.3. Lessee shall at its sole expense clean, maintain, replace and repair the Leased Premises, including, without limitation, any temporary structures and mowing and maintenance of the site.

Article 5. Alterations and Fixtures

5.1. The Lessee shall not make any alterations, modifications, additions, or improvements, (including, but not limited to, structural, electrical, plumbing and painting) to the Leased Premises without the prior written consent of Lessor.

5.2. The Lessee shall ensure that no lien or similar obligation is imposed upon the Leased Premises for any alteration, repair, labor performed or materials furnished to the Leased Premises, and the Lessee shall immediately discharge any lien or charge after the lien occurs or charges become due and payable. The Lessee shall hold harmless, indemnify and defend the Lessor, its officers, agents and employees from and against any claims, demands or suits related to such liens or obligations.

5.3. The Lessee shall not install any exterior lighting, shades or awnings, or any exterior decorations or paintings on the Leased Premises or erect, permanently install or change any signs, window or door lettering, placards, decorations, or advertising media of any type without the prior written approval of the Lessor. Notwithstanding temporary signage such as price boards, safety notices or rules. Temporary signage shall be taken in every day at the end of business, lessee shall obtain permits as required.

Article 6. Utilities/Taxes

6.1. The Lessee shall promptly pay all charges for electricity, telephone service, and other utilities furnished to the Leased Premises. No such utilities shall be connected or installed until the Lessor approves in writing the location and specifications for such connections and installations.

6.2. The Lessor shall not be liable for any interruption or impairment whatsoever in utility services to the Leased Premises for non-payment or acts of God outside of the utility provider's control.

6.3. The Lessee shall pay when due all taxes and assessments, if any, against the Leased Premises or underlying real property attributable to the Lessee's use of the Leased Premises under this Lease. The Lessee shall pay when due all sales, excise, income and other taxes, if any, levied upon its business operations on the Leased Premises.

Article 7. Insurance and Indemnity

7.1. Insurance: Lessee shall be responsible for providing, at Lessee's own expense, insurance coverage insuring Lessee's goods, furniture or property against loss or damage from fire or other causes. Lessee's coverage shall provide a waiver of subrogation for the benefit of the Lessor.

The Lessee will purchase and maintain in full force and effect during the term of the lease insurance as provided below, proof of which will be in a form acceptable to the Lessor:

- A.** Commercial General Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000) per occurrence, combined single limit, written on an occurrence form, and an annual aggregate not less than Two Million Dollars (\$2,000,000);
- B.** Commercial Automobile Liability insurance at minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage, written on an occurrence form; and
- C.** Workers compensation insurance within statutory limits, if applicable.

All of this insurance shall be primary over any other insurance coverage the Lessor may have and shall be written so that the Lessee and the Lessor will be notified in writing at least 30 calendar days in advance in the event of cancellation, restrictive amendment or non-renewal. Commercial general liability and business automobile insurance coverage will be written with the City of Bastrop, Texas as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City of Bastrop.

7.2. Approval Before Occupancy: The Lessee will submit certificates of insurance to the Lessor for approval prior to taking occupancy of the Premises.

7.3. Continuing Responsibility: In any event, the Lessee is fully responsible for all losses arising out of, resulting from or connected with operations under this Lease whether or not the losses are covered by insurance. The Lessor's acceptance of insurance certificates that do not comply with these requirements will not release the Lessee from compliance with these provisions.

7.4. Indemnity, Hold Harmless, and Waiver of Claims:

A. TO THE FULLEST EXTENT PERMITTED BY LAW, LESSEE AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY OF BASTROP, TEXAS, TOGETHER WITH ITS RESPECTIVE OFFICERS, DIRECTORS, FORMER AND PRESENT ELECTED AND APPOINTED OFFICIALS, LEGAL REPRESENTATIVES, AGENTS, SERVANTS, EMPLOYEES (IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES), VOLUNTEERS, SUCCESSORS, AND ASSIGNS (HEREINAFTER COLLECTIVELY *BASTROP*), OF, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, DEFENSE COSTS, OR LIABILITY OF ANY KIND OR NATURE (COLLECTIVELY REFERRED TO HEREINAFTER AS "CLAIMS") ASSERTED BY ANY PERSON OR ENTITY AGAINST *BASTROP* WHETHER ARISING OUT OF, TOUCHING UPON OR IN ANY WAY RELATING TO LESSEE'S (OR LESSEE'S CONTRACTORS', SUBCONTRACTORS', AGENTS', EMPLOYEES', SERVANTS', INVITEES', OR LICENSEES') (I) ACTS, ERRORS, OR OMISSIONS, (II) PERFORMANCE OR FAILURE TO PERFORM, (III) GOODS OR SERVICES PROVIDED, (IV) WORK PERFORMED BY, OR ON BEHALF OF LESSEE, OR (V) USE OF THE LEASED PREMISES, RELATIVE TO THIS LEASE, EXCEPT ANY SUCH CLAIMS, DAMAGES, CAUSES OF ACTION, COSTS AND EXPENSES ARISING OUT OF THE SOLE NEGLIGENCE OR WILLFUL ACT OF *BASTROP*, ITS EMPLOYEES, AGENTS OR REPRESENTATIVES.

B. The Lessee shall use the Leased Premises and use, occupy and store property on the Leased Premises at its own risk, and the Lessee agrees to hold harmless and release the Lessor, and its officers, agents and employees from all claims, suits and actions by the Lessee for loss of life, personal injury or property damage resulting therefrom.

C. In case the Lessor is made a party to any litigation commenced by or against the Lessee that is covered by this paragraph, then the Lessee shall hold the Lessor harmless from and pay all costs and expenses of the Lessor related to the litigation, including the fees of attorneys and expert witnesses.

D. Waiver of Claims. Anything in this Lease to the contrary notwithstanding and to the extent permitted by applicable law, Lessee hereby releases and waives all claims, rights of recovery and causes of action that such party or any party claiming by, through, or under such party (including Lessee's insurers), by subrogation or otherwise, may now or hereafter have against Lessor or any of Lessor's directors, officers, employees, contractors or agents for any loss or damage that may occur to the Property, or any of the contents by reason of fire, act of God, the elements, or any other cause, excluding gross negligence or willful misconduct, but including negligence of the Lessor or its directors, officers, employees, or agents, that could have been insured against under the terms of customary fire and extended coverage insurance policies. Lessor shall not be liable to Lessee for any inconvenience or loss to Lessee in connection with any repair, maintenance, damage, destruction, restoration, or replacement referred to in this Lease. Lessor shall not be obligated to insure any of Lessee's goods, furniture, or otherwise be liable for any damage to or destruction of any of the foregoing.

Article 8. Hotel Occupancy Data

Lessee agrees to record at the point of rental, in a method and on a form approved by the City Manager of Lessor: the number of customers staying in Bastrop hotels, motels, VRBOs, or bed and breakfasts (collectively, "Hotels"). The information collected, if appropriate, allows the lessee an opportunity to request Hotel Occupancy Tax funds. A failure to comply with this section of the lease constitutes default of the lease.

Article 9. River Clean Up

The Lessee shall assist in the cleanup of the Colorado River in and around the area of the Lease premises during City of Bastrop designated river cleanup events.

Article 10. Condemnation

10.01. Total: If the whole of the Leased Premises is taken by eminent domain, then this Lease shall terminate as of the date the title vests in the proceeding.

10.2 Partial: If a portion of the Leased Premises is taken by eminent domain, and the partial taking renders the remaining portion unsuitable for the business of the Lessee, then this Lease shall terminate. If the partial taking is not extensive enough to render the premises unsuitable for the business of the Lessee, then this Lease shall continue in effect, except that the fixed monthly rent amount shall be reduced and adjusted in an appropriate manner.

10.3 Rent Payments: If this Lease is terminated as provided in this section, rent shall be paid up to the date that possession is taken by the condemning authority, and the Lessor shall make an equitable refund of any rent paid by the Lessee in advance.

10.4 Division of Award: The Lessor and the Lessee shall each be entitled to receive and retain separate awards, or portions of lump sum awards, as are allocated to their respective interests in the condemnation proceeding. The termination of this Lease under this Paragraph shall not affect the rights of the respective parties to such awards.

Article 11. Damage by Casualty

11.1. The Lessee shall give immediate verbal notice, and prompt written notice to the Lessor of any damage caused to the Leased Premises by fire or other casualty.

11.2. If the Leased Premises are damaged by casualty and can be restored within 30 days, Lessor will, at its expense, restore the Leased Premises to substantially the same condition that existed before the casualty and Lessee will, at its expense, replace any of its damaged furniture, fixtures, and personal property and restore any authorized leasehold improvements installed by Lessee. If Lessor fails or is unable to complete the portion of the restoration for which Lessor is responsible within 30 days from the date of written notification by Lessee to Lessor of the casualty, Lessee may terminate this lease by written notice delivered to Lessor before Lessor completes Lessor's restoration obligations.

11.3. Any insurance or risk pool coverage against casualty loss which may be carried by either the Lessor or the Lessee shall be under the sole control of the party carrying the insurance or risk pool coverage, and the other party shall have no interest in any proceeds thereof. Lessor and Lessee expressly waive any cause of action or right of recovery which either of them may have against the other for any loss or damage to the Leased Premises or to the contents caused by fire, explosion, or other risk covered by the casualty insurance or risk pool coverage.

Article 12. Assignment and Subletting

Lessee may not assign this Lease or sublet the Leased Premises without prior written consent of the Lessor. Any such unauthorized assignment or subletting shall constitute a default.

Article 13. Events of Default and Remedies

13.1. Default: The following events shall be events of default by the Lessee under this Lease:

A. The Lessee fails to pay when due any rental or any other sums or charges due under this Lease.

B. The Lessee fails to comply with any other term, provision, or covenant of this Lease, and does not cure the failure within 30 days after written notice to the Lessee. For any subsequent default by the Lessee for the same or any other reason, the Lessor may terminate the Lease if that subsequent default continues for more than three days after notice of the subsequent default.

C. The Lessee commences, or another party commences against the Lessee, proceedings in bankruptcy, for reorganization, or for the readjustment or arrangement of its debts under the bankruptcy laws of the United States or under any other law. The acceptance by the Lessor of the Lessee's monthly payments subsequent to the occurrence of this event of default, or that set forth in subparagraph E below, shall be as compensation for use and occupancy of the Leased Premises, and shall in no way constitute a waiver by the Lessor of its right to exercise any remedy provided for any event of default.

D. A receiver or trustee is appointed for all or substantially all of the assets of the Lessee.

E. The Lessee abandons or vacates all or any substantial portion of the Leased Premises for more than 30 consecutive days during the periods of conducting its authorized activities under paragraph 3.01.

13.2. Remedies: Upon the occurrence of any of the events of default, the Lessor shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

A. Terminate this Lease. In this event the Lessee shall immediately surrender the Leased Premises to the Lessor, and if the Lessee fails to do so, the Lessor may enter and take possession of the Leased Premises and remove the Lessee and any other person occupying the premises, without prejudice to any other remedy it may have for possession or arrearages in rent, and without being liable for any resulting damages. The Lessee agrees to pay to the Lessor the amount of all resulting costs, losses and damages incurred by the Lessor within 30 days of the Lessor's issuance of a statement to the Lessee.

B. Relet the Leased Premises to any lawfully approved tenant and receive the rent. The Lessee agrees to pay to the Lessor any resulting costs, and any deficiency that may arise by reason of reletting, within 30 days of the Lessor's issuance of a statement to the Lessee.

C. The Lessor's pursuit of any of these remedies will not preclude pursuit of any other remedies provided under this Lease or by law, nor will pursuit of any remedy constitute a waiver of any rent due to the Lessor or of any damages caused to the Lessor by any violation of this Lease by the Lessee. Any failure by the Lessor to enforce a remedy upon an event of default shall not be deemed to constitute a waiver of the default or of the Lessor's right to insist on strict compliance with this Lease.

13.3. Attorney Fees: If it becomes necessary for the Lessor to employ an attorney to enforce or defend any of the Lessor's rights or remedies because of any breach or default by the Lessee under this Lease, the Lessee agrees to pay all reasonable attorney's fees incurred by the Lessor, within 30 days of the Lessor's issuance of a statement for the fees to the Lessee.

Article 14. Prohibited Use

Lessee shall not use or permit any other party to use any part of the Leased Premises for any purpose not authorized in this Lease. Lessee shall not do or permit anything to be done in or about the Leased Premises, or bring or keep or permit anything to be brought to or kept therein, which is prohibited by or which will in any way conflict with City's insurance, any law, statute, ordinance or governmental rule or regulation now in force or hereafter enacted or promulgated. Lessee shall not cause, maintain, or permit any nuisance in, on or about the Leased Premises or commit or suffer to be committed any waste to, in or about the Leased Premises. Lessee additionally agrees that the Leased Premises shall only be used in compliance with this Lease, and in the interest of avoidance of waste. Lessee further agrees that should Lessee for whatever reason allow the Leased Premises to remain in a state of abandonment, the penalty of such shall be rescission of this lease.

Article 15. Holding Over

If Lessee does not vacate the Leased Premises following termination of this Lease, Lessee will become a tenant at will and must vacate the Premises on receipt of notice from Lessor. No holding over by Lessee, whether with or without the consent of Lessor, will extend the Term.

During the period of holding over the Lessee shall be liable for the payment of rent on a prorated basis equal to two times the annual rent in effect as of the last lease term before the lease termination date.

Article 16. Mechanic's Liens

Lessee shall not permit a mechanic's lien or other lien to be placed upon the Leased Premises or the improvements constituting a part thereof.

Article 17. City's Access

Lessor shall have the right, at all reasonable times during the Term of the Lease or any extension to enter the Leased Premises to inspect the condition thereof, to determine if Lessee is performing its obligations, to cure any defaults of Lessee hereunder that Lessor elects to cure, and to remove any improvements or property placed on the Leased Premises in violation of this Lease.

Article 18. Legal Interpretation and Severability

Each paragraph and provision hereof is severable from the entire Lease and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect. Any clause or provision of this Lease found to be illegal, invalid, or unenforceable; under the present or future laws effective during the term of this Lease, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby, and it is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added as part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable. All obligations of either party requiring any performance after the expiration of the Term shall survive the expiration of the Term and shall be fully enforceable in accordance with those provisions pertaining thereto. Section titles are for convenient reference only and shall not be used to interpret or limit the meaning of any provision of this lease.

Article 19. Miscellaneous

19.1. Words and Phrases: When the singular number is used in this Lease, it will include the plural when appropriate, and the neuter gender will include the feminine and masculine genders when appropriate.

19.2. Amendment: This Lease may be amended only by an instrument in writing signed by both parties.

19.3. Waiver: Either party's failure to insist at any time on the strict performance of any covenant or agreement, or such party's failure to exercise any option, right, power or remedy contained in this Lease, shall not be construed as a waiver or a relinquishment thereof for the future. The waiver of or failure to seek redress for any violation of any term, covenant, or condition contained in this Lease shall not prevent a subsequent act from being a violation. A party shall be considered to have waived a provision of this Lease only if specifically expressed in writing signed by such party. No expressed waiver shall affect any matter other than the one specified in the waiver and only for the time and in the manner specifically stated.

19.4. Force Majeure: Whenever a period of time is prescribed for action to be taken by the Lessor, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes beyond the reasonable control of the Lessor shall be excluded from the computation of any such period of time.

19.5. No Joint Venture: This Lease shall not be construed as creating the relationship of principal and agent or of partnership or of joint venture between the parties. The only relationship between the parties is only that of Lessor and Lessee.

19.6. Law and Venue: The parties agree that the laws of the State of Texas shall govern this Lease and that exclusive venue for enforcement of this Lease shall lie in Bastrop County, Texas.

19.7. Notice: Each notice required or permitted to be given hereunder by one party to the other shall be in writing with a statement therein to the effect that notice is given pursuant to this Lease, and the same shall be given and shall be deemed to have been delivered, served and given if placed in the United States mail. Postage prepaid, by United States registered or certified mail, return receipt requested, addressed to such party at the address provided for such party herein. Wherever any notice is required or permitted under this Lease, the notice shall be in writing and sent by certified mail, return receipt requested, addressed to the respective party at the following addresses. The Lessee shall provide the Lessor with advance written notice of any change in its address.

Lessor:

City of Bastrop
Attention: City Manager
1311 Chestnut Street
Bastrop, Texas 78602

Lessee:

EXECUTED to be effective as of ----- 2023

Point of Contact for the City of Bastrop:

Director of Public Works or Designee
1311 Chestnut Street Bastrop, Texas 78602
Phone # 512 332-8920.

Point of Contact for Bastrop River Co.,LLC



EXHIBIT "A"

Exhibit B

Winter Hours (December – February ... 7 days a week)

Open by reservation / appointment

Regular Season (March – November)

Saturday & Sunday

8AM to 5PM

Monday thru Friday

Open by reservation / appointment

Exhibit C

Year 1	\$1000.00
Year 2	\$1,060.00
Year 3	\$1,123.60
Year 4	\$1,191.00
Year 5	\$1,262.46



STAFF REPORT

MEETING DATE: March 3, 2023

TITLE:

Consider action to approve amendments to the Development agreement between the City of Bastrop and Colorado Bend, LLC. Authorizing the city Manager to execute all necessary documents; providing for repeal; and providing an effective date.

AGENDA ITEM SUBMITTED BY:

Submitted by: Sylvia Carrillo, City Manager

BACKGROUND/HISTORY:

Council will convene in executive session to discuss the amendment and any proposed impacts. They will then convene in open session for discussion and possible action.

City Atty Alan B.

Draft "B"

February 22, 2023

Deleted: 6.

SECOND AMENDMENT TO THE DEVELOPMENT AND ANNEXATION AGREEMENT

Commented [AB1]: This version (Draft "B") was prepared in response to feedback from the Owner's team

This Second Amendment to the Development and Annexation Agreement (this "Second Amendment") is made and entered into by and between the City of Bastrop, a Texas home-rule municipal corporation (the "City"), and Bastrop Colorado Bend, LLC, a Texas limited liability company ("Owner"). The City and the Owner are sometimes referred to herein collectively as the "Parties" or individually as a "Party." The Parties hereby contract, covenant and agree as follows.

Deleted: (the "Effective Date")

RECITALS

WHEREAS, the City and Owner entered into that certain Development and Annexation Agreement (the "Agreement") on or about June 22, 2021 regarding development and annexation of certain property described in the Agreement adopted by City Resolution No. R-2021-57; and

WHEREAS, the City and Owner agreed to the First Amendment to the Development and Annexation Agreement (the "First Amendment") on or about July 12, 2022, approved by City Resolution No. R-2022-56; and

WHEREAS, the City and Owner desire to modify the Agreement as revised by the First Amendment to account for changes in circumstances and to provide additional clarification of the Parties' respective responsibilities; and

WHEREAS, Section 12.02 of the Agreement allows for an amendment to the Agreement provided that the written amendment is approved by the City Council of the City and executed by the Parties.

NOW, THEREFORE, in exchange for the mutual promises and consideration herein expressed, other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, and subject to the terms and conditions of this Second Amendment, the Parties agree to modify the Agreement as previously revised by the First Amendment as follows:

A. Concept Plan. Exhibit "B" to the Agreement is hereby deleted and replaced by a new Exhibit "B" attached to this Second Amendment as "Attachment One".

B. Section 3.04 of the Agreement is hereby amended to read as follows:

Initial Structures. Notwithstanding the foregoing, City acknowledges that Owner intends to build a metal building of up to 40,000 square feet and a barn with stables, a 2,500-3,000 square-foot private residence for Owner's use along with accompanying OSSF and water well improvements, and two (2) one acre (1-acre) Backlots (as defined in Section 4.05(c)) (collectively referred to herein as the "Initial Improvements") for purposes of storage,

City Atty Alan B.

Draft "B"

February 22, 2023

Deleted: 6.

property management and maintenance, the existing farm/ranch operation, residential (private), and Backlots for temporary props and sets. Owner intends to continue farm and ranch activities on the Property until such time as the Project is fully built out. Provided that the Initial Improvements are related to such provided purposes, some or all of the Initial Improvements may be constructed on the Property through the appropriate permit process and will not require an approved site plan or be considered Development Commencement triggering the annexation provisions of Section 3.01. The Initial Improvements shall only require those City approvals, if any, that are otherwise normally required for projects on land located within the ETJ. Following annexation, any permits required by the City for the two Backlots shall be waived as long as a permit application has been submitted with Bastrop County and is actively in review prior to approval of annexation, and Owner demonstrates appropriate drainage, fire flow, and accounts for impervious cover. The installation or erection of Temporary Structures (as defined below) on the Backlots (regardless of the status of a site plan including the Backlots) shall be constructed, assembled, installed, disassembled, and removed with an expedited temporary permit issued by the City as provided in Section 4.05(b). Notwithstanding the foregoing, if construction of the first phase of the Project is not initiated by December 1, 2023, the Backlots constructed as Initial Improvements must terminate any use of the Backlots related to filming until the public improvements related to traffic are complete as described in Section 4.12, or at such time the City determines the traffic improvements are sufficient to manage the traffic generated by the Project.

C. Section 4.03(b) of the Agreement is hereby amended to read as follows:

The Concept Plan hereby approved by the City is also approved for use as an exhibit for the Zoning Concept Scheme required by the City Code. To complete the zoning application to be submitted to the City for final zoning of the Property upon annexation, the Zoning Concept Scheme shall include details regarding the public frontage plan along Lovers Lane ("Public Frontage Plan"). When determining the base standards, the Public Frontage Plan shall align with the intent of the City Code and B3 Technical Manual Standards and include the proposed privacy fencing to be constructed adjacent to Lover's Lane as shown on **Exhibit "B"**. The Public Frontage Plan, in detailing the privacy fencing along Lover's Lane, shall describe the extent that native stone materials, street lighting, and landscaping will be incorporated into the design. Until such time as Segment 2 is constructed, Owner shall erect an eight to ten foot (10') "game-fence" or similar fencing along the boundary of the Property within the future location of Segment 2. Owner agrees to remove, at Owner's sole expense, the fencing from the dedicated right of way for Segment 2 immediately following notice from the City of the intent to initiate construction of Segment 2.

Deleted: Installation of the frontage improvements identified in the Public Frontage Plan are not required until such time as the public roadway adjacent to such portion of the Public Frontage Plan is fully constructed. Specifically, public improvements identified in any approved Public Frontage Plan along Segment 2 (as defined below) are not required to be constructed until or unless Segment 2 is built.

D. Section 4.08 of the Agreement is hereby amended to read as follows:

Plat Approvals. Approval of a final plat and site plans shall be deemed to also be an update of the Concept Plan. Final Plats shall only be approved if they are consistent with this Agreement and meet the Applicable Regulations.

E. Section 4.12(b)(i) of the Agreement is hereby amended to read as follows:

City of Bastrop
Bastrop Colorado Bend, LLC

Second Amendment
Development Agreement

p. 2
February __, 2023

City Atty Alan B.

Draft "B"

February 22, 2023

Deleted: 6.

Perimeter Roadway. Owner shall dedicate, by final plat, (i) a fifty-five and half (55.5) foot wide public right of way along the boundary of the Property ("**Perimeter Roadway**") in accordance with the City's Transportation Plan at the time of final plat and (ii) the width of right of way necessary to total forty (40) feet from the center line of Lovers Lane along Lovers Lane adjacent to the Property, as depicted in **Exhibit "G"** (collectively, "**Dedicated ROW**"). City agrees to pursue necessary approvals, including those that might be required from other interested state agencies, for removal of the Perimeter Roadway from the City's Master Transportation Plan. If the Perimeter Roadway is removed from the Master Transportation Plan prior to final plat, Owner is released from any obligation for right of way dedication for the Perimeter Roadway. If the Perimeter Roadway is removed from the Master Transportation Plan any time after final plat, the City shall vacate the right of way dedication and reconvey that property to the Owner.

The only required access points for the Project shall be on Lovers Lane as shown on the Concept Plan. The minimum setback for any gated entrances or affiliated guard shacks shall be one hundred fifty feet (150') from the public right of way to allow vehicular queuing. Access is not required from Margies Way or El Camino Real River Road.

F. Section 4.12(b)(ii) of the Agreement is hereby amended to read as follows:

South Street Monetary Obligation. The Owner shall make a fee-in-lieu payment toward the cost of constructing a new bridge across the railroad tracks in order to connect Lovers Lane to Martin Luther King Jr Street and Technology Drive by way of South Street ("**South Street Improvements**") to the City Transportation Fund. The fee-in-lieu payment shall be in an amount equal to the Owner's roughly proportional traffic impact on the South Street Improvements as determined at the time of construction of the South Street Improvements ("**South Street Monetary Obligation**").

G. Section 4.12(b)(iii) of the Agreement is hereby amended to read as follows:

Traffic Mitigation. The City and Owner agree that the Dedicated ROW and the South Street Monetary Obligation (collectively, "Traffic Mitigation") shall satisfy all rough proportionality requirements under City Code for Owner's traffic mitigation or new transportation improvements that are required to accommodate the additional traffic demands created by the Project as proposed herein and in the TIA under full buildout. No additional payments or traffic improvements will be required of Owner by the City as long as there is no increase in intensity or density of the proposed Project and the Project is constructed in accordance with an approved site plan that aligns with this Agreement and the TIA.

H. Section 4.12(d) of the Agreement is hereby amended to read as follows:

Transportation Master Plan. Concurrently with consideration of the Annexation Petition by the City Council, the City will approve an amendment to the City Transportation Master Plan. The amendment is reflective of roadways depicted on the Concept Plan and

Deleted: ¶

¶ Owner shall remit to the City as a fee-in-lieu the Owner's proportionate share of the costs of designing and constructing the northern portion of the Perimeter Roadway running from Lovers Lane parallel to Margies Way as a Local Collector; Rural Street (such portion being shown on Exhibit "G" as "**Segment 1**"). Owner shall pay Owner's Segment 1 Monetary Obligation within fifteen (15) years of the City's approval of the final plat unless prior to construction the roadway is removed from the City's Master Transportation Plan, which would relieve Owner of the obligation to construct the roadway and provide a basis for the City to vacate the right of way dedicated by the Owner for the right of way and reconvey it to the Owner. ¶

¶ Owner shall pay fee-in-lieu in the amount of \$250,000 to the City Transportation Fund ("**Segment 2 Monetary Obligation**") for construction of two lanes of the southern portion of the Perimeter Roadway running from Margies Way to El Camino River Road (such portion being shown on Exhibit "G" as "**Segment 2**"). which is an amount roughly proportional to the ten percent (10%) of traffic impact identified in the Traffic Impact Analysis by BGE, Inc. dated February 2022 ("**TIA**"). The Segment 2 Monetary Obligation shall be re-calculated at the time Segment 2 is constructed to accurately determine the roughly proportional obligation of Owner at ten percent (10%) of two lanes of Segment 2 as a multi-modal arterial; however, in no event shall the Segment 2 Monetary Obligation exceed \$350,000. The re-calculation may only occur once, and Owner shall be obligated to pay any additional Segment 2 Monetary Obligation to the City Transportation Fund immediately following notification from the City of an increase in the amount. Owners shall remit to the City payment of the Segment 2 Monetary Obligation within fifteen (15) years of the City's approval of the final plat unless prior to construction the roadway is removed from the City's Master Transportation Plan, which would relieve Owner of the obligation to construct the roadway and provide a basis for the City to vacate the right of way dedicated by the Owner for the right of way and reconvey it to the Owner. The specific terms, conditions, and other provisions related to timing of the payments shall be negotiated by the Parties and executed as a separate infrastructure agreement. Notwithstanding the forgoing, the Segment 2 Monetary Obligation shall not include any costs associated with a bridge over the Colorado River or any roadway or other infrastructure associated with such bridge, provided that that the project developed on the Property is substantially similar to that depicted on the Concept Plan.

Deleted: Primary access

Deleted: The Owner's monetary obligation to fund public improvements for South Street is contingent on negotiation and execution of a separate, related agreement with the Bastrop Economic Development Corporation, as may approved by the City Council.

Deleted: provisions in this Agreement and subsequent ancillary agreements mentioned herein regarding Segment 1, the Segment 2 Monetary Obligation,

Deleted: Notwithstanding the foregoing, the Traffic Mitigation shall not include any obligations or costs associated with a bridge over the Colorado River or any roadway or other infrastructure associated with such bridge, unless future development within the Project generates additional impact on the City's transportation network....

City Atty Alan B.

Draft "B"

February 22, 2023

Deleted: 6.

specifically includes provisions that (1) the proposed bridge across the Colorado River on the west side of the Property be relocated to outside the boundaries of the Property, and (2) the roadway grids shown with the Property shall be eliminated in favor of private internal roadway network as provided by this Agreement. The internal roadways cannot be used to subdivide the property into smaller parcels without public street access or a Major Amendment to the Agreement.

Deleted: ;

I. Section 6.02 of the Agreement is hereby amended to read as follows:

Reimbursable Costs. In the event the City requires Owner to construct Oversized Project Facilities, Owner shall be entitled to dollar-for-dollar reimbursement of all costs associated with the design, contract negotiation, installation, construction, and other associated expenses of the Oversized Project Facilities (not only limited to the specifications beyond that required to serve the Project), as provided in a mutually agreeable agreement providing for such reimbursement which will be negotiated by the parties at a later date. Reimbursement by the City shall be its proportional share, based on living unit equivalents (LUEs), of the Oversized Project Facilities. Specifically, for a twelve (12") water main ("Oversized Water Main"), the proposed service capacity of the Oversized Water Main is seventeen hundred eighty-three (1,783) LUE's (2,450 gpm total system capacity). Owner will only require approximately three hundred (300) LUEs of water capacity (450 gpm required system capacity) to serve the Project. Based on these values, the City would be responsible for one thousand four hundred and eight-three (1,483) LUEs of water capacity. Therefore, the City's proportionate share of the entirety of the Oversized Water Main (not only the differential of varying line sizes) shall be 83.2% of the actual costs associated with the construction of the entirety Oversized Water Main. Owner shall not receive or be entitled to receive any waivers or reimbursements from the City for any of the costs attributable to any portion of the Project Facilities that are not constructed in accordance with this Agreement, or that are not installed and constructed by Owner.

Deleted: Owner shall contract for, fund and pay for the design, contract negotiation, installation and construction of the Project Facilities ("Reimbursable Costs") and shall be entitled to reimbursement of one hundred percent (100%) of the Reimbursable Costs pursuant to an Incentives Agreement with the City or Bastrop Economic Development Corporation.

Deleted: for the City's portion of

Deleted: beyond

J. Section 7.01 of the Agreement is hereby amended to add subsections (f) and (g) to read as follows:

Additional City Agreements. The City hereby agrees: ...

(f) To engage and utilize the services of third-party plan reviewers and inspectors on an expedited basis to process and administer permit applications submitted by the Owner in accordance with this Agreement.

(g) To compile all review comments to Owner in a Master Report that is provided to Owner within twenty-one (21) days of Owner's submittal of an application that is administratively complete.

K. Section 7.02(c) of the Agreement is hereby amended to read as follows:

Additional Owner Agreements. Owner hereby agrees: ...

The City's fees and charges currently provided for in the Applicable Regulations may be amended by the City from time to time, and Owner, its grantees, successors and assigns, shall pay to the City such fees and charges, as amended, for or with respect to the development of the Property, including, but not limited to, subdivision application fees, building permit fees, and water and wastewater impact, tap and use fees, except as may be otherwise provided in this Agreement. The City's fees and charges that apply to the above shall be those in effect at the time the application is submitted to the City.

L. General Provisions.

1. **Interpretation of this Second Amendment.** This Second Amendment supersedes all prior agreements and understandings (oral and written) between the Parties with respect to the subject matter hereof to the extent in conflict therewith. The provisions of this Second Amendment, including, without limitation, all exhibits attached to this Second Amendment, are hereby incorporated into and made a part of the Agreement. As modified in this Amendment, the terms and conditions of the Agreement shall continue in full force and effect.
2. **Counterparts.** This Second Amendment may be executed simultaneously in one or more counterparts (including, without limitation, counterparts transmitted by facsimile or other electronic means (e.g., .PDF via email)), each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.
3. **Severability.** The provisions of this Second Amendment and the Agreement, as amended, are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement, or the application thereof to any person or circumstance, shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Second Amendment and the Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Second Amendment and the Agreement to other persons or circumstances shall be not be affected thereby.
4. **Effective Date.** The Effective Date of this Second Amendment is the date upon which it is finally executed by the Parties.

[Signature pages follow]

City Atty Alan B.

Draft "B"

February 22, 2023

Deleted: 6.

EXECUTED in multiple originals, and in full force and effect as of the Effective Date.

CITY:

City of Bastrop, Texas
a Texas home-rule municipal corporation

by: _____
Sylvia Carrillo, City Manager

THE STATE OF TEXAS

§
§
§

COUNTY OF BASTROP

This instrument was acknowledged before me on this, the ____ day of _____, 2023, by *Sylvia Carrillo*, City Manager of the City of Bastrop, Texas, a Texas home-rule municipal corporation, on behalf of said corporation.

(SEAL)

Notary Public, State of Texas

City Atty Alan B.

Draft "B"

February 22, 2023

Deleted: 6.

OWNER:

BASTROP COLORADO BEND, LLC,
a Texas limited liability company

by: _____
Alton Butler, Manager

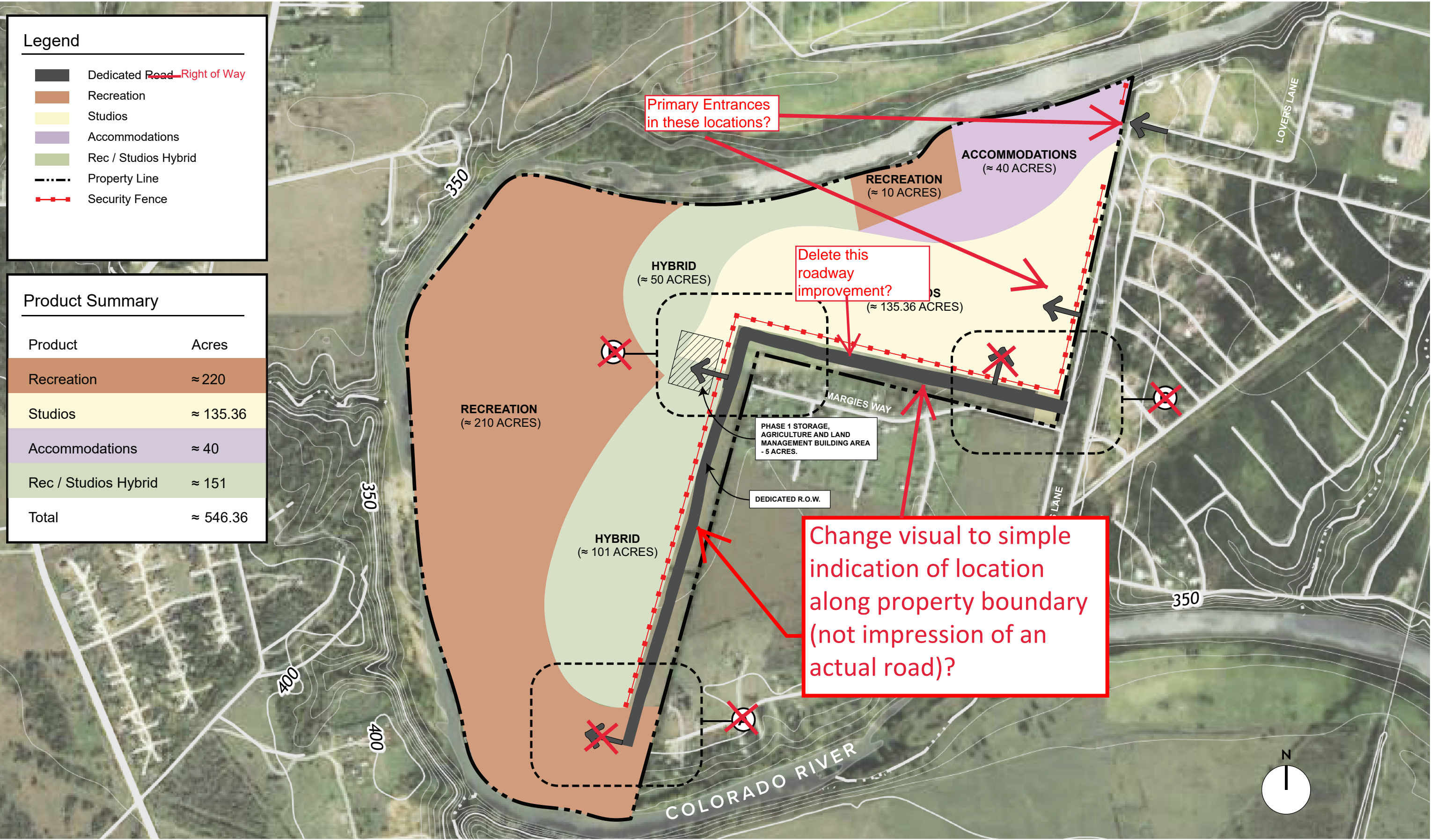
THE STATE OF CALIFORNIA §
§
COUNTY OF _____ §

This instrument was acknowledged before me on this, the ____ day of _____ 2023,
by **Alton Butler**, Manager of Bastrop Colorado Bend, LLC, a Texas limited liability company, on
behalf of said limited liability company for the purposes set forth herein.

(SEAL)

Notary Public, **State of California**

DRAFT



Delete

LEGEND

- NEW LANDSCAPE BAND: TREES, SHRUBS, GRASS
- MONUMENT SIGN
- NEWLY DEDICATED 55' R.O.W.
- NEW BERM + PROPERTY WALL
- 60' UTILITY/ DRAINAGE EASEMENT
- RANCH FENCE

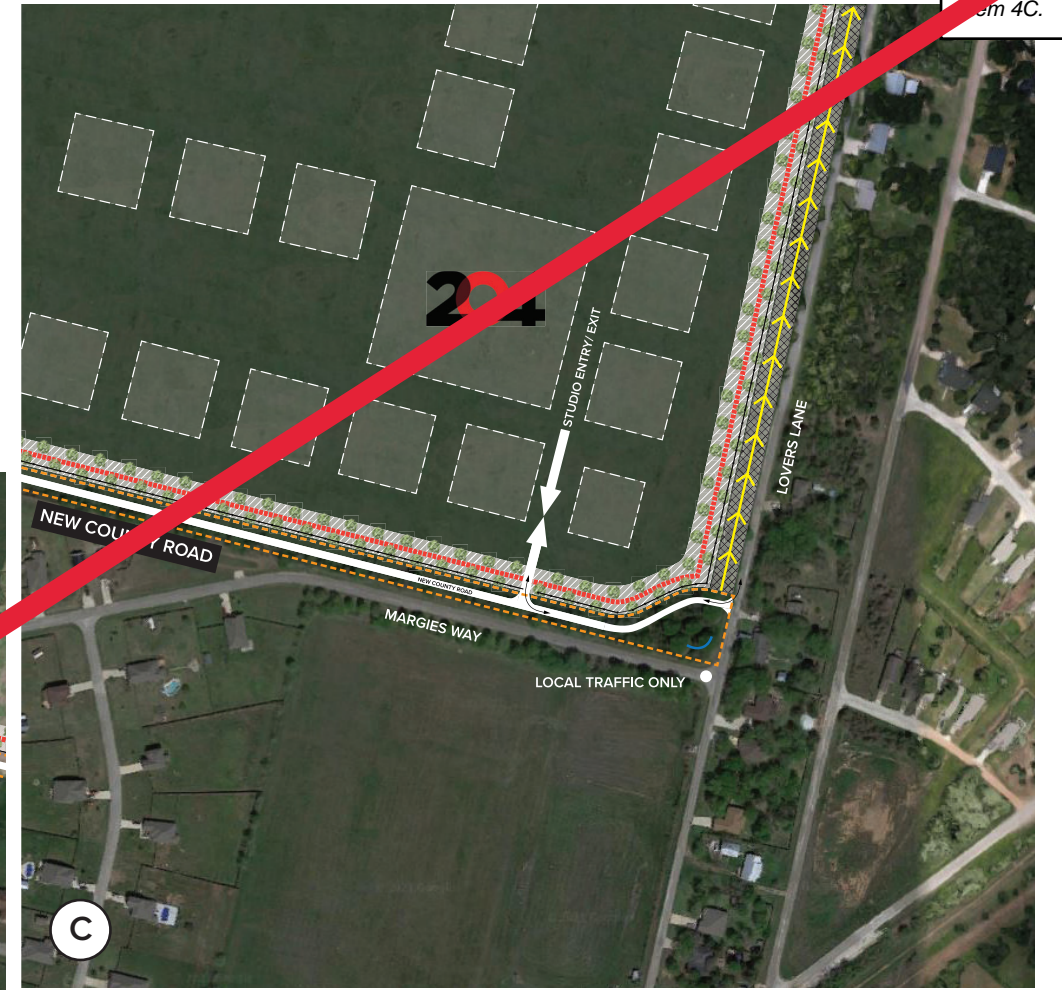
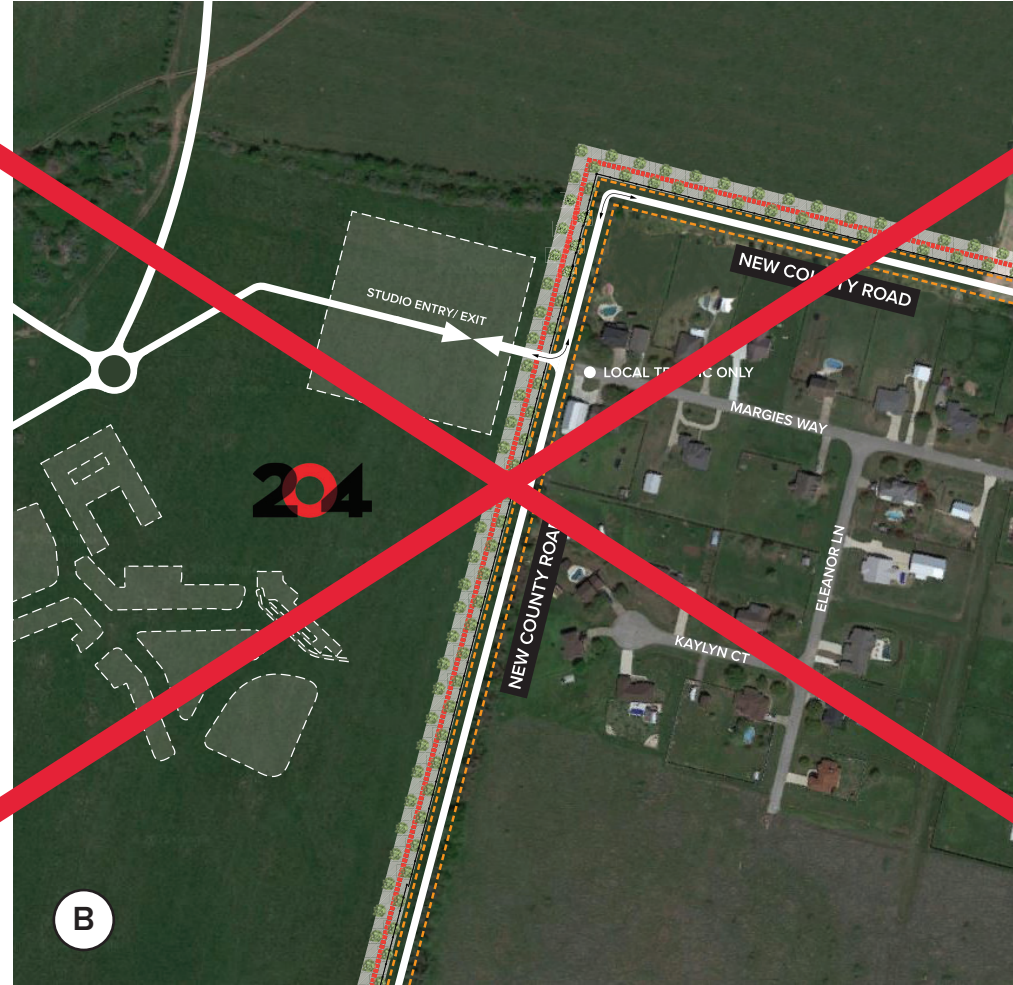
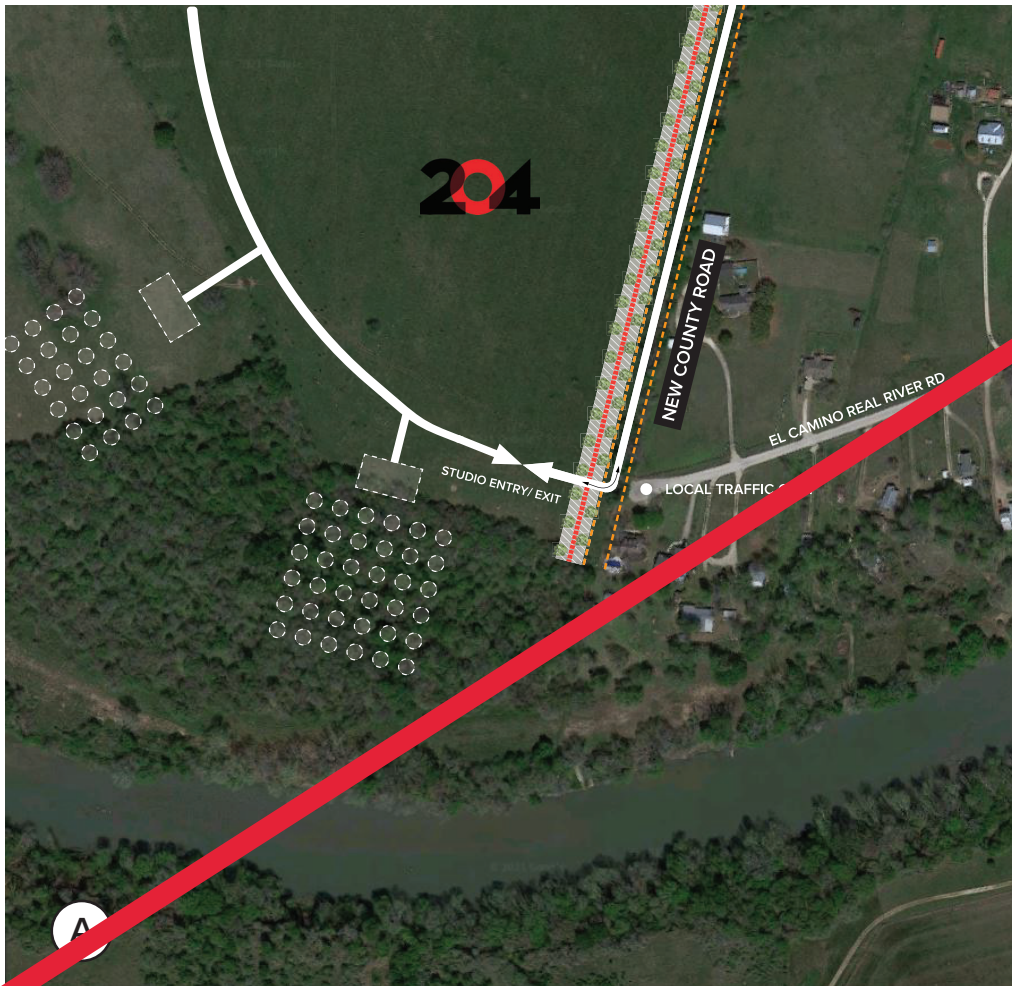


EXHIBIT B - CONCEPT PLAN

PERMITTED LAND USES

* All uses below are permitted in support of the Project

STUDIO	HOUSING	RECREATION	HYBRID
Accessory Building (non-residential)	Caretaker's / Guard's Residence	Alcoholic Beverage Establishment (beer/wine/liquor)	Agricultural: Farm, Ranch, Crops / Orchard
Auto Laundry / Car Wash	Garage / Accessory Dwelling	Amusement Arcade (outdoor)	Emergency Services
Flex Space	Multi-family Dwelling (apartment, quadraplex)	Baker / Confectionary Shop (Commissary)	Nature Conservation
Heavy Machinery Sales Storage	Patio Homes	Campground	All allowable uses in Studio
Offices	Short-term rental units	Country Club	All allowable uses in Recreation
Parking Lot / Structure	Single-family Dwelling (attached and detached)	Dude Ranch	
Parking Lot Truck / Trailers	Townhomes	Fairgrounds / Exhibition Area	
Radio/TV broadcasting without Tower		Food/Beverage Sales	
Sound Stages		Food Trucks	
Studio / Decorator / Artist		Golf Course	
Studio / Health / Reducing Service		Hotel/Motel	
Studio / Music / Dance / Drama		Indoor Entertainment	
Tool / Light Equipment Rental (indoor)		Market	
Warehousing / Storage Facilities		Outdoor Entertainment	
Welding / Machine Shop		Park / Playground	
		Private Club	
		Restaurant / Cafeteria (no drive-thru)	
		Retail Shop / Apparel / Gift / Accessory similar	
		RV Park	
		Stable	
		Swimming Pools	
		Theater (open drive-in)	
		Theater / Playhouse (indoor)	

DEVELOPMENT STANDARDS

STREETS

Local Connector: Rural (perimeter *)
* Aligned along property boundary

PARKING REGULATIONS

Not applicable

SIGNAGE

Applicable only to signage visible from the public ROW

PEDSTRIAN SHEDS

Not applicable

CIVIC SPACE

Not applicable

ENCROACHMENTS

Not applicable

TREE MITIGATION

Required only for trees 26" or greater on Preferred Plant List

BUILDING TYPES (PERMITTED)

- Commercial
- Rowhouse
- Courtyard House
- Ranch House , Villa
- House
- Duplex
- Triplex, Fourplex

LOT OCCUPATION

- 80% Impervious Cover maximum
- Building frontage varies (no min.)
- Built-do Line varies (no min.)

BUILDING HEIGHT

- ° 60 feet max height for Principal Building
- ° Blue and green screen for production purposes shall not be considered a "building", and shall not be limited as to height

FAÇADE

Façade requirement for the Frontage Line shall not apply

BLOCKS

- Block length varies (no max.)
- Block perimeter varies (no max.)

SEC. 7.3.013 LOCAL CONNECTOR STREET: RURAL STREET





STAFF REPORT

MEETING DATE: March 7, 2023

TITLE:

Hold a public hearing and consider action to approve the first reading of Ordinance No. 2023-04 of the City Council of the City of Bastrop, Texas, amending the Bastrop Building Block (B³) Code, Chapter 6, Section 6.5.003 amending the Authentic Bastrop Pattern Book, and amending Bastrop Code of Ordinances Section 3.01.001 International Code Council (ICC); International Code Family; and providing for findings of fact, repealer, severability, codification, effective date, proper notice and meeting; and move to include on the March 28, 2023, agenda for second reading.

STAFF REPRESENTATIVE:

Jennifer C. Bills, AICP, LEED AP, Director of Planning & Development

BACKGROUND/HISTORY:

Staff and the Development Review Committee (DRC) are charged with review of the B³ Code for amendments. There are inconsistencies between the adopted B³ Code/Authentic Bastrop Pattern Book, and the International Building Code related to fences. Within the Authentic Bastrop Pattern Book, fences are required to be no more than 3 feet in height in the first layer and part of the second layer (depending on lot frontage) with 20% transparency (typically a picket fence). Outside of this area, the fence can transition to a 6-foot-tall privacy fence/wall. In the IBC, any fence 7 feet and under is exempt from a permit.

The proposed amendment would change the Authentic Bastrop Pattern Book to be an optional set of standards and not mandatory. The fence standards below would be included in the Code of Ordinance, Chapter 3 as an amendment to work exempt from permits.

Sec. 3.01.001 International Code Council (ICC); International Code Family.

(2) [Amend] [A] 105.2 Work exempt from permit.

(a) Fences not over 7 feet (2134 mm) high:

(1) Replacement of an existing fence, in the same location, with like for like material and design, does not require a permit.

(2) Within the first layer, fences cannot exceed 4 feet in height and must have 50% transparency.

(3) Prohibited fence types/materials:

(a) Electric fences

(b) Barbed or razor wire material

(c) Broken glass or any protruding sharp or dangerous object cannot be incorporated into fences or walls.

(d) Fences blocking the sight triangle (requirements in B³ Technical

Manual)

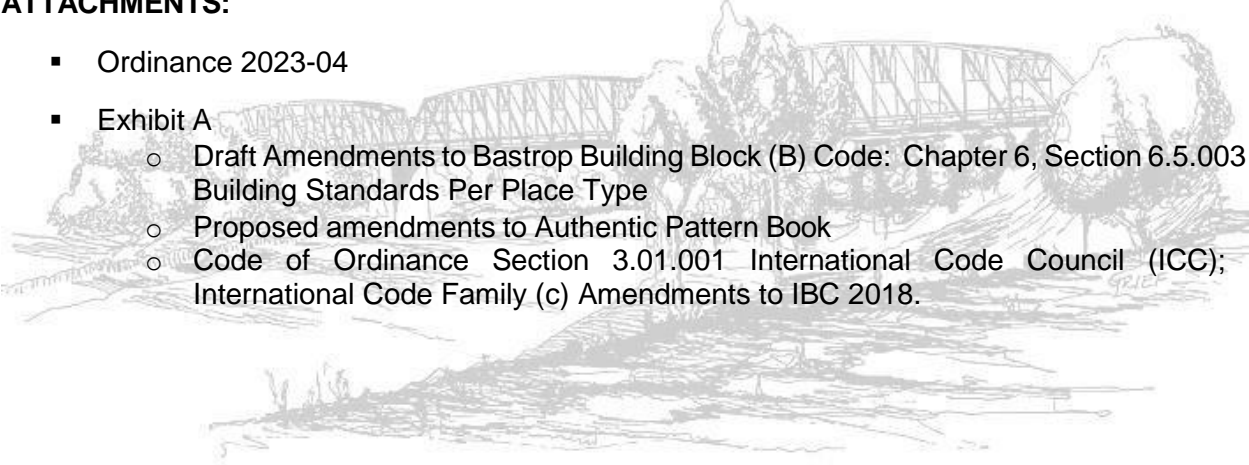
(4) The provisions of this article shall not apply to a fence or wall necessary for the public safety as determined by the Public Works Director, Fire Chief or Building Official, or as required by any law or regulation of the State or an agency thereof.

Any requested variances would be heard before the Construction Standards Board, in accordance with the process in Chapter 3.

RECOMMENDATION:

Hold a public hearing and consider action to approve the first reading of Ordinance No. 2023-04 of the City Council of the City of Bastrop, Texas, amending the Bastrop Building Block (B³) Code, Chapter 6, Section 6.5.003 amending the Authentic Bastrop Pattern Book, and amending Bastrop Code of Ordinances Section 3.01.001 International Code Council (ICC); International Code Family; and providing for findings of fact, repealer, severability, codification, effective date, proper notice and meeting; and move to include on the March 28, 2023, agenda for second reading.

ATTACHMENTS:

- Ordinance 2023-04
 - Exhibit A
 - Draft Amendments to Bastrop Building Block (B) Code: Chapter 6, Section 6.5.003 Building Standards Per Place Type
 - Proposed amendments to Authentic Pattern Book
 - Code of Ordinance Section 3.01.001 International Code Council (ICC); International Code Family (c) Amendments to IBC 2018.
- 

SEC. 6.5.003 BUILDING STANDARDS PER PLACE TYPE

	Place Types	P1	P2	P3	P4	P5
A. LOT COVERAGE						
	Lot Coverage		40% max	60% max	70% max	80% max
	Facade Buildout at Build-to-Line		40% min	40% min	60% min	80% min
	Build-to-Line		10 ft - no max	10 ft - 25 ft*	5 ft - 15 ft	2 ft - 15 ft

* Lots exceeding 1/2 acre may extend the 1 Layer of the Lot up to 60 ft from the Frontage Line.

B. BUILDING HEIGHT (STORIES)						
	Principal Building		2 max	2 max	3 max**	5 max / 3 max*
	Accessory Dwelling Unit		2 max	2 max	2 max	2 max

* CD Downtown/ Old Town

** 2 1/2 Max in Overlay

C. ENCROACHMENTS						
First Layer Encroachments						
	Open Porch		50% max	50% max	80% max	n/a
	Balcony and/or Bay Window		25% max	25% max	50% max	100% max
	Stoop, Lightwell, Terrace or Dooryard		NP	NP	100% max	100% max

R.O.W. Encroachments ***

Place Types	P1	P2	P3	P4	P5
Awning, Gallery, or Arcade		NP	NP	to within 2 ft. of the Curb	to within 2 ft. of the Curb

First Layer Encroachment Depths

Porch		5 ft min	8 ft min	8 ft min	n/a
Gallery		NP		10 ft min	10 ft. min.
Arcade		NP			12 ft. min.

D. PARKING LOCATION

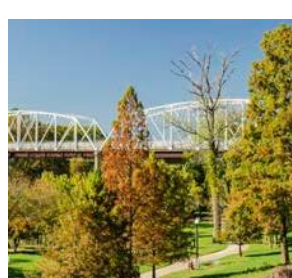
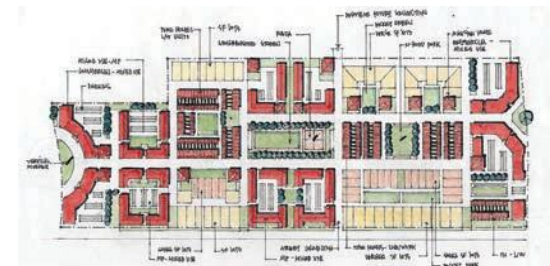
Second Layer		P	P	NP	NP
Third Layer		P	P	P	P
*** Required to go through an Encroachment process					

E. FENCE LOCATION

Fences allowed within the Layers as defined in the Bastrop Code of Ordinances, Chapter 3.



AUTHENTIC BASTROP PATTERN BOOK



ADOPTED: November 12, 2019
AMENDED: 2023



We live in a time of increased awareness surrounding the inefficiencies of suburban development patterns (i.e. suburban sprawl). Suburban sprawl is a major part of mainstream discussions regarding future fiscal and environmental sustainability of current human settlement patterns. The suburban sprawl lifestyle has led to obesity and health issues, challenges regarding safety and delivery of services, inefficient use of infrastructure, car dominated life and culture, lack of pedestrian friendly streets and public spaces, and isolation. The effects of these factors have forced those who plan and design neighborhoods, towns and cities to fundamentally rethink their approach to future development.

Bastrop's B3 Code presents an alternative to current day development patterns and processes. Given the great amount of acreage of develop-able land and the in-fill opportunities within the historic pattern of existing square blocks, we have conceived the future development in Bastrop as a carefully laid out quilt of geographically sensitive development patterns, identifiable place types, and a series of well-enclosed and safe public places - parks and plazas - surrounded by building blocks of varying building types and densities. Human-scaled clusters of buildings (i.e. pocket neighborhoods) with well-enclosed public spaces create potential for unscheduled human interactions and provide the physical framework for the formation of an appropriate sense of urbanity. Development patterns, like the one described, are conducive to genuine human contact currently absent from conventional suburban development patterns, but essential for creating a sense of community.

~~The Patten Book is mandatory in the Iredell District and the Historic Bastrop Commercial District. The Pattern Book is intended to serve as an educational and inspirational guide to development in Bastrop. in areas where it is not required to be utilized.~~

Sec. 3.01.001 International Code Council (ICC); International Code Family.

- (a) The International Building Code (IBC) 2018 edition, with all appendices as published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.
- (b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.
- (c) The following amendments are being made to the International Building Code (IBC) 2018:
 - (1) [Amend] Table 1004.5 Maximum Floor Area Allowances Per Occupant.
 - (a) Function of Space: Business Areas, Occupant Load Factor: One hundred (100) Gross.
 - (2) [Amend] [A] 105.2 Work exempt from permit.
 - (a) Fences not over 7 feet (2134 mm) high:
 - (1) Replacement of an existing fence, in the same location, with like for like material and design, does not require a permit.
 - (2) Within the first layer, fences cannot exceed 4 feet in height and must have 50% transparency.
 - (a) Chain link prohibited in the first layer
 - (3) Prohibited fence types/materials:
 - (a) Electric fences
 - (b) Barbed or razor wire material
 - (c) Broken glass or any protruding sharp or dangerous object cannot be incorporated into fences or walls.
 - (d) Fences blocking the sight triangle (requirements in B³ Technical Manual)
 - (4) The provisions of this article shall not apply to a fence or wall necessary for the public safety as determined by the public works director, fire chief or building official, or as required by any law or regulation of the State or an agency thereof.

(Ord. No. 2014-28, 12-9-14; Ord. No. 2019-61 , § 3, 11-26-19)

CITY OF BASTROP, TX
ORDINANCE NO. 2023-04

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS AMENDING THE BASTROP BUILDING BLOCK (B³) CODE CHAPTER 6, SECTION 6.5.003, AMENDING THE AUTHENTIC BASTROP PATTERN BOOK, AND AMENDING BASTROP CODE OF ORDINANCES SECTION 3.01.001 INTERNATIONAL CODE COUNCIL (ICC); INTERNATIONAL CODE FAMILY; AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE AND MEETING.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council of the City of Bastrop has general authority to adopt an Ordinance or police regulation that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, on February 23, 2023, the Planning and Zoning Commission voted to recommend an ordinance amending provisions of the Bastrop Building Block (B3) Code, the Authentic Bastrop Pattern Book, and the Bastrop Code of Ordinances.

WHEREAS, the City Council finds certain amendments to the aforementioned codes are necessary to meet changing conditions and are in the best interest of the City;

WHEREAS, the City Council finds the attached amendments reasonable and necessary.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bastrop, TX:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. AMENDMENT

Chapter 6, Article 6.5, Section 6.5.003 of the Bastrop Building Block (B3) Code is hereby amended, and after such amendment, shall read in accordance with *Attachment "A"*, which is attached hereto and incorporated into this Ordinance for all intents and

purposes. Page 2 of the Authentic Bastrop Pattern Book is hereby amended, and after such amendment, shall read in accordance with *Attachment "B"*, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Chapter 3, Article 3.01, Section 3.01.001 of the City of Bastrop Code of Ordinances is hereby amended, and after such amendment, shall read in accordance with *Attachment "C"*, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code and any struck-through text shall be deleted from the Code, as shown in each of the attachments.

3. REPEALER

To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations, and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This ordinance shall take effect upon the date of final passage noted below, or when all applicable publication requirements, if any, are satisfied in accordance with the City's Charter, Code of Ordinances, and the laws of the State of Texas.

7. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

READ & ACKNOWLEDGED on First Reading on this, the 28th day of February 2023.

READ & APPROVED on the Second Reading on this, the ___th day of _____ 2023.

APPROVED:

by: _____
Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

ATTACHMENT A

SEC. 6.5.003 BUILDING STANDARDS PER PLACE TYPE

Place Types	P1	P2	P3	P4	P5
A. LOT OCCUPATION					
Lot Coverage		40% max	60% max	70% max	80% max
Facade Buildout at Build-to-Line		40% min	40% min	60% min	80% min
Build-to-Line		10 ft - no max	10 ft - 25 ft*	5 ft - 15 ft	2 ft - 15 ft

* Lots exceeding 1/2 acre may extend the 1 Layer of the Lot up to 60 ft from the Frontage Line.

B. BUILDING HEIGHT (STORIES)					
Principal Building		2 max	2 max	3 max**	5 max / 3 max*
Accessory Dwelling Unit		2 max	2 max	2 max	2 max

* CD Downtown/ Old Town

** 2 1/2 Max in Overlay

C. ENCROACHMENTS					
First Layer Encroachments					
Open Porch		50% max	50% max	80% max	n/a
Balcony and/or Bay Window		25% max	25% max	50% max	100% max
Stoop, Lightwell, Terrace or Dooryard		NP	NP	100% max	100% max

R.O.W. Encroachments ***

Place Types	P1	P2	P3	P4	P5
Awning, Gallery, or Arcade		NP	NP	to within 2 ft. of the Curb	to within 2 ft. of the Curb

First Layer Encroachment Depths

Porch		5 ft min	8 ft min	8 ft min	n/a
Gallery		NP		10 ft min	10 ft. min.
Arcade		NP			12 ft. min.

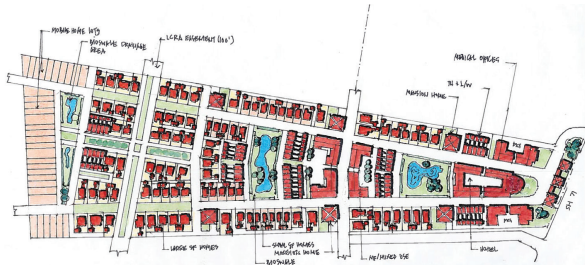
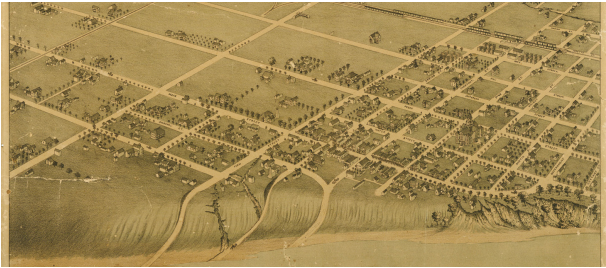
D. PARKING LOCATION

Second Layer		P	P	NP	NP
Third Layer		P	P	P	P
*** Required to go through an Encroachment process					

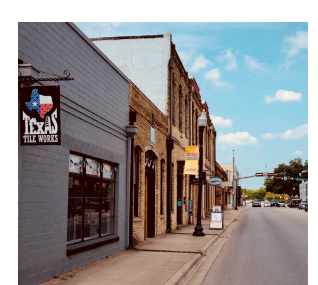
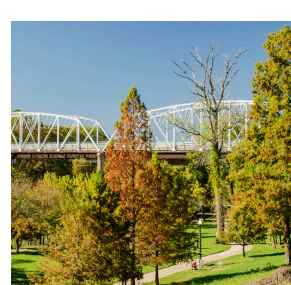
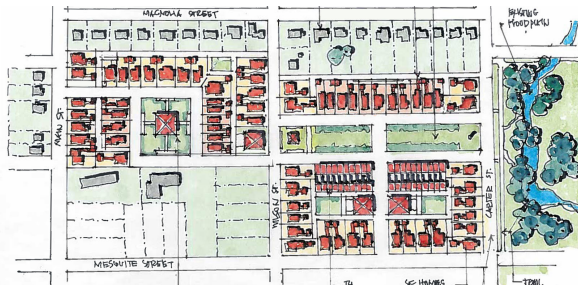
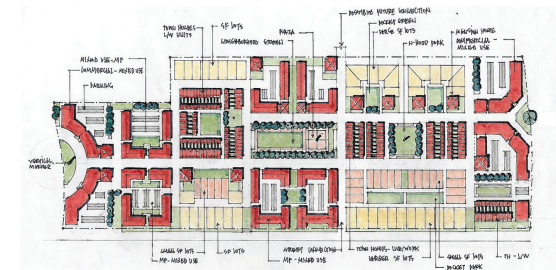
E. FENCE LOCATION

Fences allowed within the Layers as defined in the Bastrop Code of Ordinances, Chapter 3.

ATTACHMENT B



AUTHENTIC BASTROP PATTERN BOOK



ADOPTED: November 12, 2019
AMENDED: 2023



We live in a time of increased awareness surrounding the inefficiencies of suburban development patterns (i.e. suburban sprawl). Suburban sprawl is a major part of mainstream discussions regarding future fiscal and environmental sustainability of current human settlement patterns. The suburban sprawl lifestyle has led to obesity and health issues, challenges regarding safety and delivery of services, inefficient use of infrastructure, car dominated life and culture, lack of pedestrian friendly streets and public spaces, and isolation. The effects of these factors have forced those who plan and design neighborhoods, towns and cities to fundamentally rethink their approach to future development.

Bastrop's B3 Code presents an alternative to current day development patterns and processes. Given the great amount of acreage of develop-able land and the infill opportunities within the historic pattern of existing square blocks, we have conceived the future development in Bastrop as a carefully laid out quilt of geographically sensitive development patterns, identifiable place types, and a series of well-enclosed and safe public places - parks and plazas - surrounded by building blocks of varying building types and densities. Human-scaled clusters of buildings (i.e. pocket neighborhoods) with well-enclosed public spaces create potential for unscheduled human interactions and provide the physical framework for the formation of an appropriate sense of urbanity. Development patterns, like the one described, are conducive to genuine human contact currently absent from conventional suburban development patterns, but essential for creating a sense of community.

~~The Patten Book is mandatory in the Iredell District and the Historic Bastrop Commercial District. The Pattern Book is intended to serve as an educational and inspirational guide to development in Bastrop. in areas where it is not required to be utilized.~~

ATTACHMENT C

Sec. 3.01.001 International Code Council (ICC); International Code Family.

- (a) The International Building Code (IBC) 2018 edition, with all appendices as published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.
- (b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.
- (c) The following amendments are being made to the International Building Code (IBC) 2018:
 - (1) [Amend] Table 1004.5 Maximum Floor Area Allowances Per Occupant.
 - (a) Function of Space: Business Areas, Occupant Load Factor: One hundred (100) Gross.
 - (2) [Amend] [A] 105.2 Work exempt from permit.
 - (a) Fences not over 7 feet (2134 mm) high:
 - (1) Replacement of an existing fence, in the same location, with like for like material and design, does not require a permit.
 - (2) Within the first layer, fences cannot exceed 4 feet in height and must have 50% transparency.
 - (3) Prohibited fence types/materials:
 - (a) Electric fences
 - (b) Barbed or razor wire material
 - (c) Broken glass or any protruding sharp or dangerous object cannot be incorporated into fences or walls.
 - (d) Fences blocking the sight triangle (requirements in B³ Technical Manual)
 - (4) The provisions of this article shall not apply to a fence or wall necessary for the public safety as determined by the public works director, fire chief or building official, or as required by any law or regulation of the State or an agency thereof.

(Ord. No. 2014-28, 12-9-14; Ord. No. 2019-61 , § 3, 11-26-19)

Items for Individual Consideration

Fence Amendments

Draft Amendments to Bastrop Building Block (B3) Code: Chapter 6, Section 6.5.003 Building Standards Per Place Type

Place Types	P1	P2	P3	P4	P5
Awning, Gallery, or Arcade		NP	NP	to within 2 ft. of the Curb	to within 2 ft. of the Curb
First Layer Encroachment Depths					
Porch		5 ft min	8 ft min	8 ft min	n/a
Gallery		NP		10 ft min	10 ft. min.
Arcade		NP			12 ft. min.
D. PARKING LOCATION					
Second Layer		P	P	NP	NP
Third Layer		P	P	P	P
*** Required to go through an Encroachment process					
E. FENCE LOCATION					
Fences allowed within the Layers as defined in the Bastrop Code of Ordinances, Chapter 3.					

Proposed Amendments to Authentic Pattern Book



We live in a time of increased awareness surrounding the inefficiencies of suburban development patterns (i.e. suburban sprawl). Suburban sprawl is a major part of mainstream discussions regarding future fiscal and environmental sustainability of current human settlement patterns. The suburban sprawl lifestyle has led to obesity and health issues, challenges regarding safety and delivery of services, inefficient use of infrastructure, car dominated life and culture, lack of pedestrian friendly streets and public spaces, and isolation. The effects of these factors have forced those who plan and design neighborhoods, towns and cities to fundamentally rethink their approach to future development.

Bastrop's B3 Code presents an alternative to current day development patterns and processes. Given the great amount of acreage of develop-able land and the infill opportunities within the historic pattern of existing square blocks, we have conceived the future development in Bastrop as a carefully laid out quilt of geographically sensitive development patterns, identifiable place types, and a series of well-enclosed and safe public places - parks and plazas - surrounded by building blocks of varying building types and densities. Human-scaled clusters of buildings (i.e. pocket neighborhoods) with well-enclosed public spaces create potential for unscheduled human interactions and provide the physical framework for the formation of an appropriate sense of urbanity. Development patterns, like the one described, are conducive to genuine human contact currently absent from conventional suburban development patterns, but essential for creating a sense of community.

~~The Pattern Book is mandatory in the Iredell District and the Historic Bastrop Commercial District.~~ The Pattern Book is intended to serve as an educational and inspirational guide to development in Bastrop, ~~in areas where it is not required to be utilized.~~

Proposed Amendment

Sec. 3.01.001 International Code Council (ICC); International Code Family.

(2) [Amend] [A] 105.2 Work exempt from permit.

(a) Fences not over 7 feet (2134 mm) high:

(1) Replacement of an existing fence, in the same location, with like for like material and design, does not require a permit.

(2) Within the first layer, fences cannot exceed 4 feet in height and must have 50% transparency.

(3) Prohibited fence types/materials:

(a) Electric fences

(b) Barbed or razor wire material

(c) Broken glass or any protruding sharp or dangerous object cannot be incorporated into fences or walls.

(d) Fences blocking the sight triangle (requirements in B³ Technical Manual)

Proposed Amendment

Sec. 3.01.001 International Code Council (ICC); International Code Family (cont)

(4) The provisions of this article shall not apply to a fence or wall necessary for the public safety as determined by the Public Works Director, Fire Chief or Building Official, or as required by any law or regulation of the State or an agency thereof.

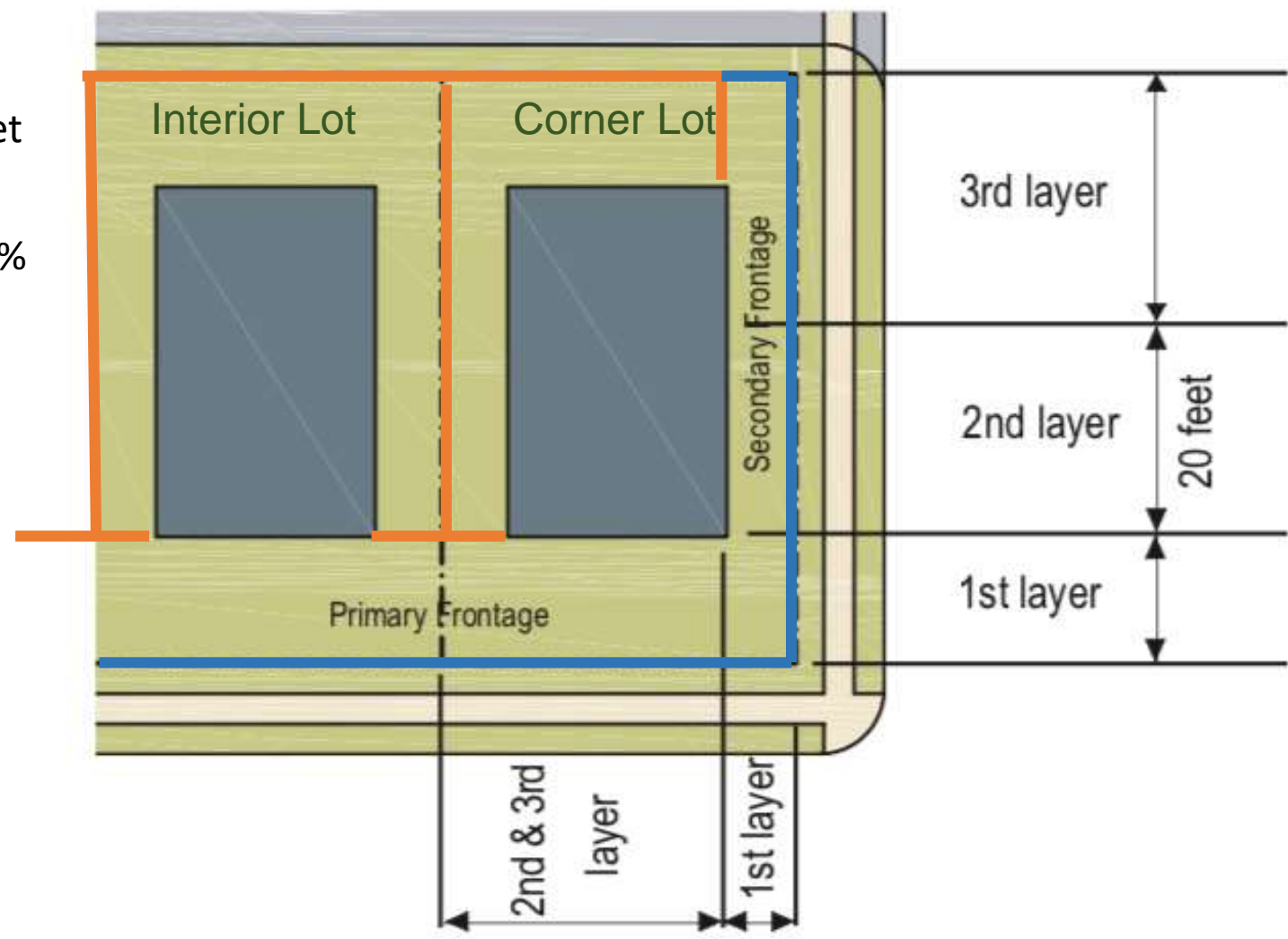
Any requested variances would be heard before the Construction Standards Board, in accordance with the process in Chapter 3.



First Layer – Interior and Corner Lots

LOT LAYERS AND FRONTAGE LINES

- Greater than 4 feet - solid
- 4 feet or less – 50% transparency



Recommendation

Hold a public hearing and consider action to approve the first reading of Ordinance No. 2023-04 of the City Council of the City of Bastrop, Texas, amending the Bastrop Building Block (B³) Code, Chapter 6, Section 6.5.003 amending the Authentic Bastrop Pattern Book, and amending Bastrop Code of Ordinances Section 3.01.001 International Code Council (ICC); International Code Family; and providing for findings of fact, repealer, severability, codification, effective date, proper notice and meeting; and move to include on the March 28, 2023, agenda for second reading.

