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



August 22, 2023

Amendment -new item 9L Regular Council Meeting at 6:30 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. PLEDGE OF ALLEGIANCE Archie Anderson and Harmony Carroway, Bastrop Opera House Youth Academy

TEXAS PLEDGE OF ALLEGIANCE - Honor the Texas Flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

- 3. **INVOCATION** Robert Wellington, Police Chaplain
- 4. **PRESENTATIONS**
- <u>4A.</u> Mayor's Report
- 4B. Council Members' Report

- <u>4C.</u> City Manager's Report
- 4D. Tracy Waldron, Chief Financial Officer's goodbye.
- <u>4E.</u> A proclamation of the City Council of the City of Bastrop, Texas recognizing September 2023, as National Preparedness month.

Ann Franklin, City Secretary

5. WORK SESSIONS/BRIEFINGS - NONE

6. STAFF AND BOARD REPORTS

6A. Receive presentation on the unaudited Monthly Financial Report for the period ending July 31, 2023.

Submitted by: Tracy Waldron, Chief Financial Officer

7. 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 <u>www.cityofbastrop.org/citizencommentform</u> 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.

8. 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.

8A. Consider action to approve City Council minutes from the August 8, 2023, Regular meeting; August 10, 2023, Special Called meeting; August 15, 2023, Budget Workshop; and August 16, 2023, Budget Workshop.

Submitted by: Ann Franklin, City Secretary

8B. Consider action to approve Resolution No. R-2023-109 of the City Council of the City of Bastrop, Texas, approving an additional professional services contract with Dial Development Services, Ltd. (DDS) to continue to provide the services of construction management and inspection to a not to exceed amount of two hundred thousand dollars (\$200,000); authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

Submitted by: Fabiola de Carvalho, CFM, AMP MIAM, Director of Engineering and Capital Project Management

8C. Consider action to approve Resolution No. R-2023-123 of the City Council of the City of Bastrop, Texas, approving the Financial Management Policy, which is attached as Exhibit A; providing for a repealing clause and establishing an effective date.

Submitted by: Tracy Waldron, Chief Financial Officer

<u>8D.</u> Consider action to approve the second reading of Ordinance No. 2023-25 of the City Council of the City of Bastrop, Texas, annexing a tract of land described as 25.00 acres of land out of the Stephen F. Austin survey, Abstract No. 2, located west of Lovers Lane and south of Pecan Park subdivision, and east of the Colorado River Bend, as shown in Exhibit "A"; providing for findings of fact, adoption, repealer, severability, filing and enforcement; establishing an effective date; and providing for proper notice and meeting.

Submitted by: Sylvia Carrillo, City Manager, ICMA-CM, CPM

8E. Consider action to approve the second reading of Ordinance No. 2023-26 of the City Council of the City of Bastrop, Texas, annexing a tract of land described as 169.773 acres of land out of the Nancy Blakey survey, Abstract No. A98, located south of state highway 71 and east of Farm-to-Market Road 20, as shown in Exhibit "A"; providing for findings of fact, adoption, repealer, severability, filing and enforcement; establishing an effective date; and providing for proper notice and meeting.

Submitted by: Sylvia Carrillo, City Manager, ICMA-CM, CPM

<u>8F.</u> Consider action to approve Resolution No. R-2023-124 of the City Council of the City of Bastrop, Texas approving and adopting the Investment Policy and Investment Strategies attached as Exhibit A; approving the list of Qualified Brokers attached as Exhibit B; making various provisions related to the subject; and establishing an effective date.

Submitted by: Tracy Waldron, Chief Financial Officer

<u>8G.</u> Consider action to approve Resolution No. R-2023-125, of the City Council of the City of Bastrop, Texas, approving the City of Bastrop Purchasing Policy, which is attached as Exhibit A; providing for a repealing clause; and establishing an effective date.

Submitted by: Tracy Waldron, Chief Financial Officer

9. ITEMS FOR INDIVIDUAL CONSIDERATION

<u>9A.</u> Consider action to approve Resolution No. R-2023-119 of the City Council of the City of Bastrop, Texas, awarding a contract, attached as Exhibit A, for the installation of holiday lighting to Décor IQ in the amount of One Hundred Seventy-Six Thousand One Hundred Seventy-Five and 00/100 Dollars (\$176,175.00); authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

Submitted by: Curtis Hancock, Director of Public Works

<u>9B.</u> Consider action to approve Resolution No. R-2023-122 of the City Council of the City of Bastrop, Texas, awarding a contract, attached as Exhibit A, for the installation of Shade Structures at Ferry Park and Hunter's Crossing Park to T.F. Harper in the amount of Sixty-Four Thousand Nine Hundred Twenty-Nine and 74/100 Dollars (\$64,929.74); authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

Submitted by: Curtis Hancock, Director of Public Works

<u>9C.</u> Consider action to approve Resolution No. R-2023-113 of the City Council of the City of Bastrop, Texas to award a Grant Administrative Service contract to Public Management, Inc. for the preparation of the City's Community Development Block Grant – Mitigation (CDBG-MIT) Regional Method of Distribution (MOD) programs through the Texas General Land Office (GLO) application and subsequent administrative services, if funded, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

Submitted by: Tracy Waldron, Chief Financial Officer

<u>9D.</u> Consider action to approve the first reading of Ordinance No. 2023-23 of the City Council, of the City of Bastrop, Texas amending the Bastrop City Code of Ordinances, adding Article 1.21 "Payment by Credit Card or Other Electronic Means"; and adding Appendix A, Fee Schedule, Section A1.21 "Payment by Credit Card or Other Electronic Means; providing for a processing fee for credit card payment of fees, fines, court costs, and other charges; providing for a service charge if payment of credit card is not honored; providing for findings of fact, enactment, repealer, severability, effective date, codification, proper notice of meeting, and move to include on the September 12, 2023 consent agenda for a second reading.

Submitted by: Tracy Waldron, Chief Financial Officer

<u>9E.</u> Consider action to approve Resolution No. R-2023-132 of the City Council, of the City of Bastrop, Texas, calling for review of Chapter 3 of the Bastrop Code of Ordinances and the Standard and International Building And Construction Codes, and requesting the City Manager identify potential modifications to the Codes, and the City Attorney to prepare potential code amendments for Council consideration and action.

Submitted by: Councilmembers Crouch and Plunkett

<u>9F.</u> Consider action to approve the first reading of Ordinance No. 2023-28 of the City Council, of the City of Bastrop, Texas, amending the Visit Bastrop Corporation budget, and creating a 4th amendment to the Visit Bastrop agreement; and move to include on the September 12, 2023, Council agenda for second reading.

Submitted by: Sylvia Carrillo, City Manager, ICMA-CM, CPM

<u>9G.</u> Consider action to approve the first reading of Ordinance 2023-30 of the City Council, of the City of Bastrop, Texas, reallocating \$167,000 of the Hotel Occupancy Tax fund previously allocated to the 4th quarter of Visit Bastrop "midyear adjustment" to fund repairs to the rodeo arena; and move to include on the September 12, 2023, Council agenda for second reading.

Submitted by: Mayor Lyle Nelson

<u>9H.</u> Consider action to approve the first reading of Ordinance No. 2023-29 of the City Council of the City of Bastrop, Texas, amending the budget for the Fiscal Year 2023 in accordance with existing statutory requirements; appropriating the various amounts herein as attached in Exhibit A; repealing all prior ordinances and actions in conflict herewith; and establishing an effective date, and move to include on the September 12, 2023, City Council consent agenda for a second reading.

Submitted by: Tracy Waldron, Chief Financial Officer

<u>91.</u> Consider action to approve Resolution No. R-2023-133 of the City Council, of the City of Bastrop, Texas, approving the expansion of Fairview Cemetery and requesting the City Manager and City Attorney to make preparations for the demolition, sale and repurposing of certain municipal surplus real property adjacent to the cemetery.

Submitted by: Councilmembers Crouch and Plunkett

<u>9J.</u> Consider action to approve the first reading of Ordinance No. 2023-31, of the City Council of the City of Bastrop, Texas, amending the Bastrop Code of Ordinances Chapter 14, the Bastrop Building Block (B3) Technical Manual, Article 4.1 Plat Submission; and providing for findings of fact, repealer, severability, codification, effective date, proper notice and meeting; and move to include on the September 12, 2023, agenda for second reading.

Sylvia Carrillo, ICMA-CM, CPM, City Manager

<u>9K.</u> Consider action to approve Resolution No. R-2023-135 of the City Council of the City of Bastrop, Texas approving Agreements for Tree Mitigation for Pearl River projects, including Blakey Owner Apartments II, LLC for Multi-Family Phase II, and PRC 01 Bastrop, LLC for the Commercial phase, including related bonds, and authorizing the City Manager to execute all necessary documents.

Submitted by: Sylvia Carrillo, ICMA-CM, CPM, City Manager

9L. Discussion and consider action on the proposed tax rate for Fiscal Year 2023-2024 and determine the appropriate tax rate to apply for the Budget for Fiscal Year 2023-2024.

Submitted by: Mayor Pro Tem Kirkland and Council Member Crouch

10. EXECUTIVE SESSION

- 10A. City Council shall convene into closed executive session pursuant to Texas Government Code section 551.071 and 551.072 to seek the advice of legal counsel related real estate acquisitions, including by use of eminent domain if necessary, of real property interests located northwest of the intersection of SH 71 and FM 969 for the Vista Puente Drive Right of Way Project.
- 10B. City Council shall convene into closed executive session pursuant to Texas Government Code section 551.071 to seek the advice of legal counsel regarding possible agreement with Aqua Water Supply Corporation regarding treated effluent and the certificated area under the City's Certificate of Convenience and Necessity.
- 10C. City Council shall convene into closed executive session pursuant to Texas Government Code section 551.071 and 551.072 to seek the advice of legal counsel regarding a potential agreement with Corix, SpaceX, and Gapped Bass LLC related to real property.
- 10D. City Council shall convene into closed executive session pursuant to Texas Government Code sections 551.071 and 551.072 to seek the advice of legal counsel regarding real estate matters, including a potential lease of the Rodeo Arena at Mayfest Park, and matters related to Fisherman's Park.

11. TAKE ANY NECESSARY OR APPROPRIATE ACTION ON MATTERS POSTED FOR CONSIDERATION

12. 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, <u>www.cityofbastrop.org</u> and said Notice was posted on the following date and time: Friday, August 18, 2023, at 6:00 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: August 22, 2023

TITLE:

Mayor's Report

AGENDA ITEM SUBMITTED BY:

Submitted by: Sylvia Carrillo, City Manager

POLICY EXPLANATION:

Texas Local Government Code, Section 551.045 – Governing Body of Municipality or County: Reports about Items of Community Interest Regarding Which No Action Will Be Taken:

(a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and
- (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.



STAFF REPORT

MEETING DATE: August 22, 2023

TITLE:

Council Members' Report

AGENDA ITEM SUBMITTED BY:

Submitted by: Sylvia Carrillo, City Manager

POLICY EXPLANATION:

Texas Local Government Code, Section 551.045 – Governing Body of Municipality or County: Reports about Items of Community Interest Regarding Which No Action Will Be Taken:

(a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and
- (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.





MEETING DATE: August 22, 2023

TITLE:

City Manager's Report

AGENDA ITEM SUBMITTED BY:

Submitted by: Sylvia Carrillo, City Manager

POLICY EXPLANATION:

Texas Local Government Code, Section 551.045 – Governing Body of Municipality or County: Reports about Items of Community Interest Regarding Which No Action Will Be Taken:

(a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and
- (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.



STAFF REPORT

MEETING DATE: August 22, 2023

TITLE:

A proclamation of the City Council of the City of Bastrop, Texas recognizing September 2023, as National Preparedness month.

AGENDA ITEM SUBMITTED BY:

Ann Franklin, City Secretary

BACKGROUND/HISTORY: N/A

RECOMMENDATION: N/A

ATTACHMENTS: N/A



WHEREAS, September is National Preparedness Month, which serves as a reminder that we all must take action to prepare, now and throughout the year, for the types of emergencies that could affect us where we live, work, and also where we visit; and

WHEREAS, "National Preparedness Month" creates an opportunity for the residents and businesses in the City of Bastrop to prepare their homes, establishments, and communities for any type of emergency including natural disasters and potential terror attacks; and

WHEREAS, the City of Bastrop, along with other regional, state and national partners, support the WarnCentralTexas.org campaign to increase public readiness in preparing for emergencies and educating citizens on how to take action; and

WHEREAS, preparedness is an ongoing effort of all citizens in the CAPCOG region, including youth, older adults, and people with access and functional needs; and

WHEREAS, investing in the preparedness of ourselves, our families, businesses, and communities can reduce fatalities and economic devastation throughout our nation; and

WHEREAS, emergency preparedness is the responsibility of every citizen in the (city/county) and all citizens are encouraged to make preparedness a priority.

NOW, THEREFORE, I, Lyle Nelson, Mayor of the City of Bastrop, Texas, do hereby proclaim September 2023 as:

NATIONAL PREPAREDNESS MONTH

and encourage all citizens and businesses to develop their own emergency preparedness plan, go to WarnCentralTexas.org to register to receive emergency alerts, and work as a team towards that end.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Bastrop, Texas to be affixed this 22nd day of August, 2023.

Lyle Nelson, Mayor



STAFF REPORT

MEETING DATE: August 22, 2023

TITLE:

Receive presentation on the unaudited Monthly Financial Report for the period ending July 31, 2023.

AGENDA ITEM SUBMITTED BY:

Submitted by: Tracy Waldron, Chief Financial Officer

BACKGROUND/HISTORY:

The Chief Financial Officer provides the City Council a monthly financial report overview for all funds to include detailed analysis for General Fund, Water-Wastewater Fund, Bastrop Power & Light and the HOT Tax Fund.

REVENUE

General Fund exceeded the forecast by 9.9%

- Sales tax is almost 3.6% above forecast.
- Development fees are 83% above forecast due to Valverde subdivision and Pearl River Public Improvement Fees collected in advance.

Impact Fee Fund is running 20% short of forecast. With Pearl River moving forward we should see this variance improve in the coming months.

All other funds are positive to forecast.

EXPENDITURES

All funds are positive to forecast amounts.

This reporting requirement is set forth by the City of Bastrop Financial Management Policies, Chapter IV. Operating Budget, Section D. Reporting, as adopted by Resolution R-2022-73 on August 23, 2022.

ATTACHMENTS:

• Unaudited Monthly Financial Report for the period ending July 31, 2023

CITY OF BASTROP

Comprehensive Monthly Financial Report July 2023

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Performance at a Glance as of July 31, 2023

	YEAR TO DATE	REFEREN
ALL FUNDS SUMMARY	POSITIVE	Page 3-4
SALES TAXES	POSITIVE	Page 5
PROPERTY TAXES	POSITIVE	Page 6
GENERAL FUND EXPENSE BY DEPARTMENT	POSITIVE	Page 7
WATER/WASTEWATER REVENUES	POSITIVE	Page 8
WATER/WASTEWATER EXPENDITURES BY DIVISION	POSITIVE	Page 9
ELECTRIC REVENUES	POSITIVE	Page 10
HOTEL OCCUPANCY TAX REVENUES	POSITIVE	Page 11
HOTEL OCCUPANCY TAX EXPENDITURES BY DIVISION	POSITIVE	Page 12
LEGAL FEES BY ATTORNEY/CATEGORY	POSITIVE	Page 13
PERFORMANCE INDICATORS		
POSITIVE = Positive variance or negative	e variance $<$ 1% compared to seas	ional trends
$\frac{1}{1} = \text{Negative variance of } 1-5\% \text{ co}$	ompared to seasonal trends	
NEGATIVE = Negative variance of > 5%	compared to seasonal trends	





		FY2023		FY2023		FY2023		
	<u>Ap</u>	oroved Budget	<u>Fc</u>	orecast YTD		Actual YTD		
<u>Revenues:</u>								
General	\$	17,052,608	\$	14,772,103	\$	16,241,789		
Designated		63,200		41,542		95,810		
General Fund One-time		382,395		382,395		390,651		
Street Maintenance		803,500		669,583		678,790		
Debt Service		3,870,175		3,510,924		3,613,468		
General Gov's Projects		3,052,000		304,167		312,375		
Land Acquisition		-		-		1,678,622		
Water/Wastewater		7,977,692		6,375,708		6,734,327		
Water/Wastewater Debt		3,665,227		2,159,106		2,207,849		
Water/Wastewater Capital Proj		885,100		737,583		756,109		
Impact Fees		3,330,450		1,847,049		1,473,305		
Vehicle & Equipment Replacement		1,435,490		1,321,846		1,491,572		
Electric		7,959,241		6,499,456		6,765,929		
HOT Tax Fund		3,534,554		2,497,970		2,738,126		
Library Board		20,750		12,125		15,924		
Cemetery		184,700		146,417		155,447		
Capital Bond Projects		40,148,779		40,148,779		40,979,433		
Grant Fund		4,665,330		705,975		705,976		
Park/Trail Land Dedicaiton		1,465		1,448		1,697		
Hunter's Crossing PID		575,879		573,249		581,000		
Bastrop EDC		4,213,909		3,412,299		3,680,928		
TOTAL REVEN	NUES \$	103,822,444	\$	86,119,724	\$	91,299,127		
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POSITIVE	
WARNING	
NEGATIVE	

= Positive variance or negative variance < 1% compared to forecast

= Negative variance of 1-5% compared to forecast

= Negative variance of >5% compared to forecast

<u>Variance</u>

9.9% 130.6% 2.2% 1.4% 2.9% 2.7% 0.0% 5.6% 2.3% 2.5% -20.2% 12.8% 4.1% 9.6% 31.3% 6.2% 2.1% 0.0% 17.2% 1.4% 7.9% 6.0%

BUDGET SUMMARY OF ALL FUNDS

	DUDULI JUTITIANI VI ALLIUND)							
	FY2023 FY2023							
	<u>App</u>	<u>roved Budget</u>	<u>Fc</u>	Forecast YTD				
Expense:								
General	\$	20,108,075	\$	16,941,343	\$			
Designated		323,780		54,000				
General Fund One-time		456,200		204,090				
Street Maintenance		807,927		95,000				
Debt Service		3,850,699		3,532,265				
General Gov't Projects		3,152,000		243,500				
Water/Wastewater		8,689,225		7,300,179				
Water/Wastewater Debt		4,457,069		4,457,068				
Water/Wastewater Capital Proj.		1,287,631		465,500				
Revenue Bond, Series 2020		156,919		104,000				
CO, Series 2021		20,450,575		17,370,809				
CO, Series 2023		25,600,000		5,360,000				
Impact Fees		7,884,300		607,250				
Vehicle & Equipment Replacement		1,678,763		1,678,763				
Electric		8,325,435		6,532,523				
HOT Tax Fund		3,899,827		4,200,190				
Library Board		49,000		38,333				
Cemetery		217,901		190,918				
Hunter's Crossing PID		552,405		532,321				
CO, Series 2013		210,791		210,791				
CO, Series 2018		461,631		40,000				
Limited Tax Note, Series 2020		149,948		153,000				
America Rescue Plan		2,156,205		-				
CO, Series 2022		3,599,999		500,000				
CO, Series 2023		13,107,779		108,000				
Grant Fund		4,665,330		852,000				

POSITIVE	=
WARNING	=
NEGATIVE	=

= Positive variance or negative variance < 1% compared to forecast

= Negative variance of 1-5% compared to forecast

= Negative variance of >5% compared to forecast

FY2023 Actual YTDVariance $16,463,522$ -2.8% $53,314$ -1.3% $199,485$ -2.3% $93,934$ $199,485$ -2.3% $93,934$ -1.1% $3,532,476$ 0.0% $235,742$ $3,532,476$ 0.0% $235,742$ -3.2% $7,197,684$ $7,197,684$ -1.4% $4,458,676$ 0.0% $445,964$ $4,458,676$ 0.0% $103,152$ -0.8% $17,135,443$ $17,135,443$ -1.4% $4,642,050$ -13.4% $609,369$ $1297,918$ -22.7% $5,986,307$ -8.4% $3,901,662$ $1,297,918$ -22.7% $5,986,307$ -8.4% $3,901,662$ $123,057$ -35.5% $481,700$ -9.5% $146,125$ $146,125$ -30.7% $39,171$ -2.1% $152,971$ $152,971$ 0.0% $-$ 0.0% $496,909$ $496,909$ -0.6% $106,997$ -0.9% $851,329$		
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$\begin{array}{rrrrrrrrrrrrrrrrrrrrrrrrrrrrrrrrrrrr$	103,152	-0.8%
609,3690.3%1,297,918-22.7%5,986,307-8.4%3,901,662-7.1%30,575-20.2%123,057-35.5%481,700-9.5%146,125-30.7%39,171-2.1%152,9710.0%496,909-0.6%106,997-0.9%	17,135,443	-1.4%
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5,986,307 -8.4% 3,901,662 -7.1% 30,575 -20.2% 123,057 -35.5% 481,700 -9.5% 146,125 -30.7% 39,171 -2.1% 152,971 0.0% 496,909 -0.6% 106,997 -0.9%	609,369	0.3%
3,901,662 -7.1% 30,575 -20.2% 123,057 -35.5% 481,700 -9.5% 146,125 -30.7% 39,171 -2.1% 152,971 0.0% 496,909 -0.6% 106,997 -0.9%	1,297,918	-22.7%
30,575 -20.2% 123,057 -35.5% 481,700 -9.5% 146,125 -30.7% 39,171 -2.1% 152,971 0.0% 496,909 -0.6% 106,997 -0.9%	5,986,307	-8.4%
123,057 -35.5% 481,700 -9.5% 146,125 -30.7% 39,171 -2.1% 152,971 0.0% 496,909 -0.6% 106,997 -0.9%	3,901,662	-7.1%
481,700 -9.5% 146,125 -30.7% 39,171 -2.1% 152,971 0.0% - 0.0% 496,909 -0.6% 106,997 -0.9%	30,575	-20.2%
146,125-30.7%39,171-2.1%152,9710.0%-0.0%496,909-0.6%106,997-0.9%	123,057	-35.5%
39,171 -2.1% 152,971 0.0% - 0.0% 496,909 -0.6% 106,997 -0.9%	481,700	-9.5%
152,971 0.0% - 0.0% 496,909 -0.6% 106,997 -0.9%	146,125	-30.7%
- 0.0% 496,909 -0.6% 106,997 -0.9%	•	-2.1%
496,909-0.6%106,997-0.9%	152,971	0.0%
106,997 -0.9%	-	0.0%
	496,909	-0.6%
851,329 -0.1%	106,997	-0.9%
	851,329	-0.1%

REVENUE ANALYSIS

SALES TAX REVENUE

		FY2023		FY2023		Monthly
<u>Month</u>		<u>Forecast</u>		<u>Actual</u>		<u>Variance</u>
Oct	\$	574,991	\$	580,268	\$	5,277
Nov		591,072		675,521	\$	84,449
Dec		600,053		632,136	\$	32,083
Jan		592 <i>,</i> 432		655,945	\$	63,513
Feb		755,152		787,504	\$	32,352
Mar		574,974		604,626	\$	29,652
Apr		500 <i>,</i> 630		620,519	\$	119,889
May		805,119		727,135	\$	(77,984)
Jun		707,365		603 <i>,</i> 389	\$	(103,976)
Jul		688,127		734,931	\$	46,804
Aug		778,750			\$	-
Sept		724,050			\$	-
Total	\$	7,892,715	\$	6,621,974	\$	232,059
Cumulative Forecas	t \$	6,389,915				
Actual to Forecast	\$	232,059		3.6%		



POSITIVE

Sales Tax is 46% of the total budgeted revenue for General Fund. The actual amounts for Oct. and Nov. are estimated due to the State Comptroller's two month lag in payment of these earned taxes. The actual is 3% greater than forecasted. This is down from 9% in previous months.

PROPERTY TAX REVENUE

	FY2023		FY2023		Monthly
<u>Month</u>		<u>Forecast</u>	<u>Actual</u>	<u>}</u>	Variance
Oct	\$	10,451	\$ 13,108	\$	2,657
Nov		334,933	453,349	\$	118,416
Dec		1,196,190	1,924,618	\$	728,428
Jan		1,692,354	1,803,389	\$	111,035
Feb		1,435,428	479,900	\$	(955,528)
Mar		47,848	52,932	\$	5,084
Apr		19,139	46,816	\$	27,677
Мау		19,138	9 <i>,</i> 645	\$	(9,493)
Jun		9,570	24,271	\$	14,701
Jul		9,570	8 <i>,</i> 578	\$	(992)
Aug		9,570			
Sept		570			
Total	\$	4,784,761	\$ 4,816,606	\$	41,985
Cumulative Forecast	\$	4,774,621			
Actual to Forecast	\$	41,985	0.88%		



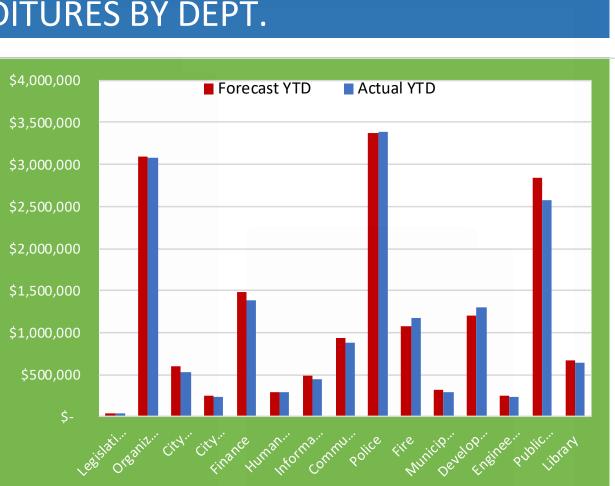
PO)SI	TI\	VE

Property tax represents 29% of the total General Fund revenue budget. As you can see from the forecast, they are generally collected from December to February. The actual is just slightly over forecast.

		 		-	
		 		_	
				_	
			_	_	
Mar :	May Actua	Jul	Aug	Sept	

GENERAL FUND EXPENDITURES BY DEPT.

	FY2023	FY2023		
<u>Division</u>	Forecast YTD	Actual YTD	<u>Variance</u>	
Legislative	\$ 43,086	\$ 39,318	\$	(3,768)
Organizational	3,090,060	3,079,107	\$	(10,953)
City Manager	596 <i>,</i> 946	524,206	\$	(72,740)
City Secretary	251,879	237,287	\$	(14,592)
Finance	1,481,778	1,381,145	\$	(100,633)
Human Resources	289,446	288,138	\$	(1,308)
Information Technology	493 <i>,</i> 963	448,257	\$	(45 <i>,</i> 706)
Community Engagemen	930,536	879,780	\$	(50 <i>,</i> 756)
Police	3,378,834	3,382,744	\$	3,910
Fire	1,080,031	1,169,360	\$	89,329
Municipal Court	326,735	293,548	\$	(33,188)
Development Services	1,204,844	1,296,124	\$	91,280
Engineering	256,967	235,009	\$	(21 <i>,</i> 958)
Public Works	2,848,538	2,573,169	\$	(275 <i>,</i> 369)
Library	667,700	636,332	\$	(31,368)
Total	\$ 16,941,343	\$16,463,522	\$	(477,821)
Actual to Forecast		07.20/		



Actual to Forecast

97.2%

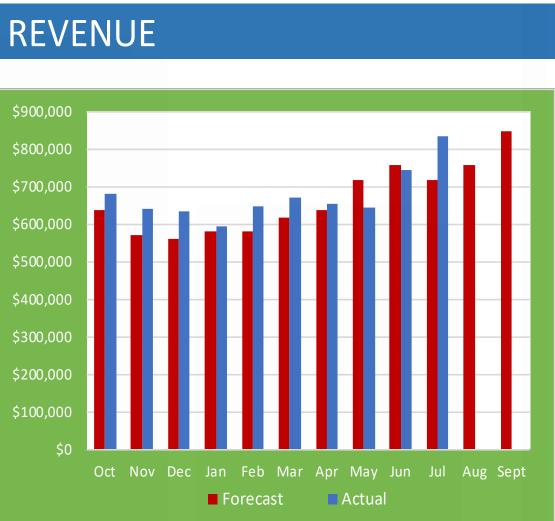
POSITIVE

This page compares forecast to actual by department within the General Fund. YTD the actual is 97% of forecast. The variance in Police and Fire is due to overtime expense that was underprojected in the budget amount. The variance in Development Services is from the new staffing structure. Both of these variances will be reconciled with a budget amendment before fiscal year end.

REVENUE ANALYSIS

WATER/WASTEWATER REVENUE

		FY2023 FY2023			Monthly			
<u> </u>	<u>Month</u>	<u>Forecast</u>		<u>Actual</u>			<u>Variance</u>	
Oct		\$ 638,316		\$	681,114		\$	42,798
Nov		569,347			638,648		\$	69,301
Dec		560,114			633,214		\$	73,100
Jan		580,619			592,464		\$	11,845
Feb		579,347			648,152		\$	68,805
Mar		617,812			671,390		\$	53,578
Apr		638,316			651,953		\$	13,637
May		717,790			642,389		\$	(75,401)
Jun		757,527			743,162		\$	(14,365)
Jul		716,518			831,841		\$	115,323
Aug		756,255						
Sept		845,729						
						-		
Total		\$ 7,977,690		\$	6,734,327		\$	358,621
Cumulat	ive Forecast	\$ 6,375,706						
Actual to	o Forecast	\$ 358,621			5.62%			

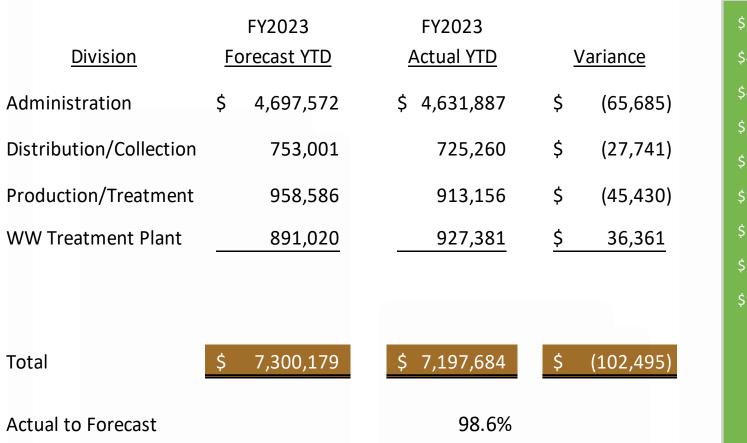


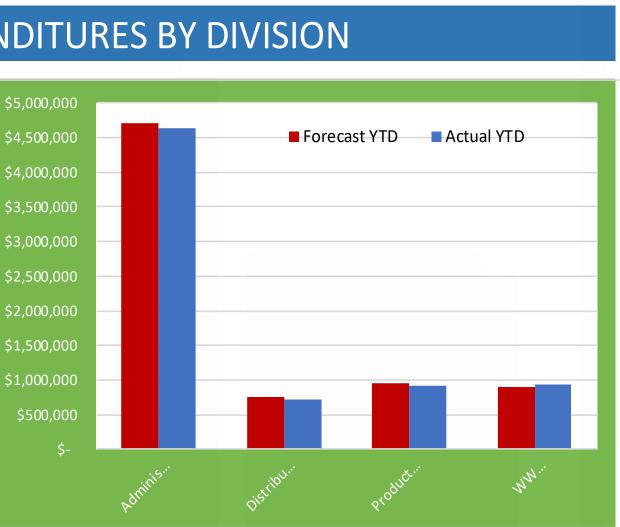
POSITIVE

The water and wastewater actual revenue is higher than forecast by 5.6%. There were 16 new meters set this month, all residential.

EXPENSE ANALYSIS

WATER/WASTEWATER EXPENDITURES BY DIVISION





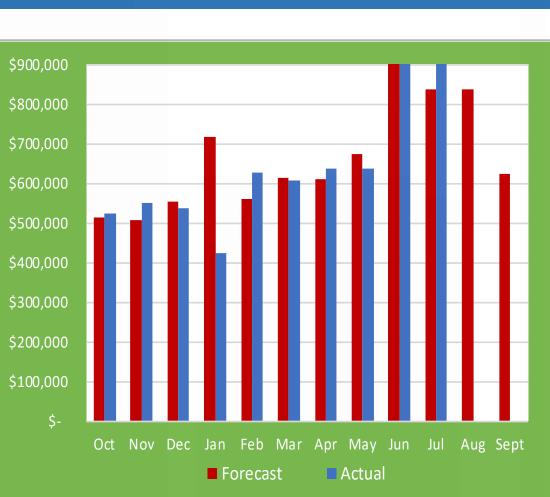
POSITIVE

This page compares actual to forecast by the divisions within the Water/Wastewater department. The actual is over 98% of forescast. The WW Treatment Plant budget is being stretch due to the delay in opening the WWTP#3. This will require a budget amendment by the end of the fiscal year.

REVENUE ANALYSIS

ELECTRIC FUND REVENUE

Month		FY2023	FY2023	ſ	Monthly
<u>Month</u>		<u>Forecast</u>	<u>Actual</u>	<u>\</u>	<u>Variance</u>
Oct	\$	514,921	\$ 525,195	\$	10,274
Nov		507,248	549,744	\$	42,496
Dec		554,146	537,080	\$	(17,066)
Jan		716,092	422,138	\$	(293,954)
Feb		559,213	625,515	\$	66,302
Mar		614,775	607,100	\$	(7 <i>,</i> 675)
Apr		609,437	635,634	\$	26,197
Мау		673,509	635,450	\$	(38,059)
Jun		912,677	1,086,044	\$	173,367
Jul		837,438	1,142,029	\$	304,591
Aug		837,053			
Sept		622,732			
Total	\$	7,959,241	\$ 6,765,929	\$	266,473
Cumulative Forecast	\$	6,499,456			
Actual to Forecast	\$	266,473	4.10%		



POSITIVE

The Electric utility revenue is 4% above forecasted revenue. There was 0 new meters set this month. The large variance for January is related to lower consumption and less average billed days in the cycle.

REVENUE ANALYSIS

HOTEL OCCUPANCY TAX REVENUE

		FY2023			FY2023			Monthly		
	Month		<u>Forecast</u>		<u>Actual</u>			Variance		
Oct		\$	-		\$	-	\$	-		
Nov			285,780			371,527	\$	85,747		
Dec			277,089			252,705	\$	(24,384)		
Jan			227,137			199,512	\$	(27,625)		
Feb			169,292			216,718	\$	47,426		
Mar			179,183			207,656	\$	28,473		
Apr			181,880			369,223	\$	187,343		
May			355,483			312,793	\$	(42,690)		
Jun			300,040			341,582	\$	41,542		
Jul			279,956			79,011	\$	(200,945)		
Aug			354,982							
Sept			622,176							
Total		\$	3,232,998		\$ 2	,350,727	\$	94,887		
Cumulat	ive Forecast	\$	2,255,840							
Actual to Forescast %		\$	94,887			4.2%				

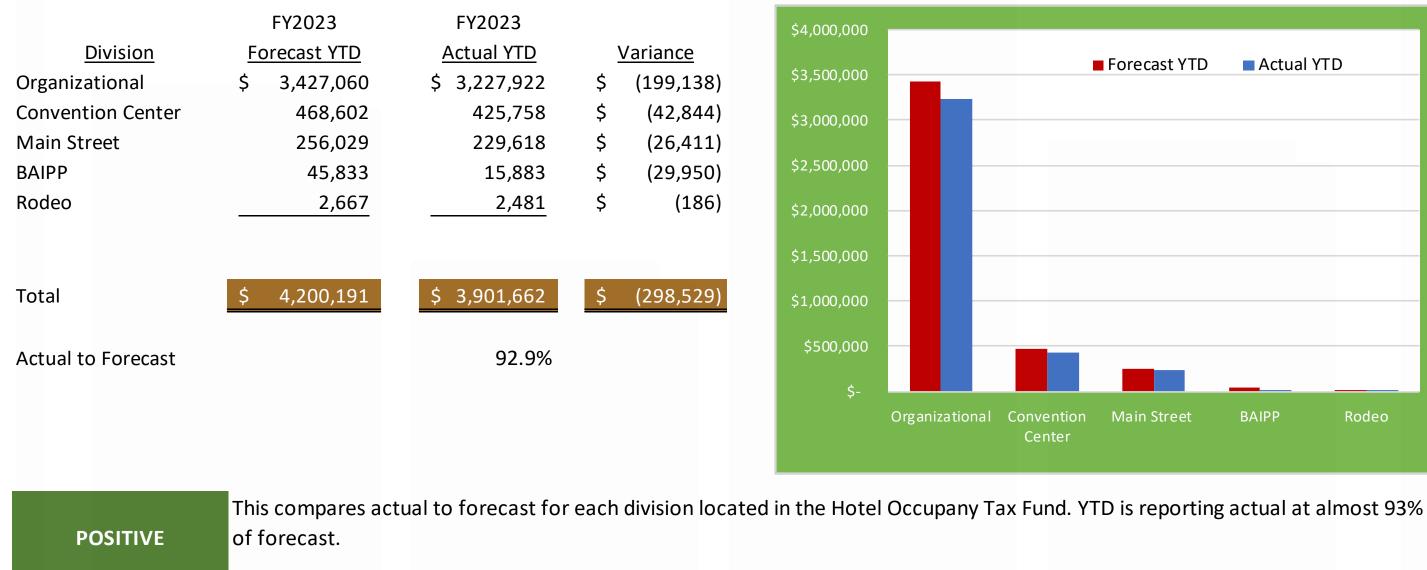


POSITIVE

This report is based on a cash method. The revenue is received by the City the month after collection. The September forecast represents the true-up of receipts for August and September. Actual is 4% over forecast. Timing of receipts can cause actual to be less than expected (July). We received Hyatt payment for July in August.

EXPENSE ANALYSIS

HOTEL OCCUPANCY TAX EXPENDITURES BY DIVISION



Forecast YTD	Actual Y	ГD
Main Street	BAIPP	Rodeo

Legal fees by Attorney/Category

COMPREHENSIVE MONTHLY FINANCIAL REPORT - July 2023

FIRM	CASE	F	Y20-21	F	Y21-22	F	Y22-23				
BUNDREN											
	Pine Forest Interlocal	\$	944	\$	8,946	\$	-				
BOJORQUEZ								SUMMARY OF CASE/TYPE			
	General Legal	\$	166,756	\$	275,339	\$	203,723	Row Labels	Sum of FY20-21	Sum of FY21-22	Sum of FY22-23
	NEU Review	\$	8,493	\$	-	\$	-	71 Bastrop & MC Bastrop 71	7,333	18,967	63
	Bastrop 552	\$	2,810	\$	6,571	\$	476	Bastrop 552	2,810	6,571	476
	Crouch Suit	\$	-	\$	12,006	\$	-	COVID-19	186	-	-
	Cox Suit	\$	-	\$	11, 122	\$	-	Cox Suit	-	23,116	-
	COVID-19	\$	186	\$	-	\$	-	Crouch Suit	-	23,901	-
	Pine Forest Interlocal	\$	-	\$	3,710	\$	534	General Legal	166,756	275,339	203,723
	Prosecutor (Municipal Court)	\$	16,331	\$	21,783	\$	19,398	Hunter's Crossing PID	10,466	3,638	3,561
	Water/WW	\$	96,362	\$	67,910	\$	140,570	NEU Review	8,493	-	-
	Valverde	\$	-	\$	-	\$	1,771	Pine Forest Interlocal	944	12,656	534
HYDE KELLEY	LLP							Prosecutor (Municipal Court)	16,331	21,783	19,398
	Hunter's Crossing PID	\$	10,466	\$	3,638	\$	3,561	Valverde	-	-	1,771
MULTIPLE FIRM	AS							W/WW Contract reviews	1,425	17,836	11,774
	W/WW Contract reviews	\$	1,425	\$	17,836	\$	11,774	Water/WW	96,362	67,910	140,570
	Crouch Suit	\$	-	\$	11,896	\$	-	Grand Total	311,106	471,716	381,869
	Cox Suit	\$	-	\$	11,994	\$	-				
TAYLOR, OL SO	N, ADKINS, SRALLA & ELAM										
-	71 Bastrop & MC Bastrop 71	\$	7,333	\$	18,967	\$	63				
		\$	311,106	\$	471,716	\$	381,869				



STAFF REPORT

MEETING DATE: August 22, 2023

TITLE:

Consider action to approve City Council minutes from the August 8, 2023, Regular meeting; August 10, 2023, Special Called meeting; August 15, 2023, Budget Workshop; and August 16, 2023, Budget Workshop.

AGENDA ITEM SUBMITTED BY:

Ann Franklin, City Secretary

BACKGROUND/HISTORY:

N/A

FISCAL IMPACT:

N/A

RECOMMENDATION:

Consider action to approve City Council minutes from the August 8, 2023, Regular meeting; August 10, 2023, Special Called meeting; August 15, 2023, Budget Workshop; and August 16, 2023, Budget Workshop.

ATTACHMENTS:

- August 8, 2023, DRAFT Regular Meeting Minutes.
- August 10, 2023, DRAFT Special Called Meeting Minutes
- August 15, 2023, DRAFT Budget Workshop Minutes
- August 16, 2023, DRAFT Budget Workshop Minutes

AUGUST 8, 2023

The Bastrop City Council met in a regular meeting on Tuesday, August 8, 2023, at 6:30 p.m. at the Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present were: Mayor Nelson and Mayor Pro Tem Kirkland and Council Members Lee, Meyer, Plunkett, and Crouch. Officers present were: City Manager, Sylvia Carrillo; City Secretary, Ann Franklin; and City Attorney, Alan Bojorquez.

CALL TO ORDER

Mayor Nelson called the meeting to order at 6:30 p.m. with a quorum present.

PLEDGE OF ALLEGIANCE

Lucy McInnes and Ava Jaehne, Bastrop Opera House Youth Academy, led the pledges.

INVOCATION

Phil Woods, Police Chaplain, gave the invocation.

PRESENTATIONS

- 7A. Mayor's Report
- 7B. Council Members' Report
- 7C. City Manager's Report NONE

WORK SESSIONS/BRIEFINGS - NONE

STAFF AND BOARD REPORTS - NONE

CITIZEN COMMENTS SPEAKERS

Bethany Young 188 Waipahoehoe Dr. Bastrop, TX 78602

ITEMS FOR INDIVIDUAL CONSIDERATION

9G. Consider action to approve the first reading of Ordinance No. 2023-24 of the City Council of the City of Bastrop, Texas, annexing a tract of land described as 399.9+/- acres of land out of the Nancy Blakey survey, Abstract No. A98, located west of farm-to-market road 969, as shown in Exhibit A; providing for findings of fact, adoption, repealer, severability, filing and enforcement; establishing an effective date; providing for proper notice and meeting; and move to include on the August 22, 2023, agenda for second reading.

Submitted by: Trey Job, Assistant City Manager **This item was pulled from the agenda.**

9D. Consider action to approve Resolution No. R-2023-121 formally accepting the 2023 City of Bastrop Parks, Recreation and Open Space Master Plan Submitted by: Terry Moore, Recreation Manager **Presentation was made by Terry Moore, Recreation Manager and Mark Maldonado, Stantec.**

SPEAKERS Peyton Bennight 143 Bailey Blvd, Bastrop, TX 78602 512-461-0925

Taylor Homuth 6994 State Highway 304 Rosanky, Tx 78953 512-321-8368

Johnny Sanders 156 Spring Branch Bastrop, TX 78602

Neil Cody P.O. Box 624 Bastrop, Tx 78602

Don Allen Stewart Jr. 219 Paint Creek South Rd. Paige, TX 78659 512-413-8512

Deborah Jones 1606 Pecan St. Bastrop, Tx 78602 512-567-5719

Michael Lucas 709 Hill St. Bastrop, Tx 78602 310-880-2199

Kerry Fossler 1903 Main St. Bastrop, Tx 78602

Linda Waxman 578 Watterson Rd Bastrop Tx 512-461-5016

Coy Williams 113 Lake Drive Bastrop, TX

A motion was made by Council Member Crouch to formally accept Resolution No. R-2023-121, Master Plan as it is with exception of moving forward with the 2016 slide of the Rodeo Arena, seconded by Council Member Lee.

A friendly amendment was offered by Council Member Meyer to accept the plan on the conditions that concept A and concept B are removed from the plan to be replaced with language added in the main motion by the maker of the motion and amend the plan to say, any courts at any park which are currently dual purpose courts for tennis and pickle ball maintain its dual purpose function and include the word tennis along with the word pickle ball. The amendment was accepted by Council Member Crouch, the maker of the main motion but not accepted by Council Member Lee who seconded the main motion.

An amendment was again offered by Council Member Meyer to accept the plan on the conditions that concept A and concept B are removed from the plan to be replaced with language added in the main motion by the maker of the motion and amend the plan to say, any courts at any park which are currently dual purpose courts for tennis and pickle ball maintain its dual purpose function and include the word tennis along with the word pickle ball. A vote was called by Mayor Nelson. The amendment passed on a vote of 4-1. Those voting aye: Mayor Pro Tem Kirkland, Council Member Meyer, Council Member Plunkett, and Council Member Crouch. Those voting nay: Council Member Lee.

A vote was called by Mayor Nelson on the motion as amended. The amendment passed on a 5-0 vote.

Mayor Nelson recessed the Council meeting at 8:37 P.M.

Mayor Nelson called the Council meeting back to order at 8:48 P.M.

CONSENT AGENDA

A motion was made by Council Member Lee to approve Items 8A, 8B, and 8C as listed on the Consent Agenda after being read into the record by City Secretary Ann Franklin. Seconded by Mayor Pro Tem, motion was approved on a 5-0 vote.

8A. Consider action to approve City Council minutes from the July 24, 2023, Joint Council and BEDC meeting; July 25, 2023, Regular meeting; and August 3, 2023, Workshop.

Submitted by: Ann Franklin, City Secretary

8B. Consider action to approve the second reading of Resolution No. R-2023-110 of the City Council of the City of Bastrop, Texas, approving a Revolving Loan Fund Program and the expenditure of Bastrop Economic Development Corporation funds in the amount of Thirty Thousand Dollars (\$30,000.00) for the program; repealing all resolutions in conflict; and providing an effective date.

Submitted by: Sylvia Carrillo, City Manager, ICMA-CM, CPM and Tracy Waldron, Chief Financial Officer

8C. Consider action to approve Resolution No. R-2023-112 Of the City Council of the City of Bastrop authorizing the conveyance of Fire Station #2, located at 120 Corporate Drive, to the Bastrop County Emergency Services District No. 2.

Submitted by: Sylvia Carrillo, City Manager, ICMA-CM, CPM

REGULAR COUNCIL MINUTES

ITEMS FOR INDIVIDUAL CONSIDERATION CONTINUED

9A. Consider action to approve Resolution No. R-2023-116 acknowledging proposed tax rate, no-new-revenue tax rate and voter-approval tax rate for Fiscal Year 2023-2024 (FY 2024), calling for a public hearing on September 12, 2023, and authorizing a public notice.
 Submitted by: Tracy Waldron, Chief Financial Officer
 Presentation was made by Laura Allen, Senior Accountant.

A motion was made by Mayor Pro Tem Kirkland to approve Resolution No. R-2023-116, seconded by Council Member Lee, motion was approved on a 5-0 vote.

9B. Consider action to approve the first reading of Ordinance No. 2023-25 of the City Council of the City of Bastrop, Texas, annexing a tract of land described as 25.00 acres of land out of the Stephen F. Austin survey, Abstract No. 2, located west of Lovers Lane and south of Pecan Park subdivision, and east of the Colorado River Bend, as shown in Exhibit "A"; providing for findings of fact, adoption, repealer, severability, filing and enforcement; establishing an effective date; and providing for proper notice and meeting; and move to include on the August 22, 2023, meeting for second reading.

Submitted by: Trey Job, Assistant City Manager

Presentation was made by Sylvia Carrillo, City Manager, ICMA-CM, CPM.

A motion was made by Mayor Pro Tem Kirkland to approve the first reading of Ordinance No. 2023-25, and include on the August 22, 2023, agenda for second reading, seconded by Council Member Meyer, motion was approved on a 5-0 vote.

9C. Consider action to approve the first reading of Ordinance No. 2023-26 of the City Council of the City of Bastrop, Texas, annexing a tract of land described as 169.773 acres of land out of the Nancy Blakey survey, Abstract No. A98, located south of state highway 71 and east of Farm-to-Market Road 20, as shown in Exhibit "A"; providing for findings of fact, adoption, repealer, severability, filing and enforcement; establishing an effective date; and providing for proper notice and meeting; and move to include on the August 22, 2023, meeting for second reading. Submitted by: Trey Job, Assistant City Manager

Presentation was made by Sylvia Carrillo, City Manager, ICMA-CM, CPM.

A motion was made by Council Member Plunkett to approve the first reading of Ordinance No. 2023-26, and include on the August 22, 2023, agenda for second reading, seconded by Mayor Pro Tem Kirkland, motion was approved on a 5-0 vote.

9E. Consider action to approve the first reading of Ordinance No. 2023-27 of the City Council of the City of Bastrop, Texas, calling for and establishing the procedures for a November 7, 2023, Special Election for the purpose of a combined ballot proposition reducing the Economic Development Sales and Use Tax and adopting a Street Maintenance Sales and Use Tax; providing an effective date; and move to include on the August 22, 2023, agenda for second reading. Submitted by: Ann Franklin, City Secretary
Presentation was made by Ann Franklin, City Secretary.

A motion was made by Mayor Pro Tem Kirkland to approve the first reading of Ordinance No. 2023-27, with the following amendment and include on the August 15, 2023, agenda for second reading, seconded by Council Member Plunkett, motion was approved on a 5-0 vote.

The amendment was to add the following wording to the beginning of Proposition A language, "Without increasing the current combined rate of all local sales and use taxes imposed by the City of Bastrop,".

9F. Consider action to approve Resolution No. R-2023-120 of the City Council of the City of Bastrop, Texas, approving a contract for Election services between Bastrop County; the Bastrop County Elections Administrator; and the City of Bastrop for the November 7, 2023, Special Election for, Bastrop Texas, attached as Exhibit A; authorizing the Mayor to execute all necessary documents; and providing an effective date. Submitted by: Ann Franklin, City Secretary Presentation was made by Tracy Waldron, Chief Financial Officer.

A motion was made by Council Member Plunkett to approve Resolution No. R-2023-120, seconded by Council Member Lee, motion was approved on a 5-0 vote.

EXECUTIVE SESSION

The City Council met at 9:08 p.m. in a closed/executive session pursuant to the Texas Government Code, Chapter 551, et seq, to discuss the following:

- 10A. City Council shall convene into closed executive session pursuant to Texas Government Code sections 551.071 and 551.072 to seek the advice of legal counsel regarding real estate matters, including a potential lease of the Rodeo Arena at Mayfest Park, and matters related to Fisherman's Park.
- 10B. City Council shall convene into closed executive session pursuant to Texas Government Code sections 551.071 and 551.087 to seek the advice of legal counsel regarding the Pearl River development project, including a potential incentive agreement.

Mayor Nelson recessed the Executive Session at 9:57 p.m.

TAKE ANY NECESSARY OR APPROPRIATE ACTION ON MATTERS POSTED FOR CONSIDERATION IN CLOSED/EXECUTIVE SESSION No action taken.

Adjourned at 9:58 p.m. without objection.

APPROVED:

ATTEST:

Mayor Lyle Nelson

Assistant City Secretary Victoria Psencik

The Minutes were approved on August 22, 2023, by Council Member Name's motion, Council Member Name's second. The motion was approved on a 5-0 vote.

MINUTES OF BASTROP CITY COUNCIL SPECIAL CALLED MEETING

AUGUST 10, 2023

The Bastrop City Council met in a special called meeting on Thursday, August 10, 2023, at 4:00 p.m. at the Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present were: Mayor Nelson and Mayor Pro Tem Kirkland and Council Members Plunkett, Meyer, Lee, and Crouch. Officers present were City Manager, Sylvia Carrillo; City Secretary, Ann Franklin; and City Attorney Alan Bojorquez.

CALL TO ORDER

Mayor Nelson called the meeting to order with a quorum being present at 4:00 p.m.

EXECUTIVE SESSION

The City Council met at 4:01 p.m. in a closed/executive session pursuant to the Texas Government Code, Chapter 551, et seq, to discuss the following:

2A. City Council shall convene into closed executive session pursuant to Texas Government Code section 551.071 to seek the advice of legal counsel regarding a potential Fourth Amendment to the Destination and Marketing Services Agreement with Visit Bastrop, including the review of certain records related to the performance of the Agreement.

Mayor Nelson recessed the Executive Session at 6:15 p.m.

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

2A. City Council shall convene into closed executive session pursuant to Texas Government Code section 551.071 to seek the advice of legal counsel regarding a potential Fourth Amendment to the Destination and Marketing Services Agreement with Visit Bastrop, including the review of certain records related to the performance of the Agreement.

A motion was made by Council Member Meyer to direct the City Staff to negotiate and draft a fourth amendment to the Destination of Marketing Services agreement and bring back to Council for consideration, seconded by Mayor Pro Tem Kirkland, motion was approved on a 5-0 vote.

A motion was made by Council Member Plunkett to approve Resolution No. R-2023-129 regarding an investigation of Visit Bastrop, seconded by Council Member Crouch, motion was approved on a 5-0 vote.

CITIZEN COMMENTS - NONE

ADJOURNMENT

Mayor Nelson adjourned the Bastrop City Council special called meeting at 6:17 p.m. without objection.

APPROVED:

ATTEST:

Mayor Lyle Nelson

City Secretary Ann Franklin

The Minutes were approved on August 22, 2023, by Council Member motion, Council Member second. The motion was approved on a 5-0 vote.

MINUTES OF BASTROP CITY COUNCIL BUDGET WORKSHOP

AUGUST 15, 2023

The Bastrop City Council met in a budget workshop on Tuesday, August 15, 2023, at 5:00 p.m. at the Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present were: Mayor Nelson and Mayor Pro Tem Kirkland and Council Members Plunkett, Meyer, Lee, and Crouch. Officers present were City Manager, Sylvia Carrillo; City Secretary, Ann Franklin; and Assistant Attorney, Rezzin Pullum.

CALL TO ORDER

Mayor Nelson called the meeting to order with a quorum being present at 5:00 p.m.

WORK SESSION

2A. Discuss FY 2023-2024 Proposed Budget and provide feedback to City Manager.

CITIZEN COMMENTS - NONE

ITEMS FOR INDIVIDUAL CONSIDERATION

3A. Consider action to approve the second reading of Ordinance No. 2023-27 of the City Council of the City of Bastrop, Texas, calling for and establishing the procedures for a November 7, 2023, Special Election for the purpose of a combined ballot proposition reducing the Economic Development Sales and Use Tax and adopting a Street Maintenance Sales and Use Tax; and providing an effective date. Submitted by: Ann Franklin, City Secretary

A motion was made by Mayor Pro Tem Kirkland to approve the second reading of Ordinance No. 2023-27, seconded by Council Member Crouch, motion was approved on a 5-0 vote.

3B. Consider action to approve Resolution No. R-2023-129 of the City Council of the City of Bastrop, Texas, calling for and establishing the procedures for a November 7, 2023, Special Election for the purpose of a ballot proposition authorizing the sale by the City of Certain Park Property, being a portion of Mayfest Park; and providing an effective date.

Submitted by: Ann Franklin, City Secretary

Presentation was given by Sylvia Carrillo, City Manager Sylvia Carrillo, City Manager, ICMA-CM, CPM.

A motion was made by Council Member Lee to approve Resolution No. R-2023-129, seconded by Council Member Crouch, motion was approved on a 5-0 vote.

3C. Consider action to approve Resolution No. R-2023-130 of the City Council of the City of Bastrop, Texas, calling for and establishing the procedures for a November 7, 2023, Special Election for the purpose of a ballot proposition authorizing the sale by the City of Certain Park Property, being a portion of Ferry Park; and providing an effective date.

Submitted by: Ann Franklin, City Secretary

Presentation was given by Sylvia Carrillo, City Manager Sylvia Carrillo, City Manager, ICMA-CM, CPM.

A motion was made by Mayor Pro Tem Kirkland to approve Resolution No. R-2023-130, seconded by Council Member Meyer, motion was approved on a 5-0 vote.

ADJOURNMENT

Mayor Nelson adjourned the Bastrop City Council workshop meeting at 6:10 p.m. without objection.

APPROVED:

ATTEST:

Mayor Lyle Nelson

City Secretary Ann Franklin

The Minutes were approved on August 22, 2023, by Council Member motion, Council member second. The motion was approved on a 5-0 vote.

MINUTES OF BASTROP CITY COUNCIL BUDGET WORKSHOP

AUGUST 16, 2023

The Bastrop City Council met in a budget workshop on Wednesday, August 16, 2023, at 5:00 p.m. at the Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present were: Mayor Nelson and Council Members Plunkett, Meyer, Lee, and Crouch. Officers present were City Manager, Sylvia Carrillo and City Secretary, Ann Franklin.

CALL TO ORDER

Mayor Nelson called the meeting to order with a quorum being present at 5:00 p.m. Mayor Pro Tem Kirkland was absent.

WORK SESSION

2A. Discuss FY 2023-2024 Proposed Budget and provide feedback to City Manager. A motion was made by Council Member Lee to approve \$129,090 for the community support funding, seconded by Council Member Plunket, motion was approved on a 4-0 vote. Mayor Pro Tem Kirkland was absent.

A motion was made by Council Member Lee to approve the tax rate as written for fiscal year 2023-2024 of .4994. The motion died for lack of a second.

A motion was made by Council Member Lee to approve the tax rate of .4994, seconded by Council Member Crouch, motion was approved on a 4-0 vote. Mayor Pro Tem Kirkland was absent.

A motion was made by Council Member Plunket to approve creation of a line item in the 2023-2024 budget for 1099 staff of \$25,000, seconded by Council Member Lee, motion was approved on a 4-0 vote. Mayor Pro Tem Kirkland was absent.

CITIZEN COMMENTS - NONE

ADJOURNMENT

Mayor Nelson adjourned the Bastrop City Council workshop meeting at 6:16 p.m. without objection.

APPROVED:

ATTEST:

Mayor Lyle Nelson

City Secretary Ann Franklin

The Minutes were approved on August 22, 2023, by Council Member motion, Council member second. The motion was approved on a 5-0 vote.



STAFF REPORT

MEETING DATE: August 22, 2023

TITLE:

Consider action to approve Resolution No. R-2023-109 of the City Council of the City of Bastrop, Texas, approving an additional professional services contract with Dial Development Services, Ltd. (DDS) to continue to provide the services of construction management and inspection to a not to exceed amount of two hundred thousand dollars (\$200,000); authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

AGENDA ITEM SUBMITTED BY:

Fabiola de Carvalho, CFM, AMP MIAM, Director of Engineering and Capital Project Management

BACKGROUND/HISTORY:

The City of Bastrop hired Dial Development since November of 2021 to assist the City by providing construction management and inspection services of public infrastructure from private development and capital improvements projects. The contract is now up for extension.

Currently, City has extensive public infrastructure being built through private development and capital improvement projects. Timely and quality construction inspection will reduce long term costs and will ensure projects are constructed according to plans and specifications.

By outsourcing this oversight role, the Engineering and Capital Project Management Department can be scalable, and has the ability to act quickly, when needed. The City will only pay for services when we need them.

In the past, an in-house construction manager provided oversight on those construction management and inspection activities.

The professional services contract will cover construction management/inspection of the following projects, but not limited to: Valverde Phases 1 & 2, Riverwood Watermain Replacement, Agnes Street Extension, Transfer Lift Station and Force Main, Street Intersections, and multiple sections of The Colony.

FISCAL IMPACT:

FY23 Annual Budget:

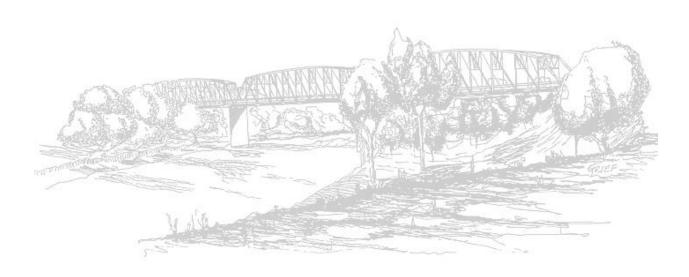
- Development Impact Fees
- Professional Services out of Engineering budget: for \$30,000
- Escrow Funds: for The Colony
- Agnes Street Extension: funded by BEDC
- Each additional CIP Project listed on the proposal: will be covered by appropriate project

RECOMMENDATION:

Consider action to approve Resolution No. R-2023-109 of the City Council of the City of Bastrop, Texas, approving an additional professional services contract with Dial Development Services, Ltd. (DDS) to continue to provide the services of construction management and inspection to a not to exceed amount of two hundred thousand dollars (\$200,000); authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

ATTACHMENTS:

- Exhibit A: Resolution No. R-2023-109
- Exhibit A: Professional Services Contract with Dial Development



RESOLUTION NO. R-2023-109

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING AN ADDITIONAL PROFESSIONAL SERVICES CONTRACT WITH DIAL DEVELOPMENT SERVICES, LTD. TO CONTINUE TO PROVIDE THE SERVICES OF CONSTRUCTION MANAGEMENT AND INSPECTION TO A NOT TO EXCEED AMOUNT OF TWO HUNDRED THOUSAND DOLLARS (\$200,000); AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Bastrop City Council understands the value in managing growth for future generations; and

WHEREAS, the City of Bastrop understands the importance of focusing on providing timely and quality construction management and inspection services for capital improvement projects and for public infrastructure from private development projects to ensure the approved plans are followed; and

WHEREAS, the City of Bastrop chooses to approve the attached contract to extend the professional services contract with Dial Development Services as shown as Exhibit B; and

WHEREAS, the City of Bastrop City Council has unequivocally committed to fiscal sustainability, responsibly managing growth, and taking definitive action towards lasting solutions.

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

Section 1. That the City Manager is hereby authorized to execute a Professional Services Contract to a not to exceed amount of two hundred thousand dollars (\$200,000).

Section 2. This resolution shall take effect immediately from and after its passage, and it is duly resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop, Texas this 22nd day of August 2023.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

CITY OF BASTROP STANDARD CONTRACT FOR GENERAL SERVICES Over \$50K

(8-16-2021)

This General Services Contract ("Contract") is entered by and between the **City of Bastrop**, a Texas Home-Rule Municipal Corporation (the "City"), and **Dial Development Services**, **Ltd.**, (the "Engineer/Contractor"), and together with the City jointly referred to as the "Parties," for the following work described on the Scope of Services, Exhibit A-2, attached and incorporated herein to this Contract (the "Work" or "Project").

I. General Information and Terms.

Engineer's/Contractor's Name and Address:	Dial Development Services, Ltd. P.O. Box 608 Del Valle, TX 78617 Attn: Robert Dial
General Description of Services:	QA Construction Inspection, Observation, & Plan Review
Maximum Contract Amount:	\$200,000.00
Effective Date: parties.	On the latest of the dates signed by both
Termination Date:	See II.D.

Contract Parts: This Contract consists of the following parts:

I. General Information and Terms II. Standard Contractual Provisions III. Additional Terms or Conditions IV. Additional Contract Documents V. Signatures

II. Standard Contractual Provisions.

A. <u>Contractor's Services</u>. The Contractor will provide to the City the professional engineering services ("Services") described in the Scope of Services, Exhibit A-2 attached and incorporated herein to this Contract under the terms and conditions of this Contract.

B. <u>Billing and Payment</u>. The Contractor will bill the City for the Services provided at intervals of at least 30 days of receipt of Contractor's invoices, except for the final billing. The City will pay the Contractor within 30 days of receipt of Contractor's invoices for the Services

provided for in this Contract with current revenues available to the City, but all of the City's payments to the Contractor, including the time of payment and the payment of interest on overdue amounts, are subject to the provisions of Chapter 2251 of the Government Code. The City shall have the right to withhold payment, or any part thereof, of any of invoice presented by Contractor until resolution providing reasonable verification of the correctness thereof of is reached. The City shall notify the Contractor, in writing, of the disputed amount within thirty (30) days. The City is not liable to the Contractor for any taxes which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any bill.

C. <u>Executed Contract.</u> The "Notice to Proceed" will not be given nor shall any Services commence until this Contract is fully executed and all exhibits and other attachments are completely executed and attached to this Contract.

D. Termination Provisions.

- (1) Unless terminated earlier as allowed by this Contract, this Contract terminates:
 - (a) On the termination date, if any, specified in the General Information in Part I, but the obligation of a party to complete a contract requirement pending on the date of termination survives termination; or
 - (b) If there is no termination date specified in the General Information in Part I, the Contract terminates when both parties have completed all their respective obligations under the Contract.

(2) The City Manager may terminate this Contract during its term at any time for any reason by giving written notice to the Contractor not less than five (5) business days prior to the termination date, but the City will pay the Contractor for all Services rendered in compliance with this Contract up to the date of termination. The City may terminate the Contract anytime if the City does not have available funds pursuant to Texas Government Code Chapter 2251.

(3) If the City Council does not appropriate funds to make any payment for a fiscal year after the City's fiscal year in which the Contract becomes effective and there are no proceeds available for payment from the sale of bonds or other debt instruments, then the Contract automatically terminates at the beginning of the first day of the successive fiscal year. (Section 5, Article XI, Texas Constitution).

E. <u>Delays</u>. Contractor shall have no damages for delay or hindrance. In the event of delay or hindrance not the fault of Contractor, an extension of time shall be the Contractor's sole remedy.

F. <u>Independent Contractor</u>. It is understood and agreed by the Parties that the Contractor is an independent contractor retained for the Services described in the Scope of Services, Exhibit A-2, attached and incorporated herein. The City will not control the manner or the means of the CITY OF BASTROP, GENERAL SERVICES CONTRACT/Page 2 Contractor's performance but shall be entitled to work product as detailed in the Exhibit A-2. The City will not be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies. This Contract does not create a joint venture. Services performed by the Contractor under this Contract are solely for the benefit of the City. Nothing contained in this Contract creates any duties on the part of the Contractor toward any person not a party to this Contract. No person or entity not a signatory to this Contract shall be entitled to rely on the Contractor's performance of its Services hereunder, and no right to assert a claim against the Contractor by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Contract or the performance of the Contractor's Services hereunder.

G. <u>Subcontractor</u>. The term "subcontractor" shall mean and include only those hired by and having a direct contract with Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by Contractor for performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments due. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

H. <u>Assignment</u>. The Contractor may not assign this Contract without the City's prior written consent.

I. <u>Law Governing and Venue</u>. This Contract is governed by the law of the State of Texas and a lawsuit may only be prosecuted on this Contract in a court of competent jurisdiction located in or having jurisdiction in Bastrop County, Texas.

J. <u>Entire Contract</u>. This Contract represents the entire Contract between the City and the Contractor and supersedes all prior negotiations, representations, or contracts, either written or oral. This Contract may be amended only by written instrument signed by both parties.

K. <u>Dispute Resolution Procedures</u>. If either party disputes any matter relating to this Contract, the parties agree to try in good faith, before bringing any legal action, to settle the dispute by submitting the matter to mediation before a third party who will be selected by agreement of the parties. The parties will each pay one-half of the mediator's fees.

L. <u>Attorney's Fees</u>. Should either party to this Contract bring suit against the other party for any matter relating to this Contract, the prevailing Party shall be entitled to have and recover from the losing Party reasonable attorney's fees and all other costs of such action.

M. <u>INDEMNIFICATION</u>. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW,THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, VOLUNTEERS, AND EMPLOYEES FROM AND AGAINST CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY, INCLUDING REIMBURSEMENT OF REASONABLE ATTORNEY'S FEES AND COST IN PROPORTION OF CONTRACTOR'S LIABILITY, FOR INJURY TO OR DEATH OF ANY PERSON OR FOR DAMAGE TO ANY PROPERTY TO THE EXTENT CAUSED BY THE CITY OF BASTROP, GENERAL SERVICES CONTRACT/Page 3 NEGLIGENT ACT, ERROR, OR WILLFUL MISCONDUCT OF THE CONTRACTOR, ITS AGENTS, REPRESENTATIVES, EMPLOYEES, OR ANYONE WHOM THE CONTRACTOR IS LEGALLY LIABLE FOR UNDER THIS CONTRACT.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES WHETHER UNDER BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY, SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, ENHANCED, TREBLE (OR STATUTORY EQUIVALENT), OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF BUSINESS OPPORTUNITY OR LOSS OF PROSPECTIVE REVENUE, ARISING OUT OF THIS AGREEMENT OR ANY WORK OR SERVICES PERFORMED OR TO BE PERFORMED HEREUNDER.

N. <u>RELEASE</u>. THE CONTRACTOR ASSUMES FULL RESPONSIBILITY FOR THE WORK TO BE PERFORMED HEREUNDER AND HEREBY RELEASES, RELINQUISHES, AND DISCHARGES THE CITY, ITS OFFICERS, AGENTS, VOLUNTEERS, AND EMPLOYEES FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO OR DEATH OF ANY PERSON, AND ANY LOSS OF OR DAMAGE TO ANY PROPERTY THAT IS CAUSED BY, OR ALLEGED TO BE CAUSED BY, THE NEGLIGENCE, RECKLESSNESS, OR WILLFUL MISCONDUCT OF CONTRACTOR, ITS AGENTS, REPRESENTATIVES, VOLUNTEERS, EMPLOYEES, OR SUBCONTRACTORS...

O. <u>Severability</u>. If a court finds or rules that any part of this Contract is invalid or unlawful, the remainder of the Contract continues to be binding on the parties.

P. <u>Conflicting Provisions</u>. If there is a conflict between a provision in the Contractor's Additional Contract Documents and a provision in the remainder of this Contract, the latter controls.

Q. Documents and Data, Licensing of Intellectual Property, and Copyright. All Work progress and final documents and data produced by Contractor during the term of the Contract shall be and remain the property of the City. For purposes of this Contract, the term "Documents and Data" include any original work (the Work), reports, analyses, plans, drawings, designs, renderings, specifications, notes, summaries, charts, schedules, spreadsheets, calculations, lists, data compilations, documents, or any other material developed and assembled by or on behalf of the City in the performance of this Contract. It also includes any medium in which the Documents and Data are kept, including digitally, magnetically, or electronically. This Contract creates at no cost to the City, a perpetual license for the City to use any picture, video, music, brochure, writing, trademark, logo, or other work created by the Contractor for the use of the City, as a "work made for hire" as defined by federal copyright law. The City, as the author and owner of the copyright to the Work, may alter, reproduce, distribute, or make any other use of the Work as it deems appropriate.

R. <u>Standard of Care for Architects and Engineers</u>. Services must be performed with the professional skill and care ordinarily provided by competent licensed engineers or registered architects practicing in the same or similar locality and under the same or similar circumstances and professional license.

S. <u>Disclosure of Interested Persons for Council-Approved Contracts</u>. Contracts that require City Council approval, such as contracts that exceed \$50,000, are subject to the requirements of Section 2252.908, Texas Gov't Code. Under the provisions of this statute:

(1) The City may not enter into a contract with a business entity that requires Council approval unless the business entity submits a disclosure of interested persons at the time the business entity submits a signed contract to the City;

(2) A disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission (Commission), attached and incorporated herein as Exhibit A-1,that includes:

- (a) A list of each interested party for the contract of which the contractor business entity is aware, an interested party being a person who has a controlling interest in the business entity or who actively participates in facilitating or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity; and
- (b) The signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury.

T. <u>Compliance with Laws</u>. The Contractor must comply with the federal, state, and local laws, rules and regulations applicable to the Project and its services under this Contract.

U. <u>Prohibition on Contracts with Companies Boycotting Israel</u>. Certain contracts for goods and services are subject to the requirements of Section 2270.002, Texas Gov't Code (H.B. 89, as amended by H.B. 793). Specifically, contracts for good and services that:

(1) are between the City and a company with ten (10) or more full-time employees; and

(2) have a value of \$100,000.00 or more that is to be paid wholly or partly from public funds of the City.

Under the provisions of this statute, if the above conditions apply the City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it:

(1) does not boycott Israel; and

(2) will not boycott Israel during the term of the contract.

If this is a contract to which the verification requirement applies, the City has approved a verification form which must be filled out and signed by the Contractor and submitted to the City at the time of execution of this Contract.

III. Additional Terms or Conditions.

Insurance

At all times this Agreement is in effect, Contractor shall maintain insurance of the types and amounts as those required in Exhibit B-1. All of Contractor's insurance policies in any way relating to the Work, whether or not required by this Agreement and regardless of the enforceability or validity of any of the indemnities or other assumptions of liability by Contractor, shall, to the full coverage limits of all such policies without any limitations based on the minimum requirements set forth above: (a) other than the worker's compensation insurance, name City Group as additional insureds on a broad form basis with such additional insured coverage including coverage for the sole or concurrent negligence of the additional insured and not being restricted to (i) "ongoing operations," (ii) coverage for vicarious liability, or (iii) circumstances in which the named insured is partially negligent; (b) provide for waiver of all rights of subrogation against City and the other members of City Group; and (c) be primary and noncontributory as to all other policies (including any deductibles or self-insured retentions) and self-insurance that may provide coverage to any member of City Group, and shall be fully applied and exhausted before application of any applicable indemnity obligations of City or of any applicable insurance coverage provided by City or any other member of City Group.

A. Audit

Contractor shall, and shall ensure that its affiliates, subsidiaries, contractors, subcontractors, consultants, agents, and any other person associated with Contractor including those in Contractor Group, keep full and accurate books and records with respect to all Work performed, and all payments and expenditures in connection with this Agreement. The records to be maintained and retained by Contractor Group shall include, without limitation, (a) payroll records accounting for total time distribution of Contractor's employees working full or part time on the Project, as well as canceled payroll checks or signed receipts for payroll payments in cash; (b) invoices for purchases, receiving and issuing documents, and all other unit inventory records for Contractor's stores, stock, or capital items; (c) paid invoices and canceled checks for materials purchased and for subcontractors' and any other Third Parties' charges, including, but not limited to, Equipment rental; (d) travel and entertainment documentation, including, but not limited to, employee expense reports and Contractor facility usage reports; and (e) all field tickets or similar documentation evidencing the Work. The City shall have the right at all reasonable times, for a period of five (5) years from the completion of the Work, to audit and inspect such books and records (excluding trade secrets, formulas, confidential data, proprietary information, or processes).

B. Reports of Incidents

Within twenty-four (24) hours upon occurrence, Contractor shall provide in writing to the City notice and details of any accidents or occurrences resulting in injuries to persons, property, or pollution arising in any way arising out of or related to the Work whether done by Contractor or any subcontractor of Contractor or any other member of Contractor Group performing Work pursuant to this Contract. Contractor shall in writing within twenty-four (24) hours of any claim, demand, or suit that may be presented to or served upon it arising out of or as a result of Work.

IV. Additional Contract Documents. The following documents attached to this Contract are part of this Contract:

- EXHIBIT A-1: Certificate of Interested Parties (1295 Form)
- EXHIBIT A-2 Scope of Work
- EXHIBIT A-3 House Bill 89 Verification
- EXHIBIT B-1 Requirements for General Services Contract

V. Signatures.

Dial Development Services, Ltd.

CITY OF BASTROP

ht l.e

Printed Name: Robert Dial

Title: Vice President

Date: July 13, 2022

Ву:
Printed Name:
Title:
Date:

EXHIBIT A-1

Certificate of Interested Persons with Certification of Filing (Form 1295)

(See Attached)

EXHIBIT A-2

Scope of Services dated July 13, 2023

(See Attached)

DIAL DEVELOPMENT SERVICES, Ltd.





July 13, 2023

Ms. Fabiola M. de Carvalho Director of Engineering and Capital Project Management The City of Bastrop 1311 Chestnut Street Bastrop, Texas 78602

Re: Proposal for Construction Management and Inspection Services City of Bastrop –Various Projects

Mrs. de Carvalho,

Dial Development Services, Ltd. is pleased to present this proposal for construction management and inspection services during the construction of "Various Projects" for Development and Capital Improvement Projects (CIP) as listed below.

The scope of services proposed for Development projects will include the following:

<u>Construction Management and Inspection</u> – Visits to the site will be provided on an as needed basis to observe the construction in progress. The site visit will provide an inspection of materials, equipment and construction work for ascertaining that the work is in conformance with the contract documents and the plans. The Inspectors are expected to know how to read and interpret plans and specifications and be able to evaluate work performed by contractor and compare it to the contracts' documents.

<u>Daily Reports</u> – Construction activities inspected will be summarized in a daily report for its respective inspection. The daily reports will assist our staff as well as the design team in troubleshooting problems and will serve as a comprehensive report of all issues encountered on the project and how they were corrected. Photo documentation will also be kept and available as part of the project documentation. Documentation will be uploaded to the City of Bastrop's MyGov system.

<u>Construction Materials Testing</u> – We will witness all necessary QC testing and ensure that testing meets specifications or provide corrective action recommendations prior to proceeding with work when testing does not meet specifications.

<u>Construction Phase Project Meetings</u> – We will attend and maintain active involvement in any and all meetings related to the above referenced project activities during construction, as required. This includes pre-construction meetings, on-site troubleshooting meetings, substantial completion and final walkthroughs, including developing any punch lists and any other necessary construction related meetings as they arise.

<u>Project Documentation</u> – As described, copies of all relevant project documentation such as reports and photographs will be kept and compiled. Documentation will be uploaded to the City of Bastrop's MyGov system. Review operating and maintenance manuals; and ensure City received all required documentation prior to the Substantial Walkthroughs, and closeout of any project. Coordinate with project contractor/engineer's inspector, whichever is appropriate, on redlines for record drawings. Compare as built against redlines and request changes/adjustments where needed.

<u>Construction Deficiencies</u> – If construction deficiencies are noted during daily inspections, we will review the deficiencies and attempt to resolve the issues immediately with the contractor. Issues that cannot be resolved immediately will be discussed with the City Engineer, Director of Engineering and Capital Project Management, project owner or engineer and we will advise the owner or engineer of our opinion regarding the deficiency and the appropriate action.

<u>Coordination of Stakeholders</u> – As with all of our projects, Dial Development Services, Ltd. will make every attempt to include all of the project stakeholders in any given aspect of the project, as necessary. This serves to limit the number of possible issues that can arise during the project and keeps all parties current and fully informed of project progress and helps to identify potential issues that could arise. Coordinate with City Engineer and/or other contracted engineers, as well as project engineers, on a weekly basis or as needed, and provide any concerns to the Engineering and Capital Project Management Department. The Inspector shall not interact with public or reporters, but redirect them to contract the Engineering and Capital Project Management Department.

<u>Personnel and Equipment</u> – Dial Development Services, Ltd. staff is highly experienced in construction inspection and management with over 75 years of combined experience. From standard specifications to community relations, we are seasoned in dealing with any issues that may arise during a project. Our staff has all of the necessary equipment to perform their job tasks in a safe, efficient and timely manner including but not limited to: industry standard personal protective equipment, various measurement devices pertinent to the project, and industry standard reporting materials. Key personnel resumes are available upon request.

The scope of services proposed for CIP and/or Non-CIP projects where City of Bastrop is the Owner will include the following:

- Dial will have a Resident Project Representative (RPR) on site, either full-time or part-time dependent on the project and as requested by the Director of Engineering and Capital Project Management Department.
- The RPR will act as directed and under the supervision of the Director of Engineering and Capital Project Management Department or City's Project Manager.
- Schedules: Review the progress schedule, schedule of Shop Drawing submittals and schedules of values prepared by Contractor and consult with Engineer concerning acceptability.
- Conferences and Meetings: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings.
- Serve as City's liaison with Contractor, working principally through Contractor's superintendent and assist in understanding the intent of Contract Documents; and assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-site operations.
- Assist in obtaining from Owner additional details or information, when requested.
- Advise Engineer and Contractor of the commencement of any Work requiring a Shop Drawing or Sample if the submittal has not been approved by Engineer.
- Conduct on-site inspections of the Work in progress to determine if the Work is in general proceeding in accordance with the Contract Documents.

- Based on the information, knowledge and belief of RPR, report to Engineer and City wheneve *Item 8B.* RPR believes that any Work will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer and City of Work the RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection, or approval.
- Verify that tests, equipment and systems start-up and operating and maintenance training are conducted in the presence of appropriate personnel, and the Contractor maintains adequate records thereof; and observe record and report to Engineer and City appropriate details relative to the test procedures and start-ups.
- Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections on daily construction reports and report to Engineer and City, if concerns or immediate attention is needed.
- Payment Requests: Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Owner, noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment at the Site but not incorporated in the Work.
- RPR shall be present at all testing, when properly scheduled by the contractor, and ensure the sampling and testing follows the contract document requirements.
- Daily Reports Construction activities inspected will be summarized in a daily report for its respective inspection. The daily reports will assist City and Engineer in troubleshooting problems and will serve as a comprehensive report of all issues encountered on the project and how they were corrected. Photo documentation will also be kept and available as part of the project documentation. Documentation will be uploaded to the City's project folder as provided by the Engineering Department.
- Coordinate and participate in Substantial and Final Completion Inspections Walk-throughs. Prepare punch list and ensure items have been addressed by Contractor. Provide recommendations to the City concerning Substantial and Final Completion letters.
- Participate at 1-year or 2-year anniversary inspections as applicable.
- RPR shall not authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items), unless authorized by City.
- RPR shall not undertake any of the responsibilities of Engineer, Contractor, Subcontractor, Suppliers, or Contractor's superintendent.

Primary Points of Contact:

Robert Dial, R.A.S. #1379 (512) 589-3105 rdial@dldialassociates.com David Dial (512) 784-4546 ddial@dldialassociates.com

Proposed Project Budgets and Fee Schedule:

•	The Colony 1C-7:	<u>\$8,000.00</u>
•	<u>The Colony 1C-8:</u>	<u>\$2,000.00</u>
•	Colony MUD 1C-2 Rosewood Street and Drainage Extension:	<u>\$2,000.00</u>
٠	Valverde Phases 1-2 Construction:	<u>\$50,000.00</u>
•	<u>Riverwood WM Replacement Phase 1:</u>	<u>\$18,000.00</u>
•	Riverwood WM Replacement Phase 2 Design Review:	<u>\$1,500.00</u>
•	Agnes Street Extension Design Review:	<u>\$1,500.00</u>
•	Transfer Lift Station and Force Main Design Review & RPR:	<u>\$86,000.00</u>
•	Street Intersections Design Review	<u>\$1,000.00</u>
•	<u>Misc. Site Projects, Warranty Checks, Plan Reviews, and Program</u> Development Tasks, as needed (during contract duration):	<u>\$30,000.00</u>

<u>NTE Budget:</u> Dial Development Services, Ltd. will bill the City on an Hourly basis for effort completed for a Not to Exceed amount of \$200,000.

<u>The above project budgets include the scope of services described in this proposal for the</u> <u>"Various Projects"</u> including Development or CIP projects as listed in the "Proposed Project Budgets and Fee Schedule". <u>The proposed budgets and fee schedule cover the timeframe until the</u> <u>specific projects listed are fully completed and accepted for maintenance</u> or until a new <u>contract and purchase order with updated rates is executed.</u>

Future potential projects shall be considered on an individual project basis and may be added to the original agreement through additional task orders. Dial Development Services, Ltd. proposes to do a cursory review of each new set of plans provided by the City of Bastrop on projects that the City of Bastrop is considering using our services. We will review proposed schedules, discuss the project with the Engineer and City, and determine as much information as possible to provide a total project budget that includes the standard scope of services at the proposed hourly rates. Dial Development reserves the right to increase rates on subsequent scope of service proposals and task orders. The budget will be a Not to Exceed (NTE) total that would be added to the agreement as described above. *The proposed project budget is not a lump sum. Services will be billed out at the proposed hourly rates against the budget until the project is completed. If the budget is set to run out, a supplemental agreement will be submitted requesting additional funds and describe the reason(s) for the request*

- Additional time required on the project due to circumstances outside of our control, such as scheduling impacts, design conflicts, and significant changes to the project scope and/or duration will be performed at an additional cost to the proposed budget. Budget increases shall be executed via supplemental agreements to the original agreements that describe the reason(s) for the budget increase.
- Project Safety, SWPPP, Site Security, Public Access, and Traffic Control requirements are the sole responsibility of the contractor awarded the project and are not included in the scope of services provided in this proposal. A good faith effort will always be made to notify the contractor of any deficiencies.
- Submittal, RFI, and RFD approvals shall be performed by the design engineer or the City of Bastrop Engineering Department.

Please feel free to contact us if you have any questions or concerns regarding this proposal. We appreciate the opportunity to provide this valuable service and look forward to a successful partnership throughout the duration of this project and beyond.

Sincerely,

Dial Development Services, Ltd.

Accepted:

By: DL Dial & Associates LC, General Partner

By: Mt l.l

Robert M. Dial, Vice President

By:

Title: _____

EXHIBIT A-3

House Bill 89 Verification

(See Attached)

EXHIBIT B-1 REQUIREMENTS FOR GENERAL SERVICES CONTRACT

The Contractor shall comply with each and every condition contained herein. The Contractor shall provide and maintain the minimum insurance coverage set forth below during the term of its agreement with the City, including any delay periods. If the Project is not finalized and the insurance expires, Contractor is obligated to extend the insurance coverage. Any Subcontractor(s) hired by the Contractor shall maintain insurance coverage equal to that required of the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The City of Bastrop accepts <u>no responsibility</u> arising from the conduct, or lack of conduct, of the Subcontractor.

INSTRUCTIONS FOR COMPLETION OF INSURANCE DOCUMENT

With reference to the foregoing insurance requirements, Contractor shall specifically endorse applicable insurance policies as follows:

- A. The City of Bastrop shall be named as an additional insured with respect to General Liability and Automobile Liability on a separate endorsement
- **B.** A waiver of subrogation in favor of The City of Bastrop shall be contained in the Workers Compensation and all liability policies and must be provided <u>on a separate endorsement.</u>
- C. All insurance policies shall be endorsed to the effect that The City of Bastrop will receive at least thirty (30) days' written notice prior to cancellation or non-renewal of the insurance.
- **D.** All insurance policies, which name The City of Bastrop as an additional insured, must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.
- E. Chapter 1811 of the Texas Insurance Code, Senate Bill 425 82(R) of 2011, states that the above endorsements cannot be on the certificate of insurance. Separate endorsements must be provided for each of the above.
- **F.** All insurance policies shall be endorsed to require the insurer to immediately notify The City of Bastrop of any material change in the insurance coverage.
- G. All liability policies shall contain no cross-liability exclusions or insured versus insured restrictions.
- H. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
- I. Contractor may maintain reasonable and customary deductibles, subject to approval by The City of Bastrop.
- J. Insurance must be purchased from insurers having a minimum AmBest rating of B+.
- **K.** All insurance must be written on forms filed with and approved by the Texas Department of Insurance. (ACORD 25 2016/03) Coverage must be written on an <u>occurrence</u> form.
- L. Contractual Liability must be maintained covering the Contractors obligations contained in the contract. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting all endorsements and insurance coverages according to requirements and instructions contained herein.
- M. Upon request, Contractor shall furnish The City of Bastrop with certified copies of all insurance policies.
- **N.** A valid certificate of insurance verifying each of the coverages required above shall be issued directly to the City of Bastrop within ten (10) business days after contract award and prior to starting any work by the successful contractor's insurance agent of record or insurance company. Also, prior to the start of any work and at the same time that the Certificate of Insurance is issued and sent to the City of Bastrop, all required endorsements identified in sections A, B, C and D, above shall be sent to the City of Bastrop. The certificate of insurance and endorsements shall be sent to:

City of Bastrop Engineering and Capital Project Management Department 1311 Chestnut Street Bastrop, TX 78602

INSURANCE REQUIREMENTS

Items marked "X" are required to be provided if award is made to your firm. **Coverages Required & Limits (Figures Denote Minimums)**

X Workers' Compensation	Statutory limits, State of TX.
X Employers' Liability	\$500,000 per employee per disease / \$500,000 per employee per
	accident / \$500,000 by disease aggregate

_X__ Commercial General Liability:

X Commercial General Liability:				
	Very High/	High Risk	_X_ Medium Risk	
Low Risk	¢1,000,000	¢	00 #2 00 0	00
Each Occurrent		\$500,0	-	00
Fire Damage	\$300,000	\$100,000	\$100,000	
Personal & ADV Injury		\$1,000,000	\$600,000	
General Aggregate	\$2,000,000	\$1,000,000	\$600,000	
Products/Compl Op	\$2,000,000	\$500,000	\$300,000	
XCU	\$2,000,000	\$500,000	\$300,000	
_XAutomobile Liability: (Owned, Non-				D ¹ 1
	y High/ High Risk	_X_Medium R		ow Risk
Combined Single Limits	Combined Single Limits		ned Single Limits	
\$1,000,000 Bodily	\$500,000 Bodily	\$300,0	00 Bodily	
Garage Liability for BI & PD		00 1 1		
	accident for Auto, \$1,000,0	00 each accident	Non-Auto	
\$2,000,000 General Aggre				
Garage Keepers Coverage (for Auto Boo				
\$500,000 any one unit/any			A (11 T 11 (1	F 1
Umbrella each-occurrence with respect to primary Commercial General Liability, Automobile Liability, and Employers				
Liability policies at minimum limits as follows:				
Contract value less than \$1,000,000: not required				
Contract value between \$1,000,000 and \$5,000,000: \$4,000,000 is required				
Contract value between \$5,000,000 and \$10,000,000: \$9,000,000 is required				
Contract value between \$10,000,000 and \$15,000,000: \$15,000,000 is required				
Contract value above \$15,000,000: \$20,000,000 is required				
Excess coverage over \$10,000,000 can be provided on "following form" type to the underlying coverages to the extent of liability coverage as determined by the City.				
		for Accountant	Appraiser Architecture	Consultant
X_Professional Liability, including, but not limited to services for Accountant, Appraiser, Architecture, Consultant, Engineering, Insurance Broker, Legal, Medical, Surveying, construction/renovation contracts for engineers, architects,				
			contracts for engineers,	drenneets,
constructions managers, including design/build Contractors. Minimum limits of \$1,000,000 per claim/aggregate. This coverage must be maintained for at least two (2) years				
after the project is completed.				
Builder's Risk (if project entails vertical construction, including but not limited to bridges and tunnels or as determined				
by the City of Bastrop) Limit is 100% of insurable value, replacement cost basis				
Pollution Liability for property damage, bodily injury and clean up (if project entails possible contamination of air, soil				
or ground or as determined by the City of Bastrop)				
\$1,000,000 each occurrence				
\$2,000,000 aggregate				
Other Insurance Required:				
1			<u> </u>	

NOTE: The nature/size of a contract/agreement may necessitate higher limits than shown above. These requirements are only meant as a guide, but in any event, should cover most situations. Check with Purchasing & Risk Management if you need assistance or need additional information.



STAFF REPORT

Item 8C.

MEETING DATE: August 22, 2023

TITLE:

Consider action to approve Resolution No. R-2023-123 of the City Council of the City of Bastrop, Texas, approving the Financial Management Policy, which is attached as Exhibit A; providing for a repealing clause and establishing an effective date.

AGENDA ITEM SUBMITTED BY:

Submitted by: Tracy Waldron, Chief Financial Officer

BACKGROUND/HISTORY:

This policy was previously adopted on August 23, 2022. This policy is to be reviewed and approved by City Council annually as a part of the budget process.

Since the last adoption, there have been minor adjustments to this policy. Below represent the additions and updates made to the policy:

FUNDS – The language was added to emphasize that when a new bond issuance is sold, a new fund will need to be created to track these funds. This is best practice but not specifically in the policy.

OPERATING BUDGET - REPORTING – Just added that the City uploads the financial data monthly to our online portal.

CAPITAL BUDGET - REPORTING – Added the tracking of CIP projects online and the quarterly update of this information.

This policy should be reviewed administratively by the City Manager at least annually, prior to preparation of the operating budget and brought to City Council for approval.

FISCAL IMPACT:

N/A

RECOMMENDATION:

Tracy Waldron, CFO recommends approval of Resolution No. R-2023-123 of the City Council of the City of Bastrop, Texas, approving the Financial Management Policy, which is attached as Exhibit A; providing for a repealing clause and establishing an effective date.

ATTACHMENTS:

- Resolution 2023-123
- Financial Management Policy

RESOLUTION NO. R-2023-123

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING THE FINANCIAL MANAGEMENT POLICY, WHICH IS ATTACHED AS EXHIBIT A; PROVIDING FOR A REPEALING CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the responsibility of local government to ensure that public funds are managed in a prudent and financially sound manner; and

WHEREAS, the City of Bastrop Financial Management Policy was last adopted by City Council in August 24, 2021; and

WHEREAS, financial policies provide guidelines for managing risk and assisting the City in complying with established public management best practices, while ensuring compliance with federal, state and local laws and reporting requirements; and

WHEREAS, this policy has been updated to reflect minor changes; and

WHEREAS, the City Council requests that the Financial Management Policy be reviewed and adopted annually by Council as a part of the budget adoption process to ensure this policy is current with State Law and appropriately addresses operational needs.

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

SECTION 1: The City Council hereby approves the City of Bastrop Financial Management Policy, which is attached as Exhibit A, and requests that it be reviewed and adopted annually as a part of the Budget adoption process.

<u>SECTION 2</u>: Any prior resolution of the City Council in conflict with the provisions contained in this resolution are hereby repealed and revoked.

SECTION 3: Should any part of this resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

SECTION 4: This resolution shall take effect immediately from and after its passage, and it is duly resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop, Texas on the 22nd day of August 2023.

CITY OF BASTROP, TEXAS

APPROVED:

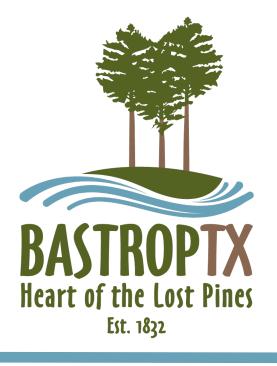
Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney



Financial Management Policy

DRAFT AUGUST 22, 2023

Item 8C.

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PURPOSE STATEMENT

The overriding goal of the Financial Management Policy is to enable the City to achieve a long- term stable and positive financial condition while conducting its operations consistent with the Council-Manager form of government established in the City Charter. The watchwords of the City's financial management include integrity, prudent stewardship, planning, accountability, and full disclosure.

The purpose of the Financial Management Policy is to provide guidelines for the financial management staff in planning and directing the City's day-to-day financial affairs and in developing recommendations to the City Manager.

The scope of the policies spans accounting, auditing, financial reporting, internal controls, operating and capital budgeting, revenue management, cash management, expenditure control and debt management.

ACCOUNTING, AUDITING, AND FINANCIAL REPORTING

ACCOUNTING

The City of Bastrop finances shall be accounted for in accordance with generally accepted accounting principles as established by the Governmental Accounting Standards Board. The fiscal year of the City shall begin on October first of each calendar year and shall end on September thirtieth of the following calendar year. This fiscal year shall also be established as the accounting and budget year. Governmental fund types use the modified accrual basis of accounting, revenues are recognized when susceptible to accrue (i.e., when they are measurable and available). Expenditures are recognized when the related funds liability is incurred, if measurable, except for principal and interest on general long-term debt, which are recorded when due.

Proprietary fund types are accounted for on a full accrual basis of accounting. Under this method, revenues are recorded when earned and expenses are recorded at the time liabilities are incurred.

FUNDS

Self-balancing groups of accounts are used to account for city financial transactions in accordance with generally accepted accounting principles. Each fund is created for a specific purpose except for the General Fund, which is used to account for all transactions not accounted for in other funds. Governmental funds are used to account for the government's general government activities and include the General, Special Revenue, Debt Service and Capital Project funds. <u>A new Capital Fund should be created for each debt issuance.</u>

EXTERNAL AUDITING

The City will be audited annually by outside independent auditors. The auditors must be a CPA firm of national reputation and must demonstrate that they have the breadth and depth of staff to conduct the City's audit in accordance with generally accepted auditing standards, generally accepted government auditing standards, and contractual requirements. The auditors' report on the City's financial statements including any federal grant single audits will be completed within 120 days of the City's fiscal year end, and the auditors' management letter will be presented to the city staff within 150 days after the City's

fiscal year end. An interim management letter will be issued prior to this date if any materially significant internal control weaknesses are discovered. The city staff and auditors will jointly review the management letter with the City Council within 60 days of its receipt by the staff.

EXTERNAL AUDITORS RESPONSIBLE TO CITY COUNCIL

The external auditors are accountable to the City Council and will have access to direct communication with the City Council if the city staff is unresponsive to auditor recommendations or if the auditors consider such communication necessary to fulfill their legal and professional responsibilities.

EXTERNAL AUDITOR ROTATION

The City will not require external auditor rotation but will circulate requests for proposal for audit services periodically, normally at five-year intervals or less.

EXTERNAL FINANCIAL REPORTING

The City will prepare and publish an Annual Comprehensive Financial Report (ACFR). The ACFR will be prepared in accordance with generally accepted accounting principles and may be presented annually to the Government Finance Officers Association (GFOA) for evaluation and possible awarding of the Certification of Achievement for Excellence in Financial Reporting. The ACFR will be published and presented to the City Council within 180 days after the end of the fiscal year. City staffing and auditor availability limitations may preclude such timely reporting. In such case, the Chief Financial Officer will inform the City Manager and the City Manager will inform the City Council of the delay and the reasons, therefore.

INTERNAL CONTROLS

WRITTEN POLICIES & PROCEDURES

The Finance Department is responsible for developing city-wide written policies & procedures on accounting, cash handling, and other financial matters. The Policies will be reviewed by the City Manager and approved by the City Council. The procedures will only need approval by the City Manager.

The Finance Department will assist department managers as needed in tailoring these written procedures to fit each department's requirements.

INTERNAL AUDIT

The Finance Department may conduct reviews of the departments to determine if the departments are following the written procedures as they apply to the departments.

Finance will also review the written policies and procedures on accounting, cash handling and other financial matters. Based on these reviews Finance will recommend internal control improvements as needed.

DEPARTMENT MANAGERS RESPONSIBLE

Each department manager is responsible to the City Manager to ensure that good internal controls are followed throughout his or her department, that all guidelines on accounting and internal controls are implemented, and that all independent and internal control recommendations are addressed.

OPERATING BUDGET

PREPARATION

The City's "operating budget" is the City's annual financial operating plan. It consists of governmental and proprietary funds, including the general obligation debt service fund. The budget is prepared using the same basis of accounting as the audited financial statements. The budget is prepared by the City Manager with the assistance of the Chief Financial Officer and cooperation of all city departments. The City Manager transmits the document to the City Council thirty (30) days prior to the commencement of the fiscal year per the City Charter. The budget should be enacted by the City Council prior to the fiscal year beginning. The operating budget may be submitted to the GFOA annually for evaluation and possible awarding of the Award for Distinguished Budget Presentation.

The budget document presented to Council will be in compliance with Article VI Section 6.02 of the City Charter.

A copy of the proposed budget shall be filed with the City Secretary, at the Public Library and available on the City's website when it is submitted to the City Council in accordance with the provisions of the City Charter Article VI Section 6.03.

At the Council meeting at which time the budget is submitted, the Council shall, in conformance with the requirements of state law, cause to be published the date, time, and place of a Public Hearing. At this hearing, interested citizens may express their opinions concerning items of expenditure, giving reasons for wishing to increase or decrease any such items. This is in accordance with the provisions of the City Charter Article VI Section 6.04.

After a public hearing, the Council shall analyze the budget, making any additions or deletions considered appropriate, and shall, at least three (3) days prior to the beginning of the fiscal year, adopt the budget by a favorable vote. This in accordance with the provisions of the City Charter Article VI Section 6.05.

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by City Council shall constitute the official appropriations of proposed expenditures for the year and shall constitute the basis of the official levy of the property tax as the amount of tax to be assessed and collected for that tax year. This in accordance with City Charter Article VI Section 6.06.

BALANCED BUDGETS

An operating budget will be balanced, with current revenues, inclusive of beginning resources, greater than or equal to current operating expenditures/expenses.

PLANNING

The budget process will begin with a Staff Budget Retreat followed by a Council Budget Workshop to provide direction to the City Manager on goals of the organization. From Jan. – April, each Department Director will enter their line item budgets into the budget software. Starting in June, meetings are scheduled with the City Manager, Chief Financial Officer, and Department Directors, to review their budget submittals. The City Manager submits a proposed budget to the City Council before the end of July. The City Council will conduct budget workshops as necessary.

REPORTING

Periodic financial reports are available within the City's ERP program to enable the department managers to manage their budgets and to enable the Finance Department to monitor and control the budget as approved by the City Council. Summary monthly financial reports will be presented to the City Council within 45 days after the end of each month, if council meetings do not interfere with reporting requirement. Such reports will include current year revenue and expenditure budgets and year-to-date actual figures for all major funds.

The City uploads the monthly financial transactions to their website monthly.

CONTROL

Operating Expenditure Control is addressed in another section of the Policies.

PERFORMANCE MEASURES

Where appropriate, performance measures and productivity indicators will be used as guidelines and reviewed for efficiency and effectiveness. This information will be included in the final budget document.

CAPITAL BUDGET

PREPARATION

The City's Capital Budget will be included in the City's Operating Budget. The Capital Budget will be prepared by the City Manager with assistance from the Finance Department and involvement of all required city departments.

APPROPRIATION

An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned.

CONTROL

All capital project expenditures must be appropriated in the capital budget. Finance must certify the availability of resources so an appropriation can be made before a capital project contract is presented by the City Manager to the City Council for approval.

ALTERNATE RESOURCES

Where applicable, assessments, impact fees, or other user- based fees should be used to fund capital projects which have a primary benefit to certain property owners.

DEBT FINANCING

Recognizing that debt is usually a more expensive financing method, alternative financing sources will be explored before debt is issued. When debt is issued, it will be used to acquire major assets with expected lives that equal or exceed the average life of the debt issue. The exceptions to this requirement are the traditional costs of marketing and issuing the debt, capitalized labor for design and construction of capital projects, and small component parts which are attached to major equipment purchases.

REPORTING

Financial reports will be available to enable the department managers to manage their capital budgets and to enable the finance department to monitor the capital budget as authorized by the City Manager. The City uses a software to track capital projects. The projects are updated quarterly and available for review on our website.

REVENUE MANAGEMENT

SIMPLICITY

The City will strive to keep the revenue system simple which will result in a decrease of compliance costs for the taxpayer or service recipient and a corresponding decrease in avoidance to pay.

CERTAINTY

An understanding of the revenue source increases the reliability of the revenue system. The City will understand its revenue sources and enact consistent collection policies so that assurances can be provided that the revenue base will materialize according to budgets and plans.

EQUITY

The City will strive to maintain equity in the revenue system structure. It is recognized that public policy decisions may lead to subsidies in certain circumstances, e.g., Over 65 property tax exemptions.

ADMINISTRATION

The benefits of revenue will exceed the cost of producing the revenue. The cost of collection will be reviewed annually for cost effectiveness as a part of the indirect cost, and cost of services analysis.

REVENUE ADEQUACY

The City will require that there be a balance in the revenue system. That is, the revenue base will have the characteristic of fairness and neutrality as it applies to cost of service, willingness to pay, and ability

to pay.

COST/BENEFIT OF ABATEMENT

The City will use due caution in the analysis of any tax, fee, or water and wastewater incentives that are used to encourage development. A cost/benefit (fiscal impact) analysis will be performed as a part of such analysis and presented to the appropriate entity considering using such incentive.

DIVERSIFICATION AND STABILITY

In order to protect the government from fluctuations in revenue source due to fluctuations in the economy, and variations in weather (in the case of water and wastewater), a diversified revenue system will be sought.

NON-RECURRING REVENUES

One-time revenues will not be used for ongoing operations. Non-recurring revenues will be used only for non-recurring expenditures. Care will be taken not to use these revenues for budget balancing purposes.

PROPERTY TAX REVENUES

For every annual budget, the City shall levy two property tax rates: Maintenance & Operations and Interest & Sinking (debt service). The debt service levy shall be sufficient for meeting all principal and interest payments associated with the City's outstanding general debt obligations for that budget year. The debt service levy and related debt service expenditures shall be accounted for in the Debt Service Fund. The maintenance and operations levy shall be accounted for in the General Fund. The City will adhere to state law when calculating these tax rates. Property shall be assessed at 100% of the fair market value as appraised by the Bastrop Central Appraisal District. Reappraisal and reassessment shall be done regularly as required by State law. A 97% collection rate will serve as a minimum goal for tax collection, with the delinquency rate of 4% or less. The 97% rate is calculated by dividing total current year tax collections for a fiscal year by the total tax levy for the fiscal year.

All delinquent taxes will be pursued as part of the collection contract the City has with the Bastrop County Tax Assessor/Collector.

USER-BASED FEES

For services associated with a user fee or charge, the direct and indirect costs of that service will be offset by a fee where possible. There will be an annual review of fees and charges to ensure that fees provide adequate coverage of costs and services.

GENERAL AND ADMINISTRATIVE CHARGES

A method will be maintained whereby the General Fund can impose a charge to the enterprise/ proprietary funds for general and administrative services (overhead allocation) performed on the funds' behalf. The details will be documented and said information will be maintained in the Finance Department.

TRANSFER FROM ELECTRIC FUND

There will be a transfer from the Electric Fund to the City's General Fund which represents a Return on Investment (payment in lieu of taxes). This transfer should not exceed 11% of the total proposed revenue of the Electric Fund for that budget year.

UTILITY RATES

The City will strive to review utility rates annually and, if necessary, adopt new rates to generate revenues required to fully cover operating expenditures, meet the legal restrictions of all applicable bond covenants, and provide for an adequate level of working capital needs. This policy does not preclude drawing down cash balances to finance current operations. However, it is best that any extra cash balance be used instead to finance capital projects.

INTEREST INCOME

Interest earned from investment of available monies that are pooled will be distributed to the funds monthly in accordance with the claim on cash balance of the fund from which monies were provided to be invested.

REVENUE MONITORING

Revenues received will be regularly compared to budgeted revenues and variances will be investigated. This process will be summarized in the monthly financial report to Council.

EXPENDITURE CONTROL

OPERATING EXPENDITURES

Shall be accounted, reported, and budgeted for in the following categories:

- 1. Personnel Costs
- 2. Supplies and Materials
- 3. Maintenance and Repairs
- 4. Occupancy
- 5. Contractual Services
- 6. Other Charges
- 7. Contingency

APPROPRIATIONS

The level of budgetary control is the fund level budget in all Funds. Transfers between departments over \$25,000 will still require City Council approval. Transfers between expenditure accounts within a department may occur with the approval of the Department Director. City Manager approval is required if transferring from personnel accounts, capital accounts within a department, and transfers between

departments. When budget adjustments (i.e., amendments), are required between funds or between departments over \$25,000, these must be approved by the City Council through an Ordinance. Transfers between departments within the General Fund under the \$25,000 amount will be reported to City Council through the quarterly report.

CONTINGENCY ACCOUNT

The General Fund Contingency Account will be budgeted at a minimal amount (\$35,000). Increases to the contingency account must be approved by City Council.

CONTINGENCY ACCOUNT EXPENDITURES

The City Council must approve all contingency account expenditures over \$35,000. The City Manager must approve all other contingency account expenditures and report them to City Council.

PURCHASING CONTROL

All purchases shall be made in accordance with the City's Purchasing Policy. Authorization levels for appropriations previously approved by the City Council are as follows: below Directors \$1,000 (Directors can request to have this amount raised by submitting a written request to the Finance Department), for Directors up to \$9,999, for Chief Financial Officer up to \$14,999, and with any purchases exceeding \$15,000 to be approved by the City Manager.

PROFESSIONAL SERVICES

Professional services will generally be processed through a request for proposals process, except for smaller contracts. The City Manager may execute any professional services contract less than \$50,000 provided there is an appropriation for such contract.

PROMPT PAYMENT

All invoices will be paid within 30 days of receipt in accordance with the prompt payment requirements of State law. Procedures will be used to take advantage of all purchase discounts where considered cost effective. However, payments will also be reasonably delayed in order to maximize the City's investable cash, where such delay does not violate the agreed upon terms.

ASSET MANAGEMENT

INVESTMENTS

The City's investment practices will be conducted in accordance with the City Council approved Investment Policies.

CASH MANAGEMENT

The timing and amount of cash needs and availability shall be systematically projected in order to maximize interest earnings from investments.

INVESTMENT PERFORMANCE

A quarterly report on investment performance will be provided by the Chief Financial Officer to the City Council in accordance with the City's Investment Policy.

FIXED ASSETS AND INVENTORY

The City of Bastrop's Purchasing Policy defines Fixed Assets and "Minor Capital Outlay" items as items with a value over \$1,000 and with a life expectancy of two (2) of more years. Asset control will be conducted in accordance with the City Council approved Purchasing Policy Sec. IV which includes annual inventory count, proper disposal, and security measures. The Finance Department has procedures in place to capture these types of purchases, make sure they are added to the Fixed Asset List and be placed on the insurance. All departments should have procedures in place for proper maintenance of all city assets.

VEHICLE AND EQUIPMENT REPLACEMENT FUND

PURPOSE

The purpose of establishing a Vehicle and Equipment Replacement Fund (VERF), policy is to establish a decision-making process and criteria for purchase, replacement, elimination, and disposition of vehicles and equipment. The policy also establishes procedures to ensure those adequate funds will be available to purchase fleet assets and technology equipment, stabilizing the budgeting for major fleet and technology purchases, and provide sufficient cash flows for annual purchases of equipment greater than or equal to \$10,000.

ROLES AND RESPONSIBILITIES

Each department shall designate a fleet manager(s) to be responsible for oversight of department vehicles, equipment, and technology, and to ensure all equipment is safe, cost effective and meets the needs of the user department, and determining "best value" choosing the equipment to be purchased.

A Fleet Advisory Committee (FAC) should be established with the appropriate staff members, usually consisting of each departmental fleet manager(s). The committee will consider department requests in comparison to determination which assets to be purchased, replaced or eliminated annually. The FAC will provide an annual recommendation to the City Manager as part of the annual budget process for fleet purchases, replacements, eliminations and/or any other changes regarding fleet management.

FLEET INVENTORY

By November 1 of every year a physical inventory of all fleet assets shall be completed. By December 15 of each year, the City Finance Department shall distribute an inventory of all fleet assets to the Department Heads. By January 15 of each year, the FAC shall verify the accuracy of the inventory. The

final inventory shall include asset number (VIN #), description of asset (make, model, year), division or program the asset is assigned, and the mileage or hours of operation.

FUNDING OF FLEET ASSETS

All fleet assets purchased out of the VERF fund are owned by the fund and leased to the user departments. All assets purchased through the VERF are approved during the regular budget process prior to purchase. Accessories for fleet assets may be funded by the VERF as follows:

- (1) Accessories that will be funded by the VERF
 - (a) Initial purchase of accessories attached to the unit or required for the unit to perform its intended function.
 - (b) PC peripherals, i.e., wiring and laptop mounts.
 - (c) Accessories must be included in total cost of vehicle/equipment purchase.
- (2) Accessories that will not be funded by the VERF
 - (a) Maintenance items or services.
 - (b) Accessories added to the unit or replaced after the initial purchase is made and the unit is put into service.

All user departments will be charged an annual lease fee for each fleet asset allocated to their use from the VERF. Such fee will provide funds to purchase replacement assets. Money received from assets sold as surplus property will be credited to the VERF.

For vehicles and equipment that are not currently funded in the VERF, the FAC shall make recommendations as to how to fund replacement of the vehicles and/or equipment and present these recommendations as part of the annual budget process.

The purchasing of fleet through the VERF fund follow the same purchasing policy and procedures as any purchase would require.

VERF REVENUES

Departments will be charged an annual lease fee for assets assigned to them. Lease fees will be calculated in accordance with the following formula:

[A-B]/Life * C = X A=Actual Vehicle and/or Equipment Cost B=50% of Estimated Salvage Value C=Inflation Factor X=Normal Annual Lease Fee Charge

Life=Expected Life of Unit (See Replacement Criteria)

Charges to user departments will be reviewed periodically by the FAC. Lease fees may be adjusted during the annual budget process to ensure the adequacy of the VERF fund balance or to ensure the fund is not over funded. This analysis will include an anticipated cash flow examination that estimates the fund balance for the lease life of all assets.

FLEET ASSET REPLACEMENT CRITERIA

The department fleet manager shall annually identify assets that are candidates for replacement or elimination from the fleet as determined by the following replacement criteria:

Vehicle/Equip Category	Age (Years)	Mileage/Hours
Patrol Sedans	5	85,000 miles
Other Police Vehicles	7-10	100,000 miles
Heavy Equipment (Dump		
Trucks, backhoes, Street	10-20	Varies
Equip. etc.)		
Mowers	5-7	Varies
Trucks	7-10	Varies
Fire Trucks	10-20	Varies

By December 15 the FAC will confer with departments to review the departmental requests for the upcoming budget year. This will include discussion of request for additions to the fleet and the identification of assets for replacement or elimination to be considered for the next budget preparation cycle. The FAC shall make all recommendations for fleet additions, replacements or eliminations by February 15. By March 1, the CFO or designee shall calculate proposed lease fees using the lease fee calculation. Estimated costs will be used for inclusion in departmental budgets for the upcoming fiscal year.

All vehicle and equipment replacements are considered proposed until such time as the next year's budget is formally approved by Council. Department fleet managers are responsible to provide new title, VIN #s and all other pertinent information to the City Finance Dept. when the new vehicle and/or equipment is acquired. The Finance Department will be responsible for making sure all assets are properly insured.

For vehicles that are used frequently but incur very few miles, the replacement criteria may be exceeded, provided the vehicle remains safe and is economical to operate. Each year, these vehicles will be reviewed for replacement projections.

The finance department will be responsible for following the policy for disposal of assets when fleet is recognized as needing to be replaced or eliminated.

FINANCIAL CONDITION AND RESERVES

NO OPERATING DEFICITS

Current expenditures should be paid with current revenues. Deferrals, short-term loans, or one-time sources should be avoided as budget balancing technique. Reserves will be used only for emergencies on non-recurring expenditures, except when balances can be reduced because their levels exceed guideline minimums.

OPERATING RESERVES

Failure to meet these standards will be disclosed to the City Council as soon as the situation is recognized and a plan to replenish the ending resources over a reasonable time frame shall be adopted. This should be followed by a plan to mitigate the re-occurrence of this type of shortfall in the future.

- 1. The General Fund ending fund balance will be maintained at an amount up to three months' worth of estimated expenditures or at a level of 25% of budgeted operating expenditures.
- 2. The Enterprise/ Proprietary Funds will be maintained at a minimum level of 35% of budgeted operating expenditures.
- 3. Fund balances which exceed the minimum level established for each fund may be appropriated for non-recurring capital projects.

RISK MANAGEMENT PROGRAM

The City Council adopts an Investment Policy annually that outlines the investment strategy guidelines with the first goal being the safety of public funds. These policies mitigate the risk associated with investing these public funds.

LOSS FINANCING

All reasonable options will be investigated to finance losses. Such options may include risk transfer, insurance, and risk retention. Where risk is retained, reserves will be established based on a calculation of incurred but not reported claims, and actuarial determinations and such reserves will not be used for any purpose other than for financing losses.

ENTERPRISE/ PROPRIETARY FUND SELF-SUFFICIENCY

The City's enterprise funds' resources will be sufficient to fund operating and capital expenditures. The enterprise funds will pay (where applicable) their fair share of general and administrative expenses, inlieu-of-property taxes and/or franchise fees. If an enterprise fund is temporarily unable to pay all expenses, then the City Council may waive general and administrative expenses, in-lieu-of-property taxes and/or franchise fees until the fund is able to pay them.

HOTEL OCCUPANCY TAX FUND

The Hotel Occupancy Tax Fund reserve level needs to be sufficient to allow the fund to operate if a downturn in the economy occurred. Sufficient level of reserves should be a minimum of the annual Convention Center debt payment, Community Asset funding, and fifty percent (50%) of Visit Bastrop funding for the current year of expenditures to allow the City to ensure continuity of the organizations promoting tourism. Policy makers will need to determine priorities and funding levels should the economic downturn be expected to exceed this minimum reserve amount.

COMPREHENSIVE FUND BALANCE POLICY

BACKGROUND

The Governmental Accounting Standards Board (GASB) issued Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions (GASB-54). The primary objective of this standard is to improve the usefulness and comparability of fund balance information by reporting fund balance in more intuitive and meaningful components. This standard also clarifies the definitions of the different types of funds the governmental entity may set up for financial reporting purposes.

GASB-54 requires that written policies be formally adopted by the governing body depicting the procedures that will be used for committing fund balance, assigning fund balance, how stabilization funds will be determined, order of spending the fund balance categories, minimum fund balance levels, and use of governmental fund types.

FUND BALANCE CATEGORIES

<u>Non-Spendable</u> – Fund balance reported as "non-spendable" represents fund balance associated with inventory or prepaid items. The cash outlay for these types of items has already been made and therefore the resources represented by this fund balance category cannot be spent again.

<u>Restricted</u> – Fund balance reported as "restricted" represents amounts that can be used only for the specific purpose determined by law or by the external providers of those resources.

<u>Committed</u> – Fund balance reported as "committed" includes amounts that can be used only for specific purposes determined by a formal action and approval by City Council.

<u>Assigned</u> – Fund balance reported as "assigned" represents amounts intended to be used for specific purposes, but not meeting the criteria to be reported as committed or restricted fund balance.

<u>Unassigned</u> – Fund balance reported as "unassigned" represents the residual classification of fund balance and includes all spendable amounts not contained within the other classifications.

POLICY ON COMMITTED FUNDS

In accordance with GASB-54, it is the policy of the City of Bastrop that fund balance amounts will be reported as "Committed Fund Balance" only after formal action and approval by the City Council. The action to constrain amounts in such a manner must occur prior to year-end; however, the actual dollar amount may be determined in the subsequent period.

For example, the City Council may approve a motion to report within the year-end financial statements each year, if available, an amount equal to two months of operating expenditures as Committed Fund Balance for Stabilization (see also Policy on Stabilization of Funds). The dollar amount to be reported as stabilization funds might not be known at the time of approval. This amount can be determined later when known and appropriately reported within the year-end financial statements due to the governing body approving this action before year-end.

It is the policy of the City of Bastrop that the governing body may commit fund balance for any reason that is consistent with the definition of Committed Fund Balance contained within GASB-54. Examples of reasons to commit fund balance would be to display intentions to use portions of fund balance for future capital projects, stabilization funds, or to earmark special General Fund revenue streams unspent at year-end that are intended to be used for specific purposes.

After approval by the City Council, the amount reported as Committed Fund Balance cannot be undone without utilizing the same process required to commit the funds. Therefore, it is the policy of the City of Bastrop that funds can only be removed from the Committed Fund Balance category after motion and approval by the City Council.

POLICY ON ASSIGNING FUNDS

In accordance with GASB-54, funds that are intended to be used for a specific purpose but have not received the formal approval action at the governing body level may be recorded as Assigned Fund Balance. Likewise, redeploying assigned resources to an alternative use does not require formal action by the governing body.

GASB-54 states that resources can be assigned by the governing body or by another internal body or person whom the governing body gives authority to do so, such as a budget committee or the Chief Finance Officer. Therefore, having considered the requirements to assign fund balance, it is the policy of the City of Bastrop that the Chief Finance Officer will have the authority to assign fund balance of this organization based on intentions for use of fund balance communicated informally by the governing body.

POLICY ON STABILIZATION OF FUNDS

The City desires that a specific amount of fund balance be maintained perpetually to provide for emergencies, contingencies, revenue shortfalls, or budgetary imbalances that may occur from time to time. This formal set-aside of fund balance is commonly known as "Stabilization Funding". Therefore, it is the policy of this City that, if available, an amount up to two months' worth of regular General Fund Operating expenditures be reported as Committed Fund Balance for stabilization each year in the year-end external financial statements of the City.

In the absence of a formal action by the governing body in any given year specifying the desire to report committed fund balance for stabilization funds of up to one month of regular General Fund operating expenditures, if available, the formal adoption of this policy by the governing body will be deemed to serve as the formal action required to commit fund balance for stabilization funds. If at year-end, an amount less than two months of operating expenditures is available within fund balance that is not already reserved or committed for other purposes, then it is the policy of the City to record all remaining fund balance amounts as Committed Fund Balance for Stabilization.

POLICY ON ORDER OF SPENDING RESOURCES

It is the policy of the City of Bastrop that when expenditures are incurred that would qualify as expenditures of either Restricted Fund Balance or Unrestricted Fund Balance (Committed, Assigned, or Unassigned), those expenditures will first be applied to the Restricted Fund Balance category.

Furthermore, it is the policy of this City that when expenditures are incurred that would qualify as a use of any of the Unrestricted Fund Balance categories (Committed, Assigned, or Unassigned), those expenditures will be applied in the order of Committed first, then Assigned, and then Unassigned.

REVIEW OF GOVERNMENTAL FUND CLASSIFICATIONS

The City of Bastrop desires that the governmental fund types available for use in governmental financial reporting be appropriately selected based on the GASB-54 definitions of these fund types. Furthermore, the fund balance categories utilized within each of these fund types are also to be appropriately selected from the new GASB-54 classifications.

Therefore, after consideration of the purpose of each governmental fund type, it is the policy of the City of Bastrop to limit the fund balance categories that may be used with each governmental fund type as follows:

<u>General Fund</u> – Non-Spendable, Restricted, Committed, Assigned, and Unassigned.

<u>Debt Service Funds</u> – Restricted, Committed, and Assigned.

<u>Capital Project Funds</u> – Restricted, Committed, and Assigned.

Special Revenue Funds – Non-Spendable, Restricted, Committed, and Assigned.

DEBT MANAGEMENT

SELF-SUPPORTING DEBT

When appropriate, self-supporting revenues will pay debt service in lieu of tax revenues.

ANALYSIS OF FINANCING ALTERNATIVES

The City will explore all financing alternatives in addition to long-term debt including leasing, grants and other aid, developer contributions, impact fees, and use of reserves or current monies.

VOTER AUTHORIZATION

The City shall obtain voter authorization before issuing General Obligation Bonds as required by law. Voter authorization is not required for the issuance of Revenue Bonds and Certificates of Obligation. However, the City may elect to obtain voter authorization for Revenue Bonds.

BOND DEBT

The City of Bastrop will attempt to maintain base bond ratings of AA2 (Moody's Investors Service) and AA (Standard & Poor's) on its general obligation debt, and AA- on its revenue bonds. In an attempt to keep the debt service tax rate flat, retirement of debt principal will be structured to ensure constant annual debt payments when possible.

IRS COMPLIANCE

The City will maintain written procedures for Post Bond Issuance Federal Tax compliance with IRS laws and regulations for tax exempt debt.

STAFFING AND TRAINING

ADEQUATE STAFFING

Staffing levels will be adequate for the fiscal functions of the City to function effectively. Overtime shall be used only to address temporary or seasonal demands that require excessive hours. Workload scheduling alternatives will be explored before adding staff.

TRAINING

The City will support the continuing education efforts of all financial staff including the investment in time and materials for maintaining a current perspective concerning financial issues. Staff will be held accountable for communicating, teaching, and sharing with other staff members all information and training materials acquired from seminars, conferences, and related education efforts.

GRANTS/FUNDING REQUESTS FINANCIAL MANAGEMENT

GRANT SOLICITATION

Each department is responsible for researching and applying for grants that support needs within their department. The purpose of this policy is to ensure grant funding is solicited with prior approval of the City Manager. The grant application should only be made with input from pertinent departments. The grants should be cost beneficial and meet the City's objectives. Communication will be made with City Council to keep them informed on what grants are being solicited.

GRANT ACCEPTANCE

All grants awarded to the City of Bastrop must be accepted by action of the City Council. If the grant opportunity is identified early enough for inclusion in the annual budget, it shall be identified and budgeted in revenue and expenditure accounts. If the grant is accepted but has not been included in the annual budget, a budget amendment shall be requested to reflect the revenues and expenditures associated with the grant.

RESPONSIBILITY

Departments will oversee the day-to-day operations of grant programs, will monitor performance and compliance, and will also keep the Finance Department informed of significant grant-related plans and activities. Finance Department staff members will serve as liaisons with grantor financial management personnel, will prepare invoices, and will keep the books of account for all grants.

FUNDING REQUESTS FROM PARTNER ORGANIZATIONS

These organizations are identified as the Bastrop Economic Development Corporation and Visit Bastrop. The City Council will be informed of a funding request from a Partner Organization through an agenda item at a public meeting.

DONATIONS

LESS THAN \$25,000

The City Manager is authorized to accept or reject any and all offers of donations made to the City having a monetary value of less than \$25,000 after due and proper consideration of the following factors:

- 1. Whether the proposed donation would be of a true benefit to the community or City Government;
- 2. Whether the proposed donation is appropriate or has practical use to the City's current or planned operations;
- 3. Whether the City already possesses similar items making the donated items(s) surplus;
- 4. Whether the proposed donation would require any undesirable or unreasonably high maintenance costs and efforts; and
- 5. Whether the required recognition, or stipulation, of the donor exceeds the vlue of the proposed donation or an acceptable level of recognition.

The City Manager shall prepare a report to be submitted to the City Council on a regular basis, not less than quarterly, detailing any offers of donations made to the City during the previous quarter, indicating whether such offer was accepted or rejected and, if rejected, stating the reason for same.

MORE THAN \$25,000

The City Manager shall review proposals for donations having a monetary value of \$25,000 and greater to the City and shall prepare a recommendation to the City Council on such proposals. City Council action shall be required for acceptance of any such proposal. Prior to submittal to the City Council, the City Manager may invite comments from all affected City Department Heads and related Advisory Boards.

ACCEPTANCE

Upon acceptance by the City, the donor shall coordinate with City staff for the acceptance of the donation and specify a time frame for the expenditure or use of the donation. If a donation us not used for the intended specific purpose, within the approved amount of time, the donation may be returned to the donor upon request, or an extension of time may be permitted upon approval of the City and the donor.

All donations of any type in any amount of value shall be received and processed in accordance with proper and accepted accounting procedures.

ANNUAL REVIEW AND REPORTING

ANNUAL REVIEW

These Policies will be reviewed administratively by the City Manager at least annually, prior to preparation of the operating budget.

REPORTING

The Chief Financial Officer will report annually to the City Manager on compliance with these policies.

Tracy Waldron, Chief Financial Officer

Sylvia Carrillo, City Manager

History of Financial Policies: Previously Approved 9/23/14 Previously Approved 10/25/16 Previously Approved 5/9/17 Previously Approved with Budget 9/25/18 Previously Approved 10/22/19 Previously Approved 9/8/20 Previously Approved 8/23/21 Previously Approved 8/23/22



Staff Report

MEETING DATE: August 22, 2023

TITLE:

Consider action to approve the second reading of Ordinance No. 2023-25 of the City Council of the City of Bastrop, Texas, annexing a tract of land described as 25.00 acres of land out of the Stephen F. Austin survey, Abstract No. 2, located west of Lovers Lane and south of Pecan Park subdivision, and east of the Colorado River Bend, as shown in Exhibit "A"; providing for findings of fact, adoption, repealer, severability, filing and enforcement; establishing an effective date; and providing for proper notice and meeting.

AGENDA ITEM SUBMITTED BY:

Sylvia Carrillo, City Manager, ICMA-CM, CPM

BACKGROUND/HISTORY

The City of Bastrop has owned this 25-acre tract of land for quite some time. In the past it has served as a field that was used by football, and soccer leagues. Our fire department and emergency management coordinator has also used the field for training exercises. Approximately a year ago I updated the Bastrop City Council on surplus properties owned by the City of Bastrop and was instructed to place it back on the tax rolls. I listed the 25 acres along with three others. All 2.5 acre building blocks. All of the lots are under contract and the 25-acre tract is ready to close. As part of a previous contract extension the purchaser voluntarily requested annexation

RECOMMENDATION:

Staff recommends approval of second reading of Ordinance 2023-25.

ATTACHMENTS:

- Ordinance 2023-25
- Metes and Bounds/Survey
- Municipal Annexation Service Plan

ORDINANCE 2023-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, ANNEXING A TRACT OF LAND DESCRIBED AS 25.00 ACRES OF LAND OUT OF THE STEPHEN F. AUSTIN SURVEY, ABSTRACT NO. 2, LOCATED WEST OF LOVERS LANE AND SOUTH OF PECAN PARK SUBDIVISION, AND EAST OF THE COLORADO RIVER BEND, AS SHOWN IN EXHIBIT A; PROVIDING FOR FINDINGS OF FACT, ADOPTION, REPEALER, SEVERABILITY, FILING AND ENFORCEMENT; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETING.

WHEREAS, the City of Bastrop, Texas (City) is a Home-Rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, on or about March 22, 2023, the City received a petition for voluntary annexation of the property in the area described as being 25.00 +/- acres of land out of the Stephen F. Austin Survey, Abstract No. 2, located to the west of Lovers Lane, south of Pecan Park Subdivision, and east of the Colorado River bend as shown in Exhibit "A" (the "Property"), which is attached hereto and incorporated herein for all purposes; and

WHEREAS, pursuant to Texas Local Government Code Sections 43.056 and 43.0672, City Council has entered into a written agreement with the owners of land in the area for the provision of services in the area, which is attached hereto as Exhibit "B" and incorporated herein for all purposes; and

WHEREAS, in accordance with Texas Local Government Code Chapter 43, public notice was given, and a public hearing was held before the City Council regarding the requested annexation; and

WHEREAS, Texas Local Government Code Section 51.001 provides the City 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, after consideration of public input received at the hearing, the information provided by the petitioners, and all other information presented, City Council finds it necessary and proper to enact this Ordinance.

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

<u>Section 1:</u> The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

Section 2: The Property in the area described in Exhibit "A", which is attached hereto and incorporated herein for all purposes, is hereby annexed and brought into the municipal boundaries (i.e., corporate limits) of the City of Bastrop, Texas, and is made an integral part, hereof. The Property shall be designated as a P2 Rural Zoning District. The official map and boundaries of the City are hereby amended and revised so as to include the area annexed.

A service plan prepared in accordance with applicable provisions of state law pertaining to annexation is attached hereto as Exhibit "B" and incorporated herein for all intents and purposes. The owners and inhabitants of the area herein annexed are entitled to all of the rights and privileges of other citizens of the City and are hereby bound by all acts, ordinances and other legal actions now in full force and effect and those that may be hereafter adopted or enacted.

Section 3: All ordinances, resolutions, 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.

<u>Section 4:</u> If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that invalidity or the unenforceability will not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision.

<u>Section 5:</u> The City Secretary is hereby instructed to include this Ordinance in the records of the City and to have maps prepared depicting the new municipal boundaries. The City Secretary is hereby instructed to file a certified copy of this Ordinance and the updated maps with the Bastrop County Clerk and any other entities as required by law.

<u>Section 6:</u> The City shall have the power to administer and enforce the provisions of this ordinance as may be required by governing law. Any person violating any provision of this ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations, and such violation is hereby declared to be a nuisance. Nothing in this ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this ordinance and to seek remedies as allowed by law and/or equity.

Section 7: This Ordinance shall be effective immediately upon passage and publication.

Section 8: 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.

[Signatures on following page]

READ & APPROVED on First Reading on this the 8th day of August, 2023.

READ & ADOPTED on the Second Reading on this the 22nd day of August, 2023.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney



METES & BOUNDS DESCRIPTION

BEING A 25.01 ACRE TRACT OF LAND OUT OF THE STEPHEN F. AUSTIN SURVEY, ABSTRACT NUMBER 2, BASTROP COUNTY, TEXAS, AND BEING ALL OF A CALLED 25.000 ACRE TRACT, DESCRIBED TO THE CITY OF BASTROP IN VOLUME 435, PAGE 360 OF THE DEED RECORDS OF BASTROP COUNTY, TEXAS; SAID 25.01 ACRE TRACT BEING FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON ROD, FOUND FOR THE NORTHEAST CORNER OF SAID 25.000 ACRE TRACT, SAME BEING IN THE SOUTH RIGHT OF WAY LINE OF MARGIE'S WAY, AN 80 FOOT WIDE RIGHT OF WAY PER RIVER MEADOWS PHASE 1, A MAP OR PLAT THEREOF RECORDED UNDER CABINET 4, PAGE 16-B OF THE PLAT RECORDS OF BASTROP COUNTY, TEXAS, AND SAME BEING IN THE WEST RIGHT OF WAY LINE OF LOVERS LANE, AN APPARENT 45 FOOT WIDE RIGHT OF WAY, NO DEED OF RECORD FOUND;

THENCE, **S 11°12'48" W,** WITH THE WEST RIGHT OF WAY OF LOVERS LANE, SAME BEING THE EAST LINE OF SAID 25.000 ACRE TRACT, FOR A DISTANCE OF **1,112.54** FEET TO AN IRON ROD WITH CAP, FOUND FOR THE NORTHERLY SOUTHEAST CORNER OF SAID 25.000 ACRE TRACT, SAME BEING THE NORTHEAST CORNER OF A CALLED 0.918 ACRE TRACT, DESCRIBED TO PALMS PROPERTIES, LLC IN DOCUMENT NUMBER 201700307 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY TEXAS [O.P.R.B.C.T.];

THENCE, WITH THE NORTH AND WEST LINES OF SAID 0.918 ACRE TRACT (TRACT 2), COMMON WITH THE INTERIOR LINES OF SAID 25.000 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

- 1. N 78°24'34" W, 199.74 FEET TO A 1/2 INCH IRON ROD WITH "MCS 6714" CAP SET,
- 2. S 11°36'23" W, 200.06 FEET TO A 1/2 INCH IRON PIPE, FOUND FOR THE SOUTHERLY SOUTHEAST CORNER OF SAID 25.000 ACRE TRACT, SAME BEING THE SOUTHWEST CORNER OF SAID 0.918 ACRE TRACT, AND SAME BEING IN THE NORTH LINE OF A CALLED 26.687 ACRE TRACT, DESCRIBED TO PALMS PROPERTIES IN DOCUMENT NUMBER 201700309 [O.P.R.B.C.T.];

THENCE, N 77°47'20" W, WITH THE SOUTH LINE OF SAID 25.000 ACRE TRACT, AND THE NORTH LINE OF SAID 26.687 ACRE TRACT, FOR A DISTANCE OF 670.18 FEET TO A 1/2 INCH IRON ROD, SET FOR THE SOUTHWEST CORNER OF SAID 25.000 ACRE TRACT, SAME BEING THE MOST EASTERLY SOUTHEAST CORNER OF A CALLED 45.008 ACRE TRACT (TRACT 1), DESCRIBED TO PALMS PROPERTIES, LLC IN SAID DOCUMENT NUMBER 201700307 [O.P.R.B.C.T.];

THENCE, **N 12°13'34" E,** WITH THE WEST LINE OF SAID 25.000 ACRE TRACT, AND THE EAST LINE OF SAID 45.008 ACRE TRACT, PASSING AT A DISTANCE OF 134.05 FEET, A 5/8 INCH IRON ROD, FOUND FOR THE SOUTHEAST CORNER OF LOT 20 OF SAID RIVER MEADOWS, PHASE 1, AND CONTINUING WITH THE EAST LINE OF SAID RIVER MEADOWS, PHASE 1, FOR A TOTAL DISTANCE OF **1,313.81** FEET TO A STEEL FENCE POST, FOUND FOR THE NORTHWEST CORNER OF SAID 25.000 ACRE TRACT, SAME BEING IN THE EAST LINE OF LOT 26 OF SAID RIVER MEADOWS, PHASE 1, FROM WHICH A 5/8 INCH IRON ROD, FOUND FOR THE SOUTHEAST CORNER OF SAID LOT 26, BEARS S 12°13'34" W, 206.04 FEET, AND SAME BEING IN THE SOUTH RIGHT OF WAY LINE OF SAID MARGIE'S WAY;



Item 8D.

THENCE, **S** 77°50'27" **E**, WITH THE NORTH LINE OF SAID 25.000 ACRE TRACT, SAME BEING THE SOUTH RIGHT OF WAY LINE OF MARGIE'S WAY, FOR A DISTANCE OF 848.08 FEET, BACK TO THE **POINT OF BEGINNING** OF THE HEREIN DESCRIBED TRACT OF LAND, CONTAINING 25.01 ACRES, MORE OR LESS.

Basis of bearing is the Texas Coordinate System, Central Zone [4203], NAD83. All distances (U.S. Survey Feet) are grid and may be converted to ground by multiplying by an inversed combined scale factor of 1.00000426.

I, Garrett Cavaiuolo, Registered Professional Land Surveyor, hereby certify that this property description and accompanying survey drawing of even date, represent an actual survey performed on the ground in the month of March 2023.

3/22/2023

Garrett Cavaiuolo - RPLS# 6714 Garrett@MCSurveyTX.com TBPELS FIRM# 10194678 PRJ# 0059-BP002A



LEGAL DESCRIPTION:

BEING A 25.01 ACRE TRACT OF LAND OUT OF THE STEPHEN F. AUSTIN SURVEY, ABSTRACT NUMBER 2, BASTROP COUNTY, TEXAS, AND BEING ALL OF A CALLED 25.000 ACRE TRACT, DESCRIBED TO THE CITY OF BASTROP IN VOLUME 435, PAGE 360 OF THE DEED RECORDS OF BASTROP COUNTY, TEXAS; SAID 25.01 ACRE TRACT BEING FURTHER DESCRIBED BY THE ACCOMPANYING METES AND BOUNDS DESCRIPTION.

TITLE COMMITMENT NOTES:

COMMITMENT FOR TITLE INSURANCE PREPARED BY STEWART TITLE GUARANTY COMPANY, GF. NO. 1900158, EFFECTIVE DATE OF DECEMBER 4, 2022, AND ISSUED ON DECEMBER 14, 2022.

THE SURVEYOR HAS RELIED SOLELY UPON SAID TITLE COMMITMENT FOR THE DEPICTION OF EASEMENTS, RESTRICTIONS AND OTHER MATTERS AFFECTING THIS PROPERTY. NO ADDITIONAL RESEARCH WAS PERFORMED FOR THE PURPOSE OF THIS SURVEY. ITEMS LISTED ARE WORDED ACCORDING TO SAID TITLE COMMITMENT, FOLLOWED BY SURVEYORS NOTES SHOWN IN BRACKETS [].

- c. EASEMENT, RIGHT OF WAY AND/OR AGREEMENT BY AND BETWEEN A. G. FAYKUS AND PETER A. FAYKUS AND LO-VACA GATHERING COMPANY, BY INSTRUMENT DATED 11/15/1963, FILED 1/2/1964, RECORDED IN/UNDER VOLUME 163, PAGE 308, OFFICIAL PUBLIC RECORDS, BASTROP COUNTY, TEXAS. [SHOWN HEREON]
- d. EASEMENT, RIGHT OF WAY AND/OR AGREEMENT BY AND BETWEEN PETER A. FAYKUS AND A. G. FAYKUS AND LO-VACA GATHERING COMPANY, BY INSTRUMENT DATED 12/5/1968, FILED 12/13/1968, RECORDED IN/UNDER VOLUME 188, PAGE 485, OFFICIAL PUBLIC RECORDS, BASTROP COUNTY, TEXAS. [SHOWN HEREON]
- e. EASEMENT, RIGHT OF WAY AND/OR AGREEMENT BY AND BETWEEN WILLIAM P. WALKER AND LINDA S. W. ORLANDO, COINDEPENDENT EXECUTORS OF THE ESTATE OF UBEA WALKER, DECEASED AND THE CITY OF BASTROP, TEXAS, BY INSTRUMENT DATED 9/19/1986, FILED 9/22/1986, RECORDED IN/UNDER VOLUME 435, PAGE 364, OFFICIAL PUBLIC RECORDS, BASTROP COUNTY, TEXAS. [SHOWN HEREON]
- f. EASEMENT, RIGHT OF WAY AND/OR AGREEMENT BY AND BETWEEN CITY OF BASTROP AND COUNTY OF BASTROP, TEXAS, BY INSTRUMENT DATED 6/8/2021, FILED 6/25/2021, RECORDED IN/UNDER CLERK'S FILE NO. 202113217, OFFICIAL PUBLIC RECORDS, BASTROP COUNTY, TEXAS. [SHOWN HEREON]

CONTROL NOTE:

BASIS OF BEARING IS THE TEXAS COORDINATE SYSTEM, TEXAS CENTRAL ZONE (4203), NORTH AMERICAN DATUM 1983 (NAD83), NAVD88, GEIOD18. ALL COORDINATE VALUES AND DISTANCES SHOWN ARE GRID VALUES AND MAY BE CONVERTED TO GROUND BY MULTIPLYING BY AN INVERSED COMBINED SCALE FACTOR OF 1.00000426. UNITS: US SURVEY FEET.

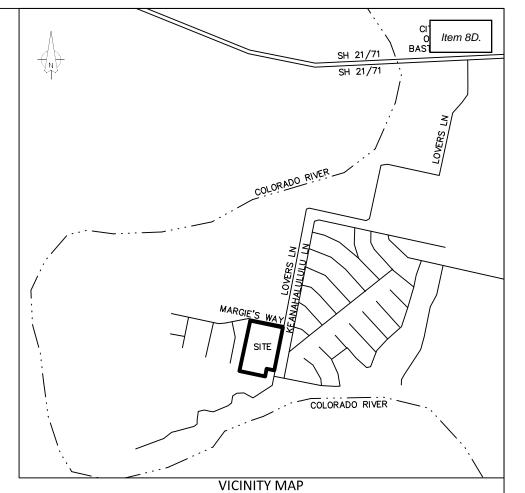
FLOODPLAIN NOTE:

PER FEMA, A PORTION OF THIS PROPERTY (AS SHOWN HEREON) IS LOCATED WITHIN "SHADED ZONE X", AS SHOWN ON F.I.R.M. PANEL NO.48021C0355E, BASTROP COUNTY, TEXAS DATED 01/19/2006. PER FEMA, SHADED ZONE X IS A FLOOD HAZARD AREA, LOCATED WITHIN THE 0.2% ANNUAL CHANCE OF FLOOD.

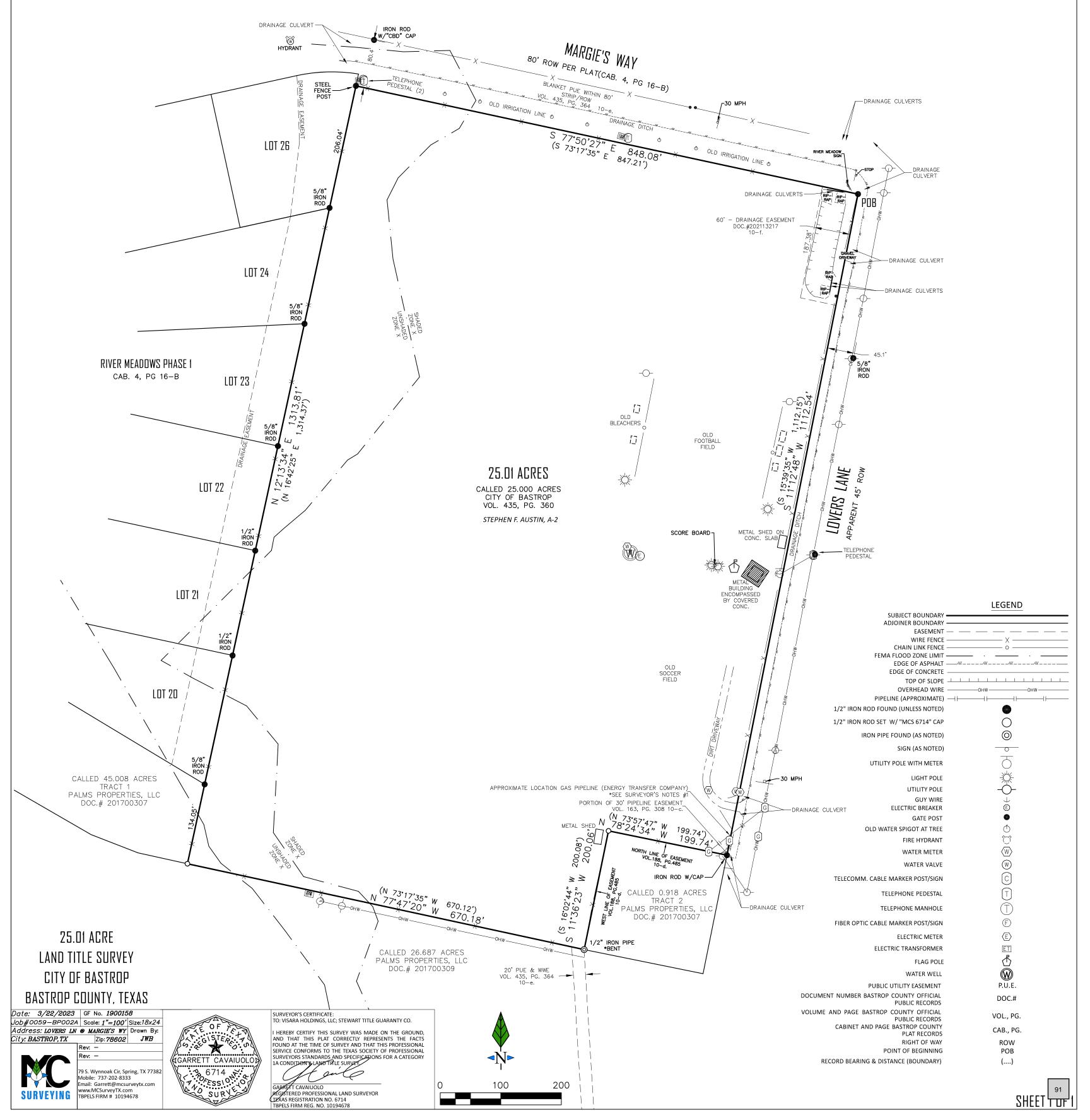
THIS FLOOD STATEMENT DOES NOT IMPLY THAT THE PROPERTY AND/OR THE STRUCTURES THEREON WILL BE FREE FROM FLOODING OR FLOOD DAMAGE. THIS FLOOD STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF THE SURVEYOR.

SURVEYOR'S NOTES:

1. APPROXIMATE LOCATION OF ENERGY TRANSFER COMPANY GAS PIPELINE BASED UPON FOUND PIPELINE MARKERS, APPARENT RIGHT OF WAY, AND TEXAS RAILROAD COMMISSION MAPPING. NO SUPPORTING EASEMENT DOCUMENT PROVIDED. A MINIMUM OF A 50' RIGHT OF WAY/ BUFFER IS SUGGESTED WITHOUT FURTHER EVIDENCE OR CONFIRMATION OF RIGHT OF WAY WIDTH FROM THE PIPELINE COMPANY (ENERGY TRANSFER COMPANY).

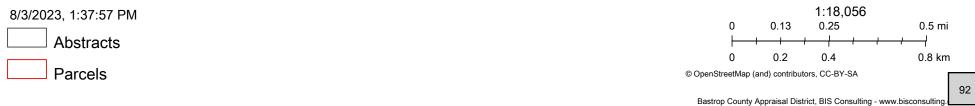






Lovers land 25 acre annexation map





Disclaimer: This product is for informational purposes only and has not been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of boundaries.

Lovers land 25 acre annexation map





Disclaimer: This product is for informational purposes only and has not been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of boundaries.

EXHIBIT B MUNICIPAL SERVICES PLAN

MUNICIPAL SERVICES PLAN FOR THE COLORADO RIVER

This Municipal Services Plan ("**Plan**") is created on this 8th day of August 2023 by the City of Bastrop, Texas, a home rulemunicipality of the State of Texas ("**City**").

RECITALS

Per Section 43.013 of the Texas Local Government Code, a municipality may annex a navigable stream.

- **WHEREAS**, the City of Bastrop tract occupies land north of the proposed city limits, situated in Bastrop County, Texas, which consists of approximately 25.00 acres of land situated in the City's extraterritorial jurisdiction, such property being more particularly described and setforth in <u>Exhibit A</u> attached and incorporated herein by reference ("**Property**");
- WHEREAS, Visara Holdings LLC has entered into a Sales Agreement with the City pursuant to Section 212.172 of Texas Local Government Code ("Sales Agreement"), is voluntarily requesting full-purpose annexation of the Property south of the Colorado River;
- **WHEREAS**, City services to be provided for the Property on or after the effective date of annexation;

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

- 1. **PROPERTY.** This Plan is only applicable to the Property, more specifically described in <u>Exhibit A</u>.
- 2. **INTENT.** It is the intent of the City that this Plan provide for the delivery of full, available municipal services to the Property in accordance with state law, which may be accomplished through any means permitted by law.
- **3. MUNICIPAL SERVICES.** Commencing on the effective date of annexation, the City will provide the municipal services set forth below. As used in this Plan, "providing services" includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property owner participation in accordance with applicable City ordinances, and all approved rules, regulations, and policies.

The City hereby declares the following services to be made available to the Property and its Owner(s):

- **a. Police Services.** The City provides municipal police protection through a City Police Department and will provide the service to the area once annexed.
- **b.** Fire Services. This area is within the ESD #2 Service Area. The City of Bastrop Fire Department will provide aid through the Automatic Aid Agreement with ESD #2. Radio response for Emergency Medical Services will be provided with the present personnel and equipment.
- **c.** Building Inspection/Code Enforcement Services. The City of Bastrop will provide building inspection and code enforcement services upon annexation.
- d. Libraries. Bastrop Public Library provides library services.
- e. Environmental Health & Health Code Enforcement. Complaints of ordinance or regulation violations within this area will be answered and investigated by City personnel, beginning with the effective date of the annexation ordinance.
- **f. Planning & Zoning.** The planning and zoning jurisdiction of the City will be extended to this area on the effective date of the annexation ordinance. Per the Bastrop Building Block (B³) Code, Section 2.3.003 "Zoning Upon Annexation" the property will be zoned Place Type P2- Rural and will extend the closest Character District Pine Village and developed in accordance with these designations. All services provided by the City will be extended to the area on the effective date of the annexation ordinance.
- **g. Parks & Recreation.** All services and amenities associated with the City's Parks and Recreation activities will extend to this area on the effective date of the annexation ordinance.
- **h. Street & Drainage Maintenance.** The City will provide street and drainage maintenance to public streets in the area in accordance with standard City policy as the area develops.
- **i. Street Lighting.** The City will provide street lighting to the area in any public rightof-way in accordance with standard City Policy as the area develops.

- **j. Traffic Engineering.** The City will provide, as appropriate, street names signs, traffic control devices, and other traffic system design improvements to the area.
- **k.** Sanitation/Solid Waste Collection & Disposal. The City does not directly provide municipal sanitation/solid waste collection and disposal services. However, the City has granted an exclusive franchise for these services to Progressive Waste Solutions of TX d/b/a Waste Connections of Texas, which will be notified of all newly-annexed parcels.
- **I.** Water Service. The area to be annexed will be served water by the City of Bastrop. Extension of services to serve the site will be at the Owner's expense.
- **m.** Sewer Service. The area to be annexed will be served by wastewater service by the City of Bastrop. Extension f services to serve the site will be at the Owner's expense.
- **n. Miscellaneous.** All other applicable municipal services will be provided to the area in accordance with policies established by the City.

It is understood and agreed that the City is not required to provide a service that is not included in this Agreement.

The City departments listed above may change names or be re-organized by the City Manager. Any reference to a specific department also includes any subsequent City department that will provide the same or similar services.

- 5. SCHEDULE. Due to the size, and vacancy of the Property and the presence of the Colorado River, there is no schedule for the development of the Property.
- 6. AUTHORITY. City represents that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Plan.
- 7. SEVERABILITY. If any term or provision of this Plan is held to be illegal, invalidor unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Plan shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Plan a legal, valid or enforceable term or provision as similar as possible to the term

or provision declared illegal, invalid or unenforceable.

- 8. INTERPRETATION. The Parties to this covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The Parties acknowledge that theyare of equal bargaining power and that each of them was represented by legal counsel in the negotiation and drafting of this Agreement.
- **9. GOVERNING LAW AND VENUE.** This Plan and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of theState of Texas. The provisions and obligations of this Plan are performable in Bastrop County, Texas such that exclusive venue for any action arising out of thisPlan shall be in Bastrop County, Texas.
- 10. NO WAIVER. The failure of either Party to insist upon the performance of any term or provision of this Plan or to exercise any right granted hereunder shall not constitute waiver of that Party's right to insist upon appropriate performance or to assert any such right on any future occasion.
- **11. GOVERNMENTAL POWERS.** It is understood that by execution of this Plan, theCity does not waive or surrender any of its governmental powers or immunities.
- **12. COUNTERPARTS**. This Plan may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
- **13. CAPTIONS**. The captions to the various clauses of this Plan are for informational purposes only and shall not alter the substance of the terms and conditions of this Plan.
- 14. PLAN BINDS SUCCESSORS AND RUNS WITH THE LAND. This Plan is binding on and inures to the benefit of the Parties, their successors, and assigns. The term of this Plan constitutes covenants running with the land comprising the Property and is binding on the Owner.
- **15. ENTIRE PLAN.** It is understood and agreed that this Plan contains the entire agreement between the Parties and supersedes any and all prior agreements, arrangements or understandings between the Parties relating to the subject matter. No oralunderstandings, statements, promises or inducements contrary to the terms of this Plan exist. This Plan cannot be changed or terminated orally.

[The remainder of this page intentionally left blank.]

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

Attest:

By:_____ Name: Ann Franklin Title: City Secretary

By:_____ Name: Sylvia Carrillo Title: City Manager

THE STATE OF TEXAS §

COUNTY OF BASTROP §

This instrument was acknowledged before me on this _____ day of _____, 2023, by Paul A. Hofmann, 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



Staff Report

MEETING DATE: August 22, 2023

TITLE:

Consider action to approve the second reading of Ordinance No. 2023-26 of the City Council of the City of Bastrop, Texas, annexing a tract of land described as 169.773 acres of land out of the Nancy Blakey survey, Abstract No. A98, located south of state highway 71 and east of Farm-to-Market Road 20, as shown in Exhibit "A"; providing for findings of fact, adoption, repealer, severability, filing and enforcement; establishing an effective date; and providing for proper notice and meeting.

AGENDA ITEM SUBMITTED BY:

Sylvia Carrillo, City Manager, ICMA-CM, CPM

BACKGROUND/HISTORY

In 2011 the City of Bastrop began annexation plan for multiple parcels west of the then city limits. The original plan included approximately 20 tracts of land. Some tracts that were proposed to be annexed requested to stay in the ETJ (extra territorial jurisdiction). Those tracts were given development agreements that postponed annexation for 45 years if the property owner continued the agricultural use. The properties could be annexed however upon the start of development, or sale of the property. Both public hearings for the property were held for the 169.773-acre tract in September of 2011. The 169.773-acre tract was sold to Palms Properties, LLC by John Dale Weaver Jr. in March of 2011. Mr. Weaver was the original owner in 2011 when the contract was signed. This tract must be annexed into the City limits prior to the adoption of any transportation impact fee approval. This tract includes proposed capital improvements and a fee cannot be assessed to capital improvements that are outside of the City Limits.

RECOMMENDATION:

Staff recommends approval of second reading of Ordinance 2023-26.

ATTACHMENTS:

- Ordinance 2023-26
- Metes and Bounds/Survey
- Municipal Annexation Service Plan

ORDINANCE 2023-26

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, ANNEXING A TRACT OF LAND DESCRIBED AS 169.773 ACRES OF LAND OUT OF THE NANCY BLAKEY SURVEY, ABSTRACT NO. A98, LOCATED SOUTH OF STATE HIGHWAY 71 AND EAST OF FARM-TO-MARKET ROAD 20, AS SHOWN IN EXHIBIT A; PROVIDING FOR FINDINGS OF FACT, ADOPTION, REPEALER, SEVERABILITY, FILING AND ENFORCEMENT; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETING.

WHEREAS, the City of Bastrop, Texas (City) is a Home-Rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, on or about May 23, 2023, John Dale Weaver, Jr. submitted a petition for voluntary annexation of the property in the area described as being 169.773 +/- acres of land out of the Nancy Blakey Survey, Abstract No. A98, located south of State Highway 71 and east of Farm-to-Market Road 20 as shown in Exhibit "A" (the "Property"), which is attached hereto and incorporated herein for all purposes; and

WHEREAS, pursuant to Texas Local Government Code Sections 43.056 and 43.0672, City Council has entered into a written agreement with the owners of land in the area for the provision of services in the area, which is attached hereto as Exhibit "B" and incorporated herein for all purposes; and

WHEREAS, in accordance with Texas Local Government Code Chapter 43, public notice was given, and a public hearing was held before the City Council regarding the requested annexation; and

WHEREAS, Texas Local Government Code Section 51.001 provides the City 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, after consideration of public input received at the hearing, the information provided by the petitioners, and all other information presented, City Council finds it necessary and proper to enact this Ordinance.

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

<u>Section 1:</u> The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

Section 2: The property in the area described in Exhibit "A", which is attached hereto and incorporated herein for all purposes, is hereby annexed and brought into the municipal boundaries (i.e., corporate limits) of the City of Bastrop, Texas, and is made an integral part, hereof. The Property shall be designated as a P2 Rural Zoning District. The official map and boundaries of the City are hereby amended and revised so as to include the area annexed.

A service plan prepared in accordance with applicable provisions of state law pertaining to annexation is attached hereto as Exhibit "B" and incorporated herein for all intents and purposes. The owners and inhabitants of the area herein annexed are entitled to all of the rights and privileges of other citizens of the City and are hereby bound by all acts, ordinances and other legal actions now in full force and effect and those that may be hereafter adopted or enacted.

Section 3: All ordinances, resolutions, 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.

Section 4: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that invalidity or the unenforceability will not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision.

Section 5: The City Secretary is hereby instructed to include this Ordinance in the records of the City and to have maps prepared depicting the new municipal boundaries. The City Secretary is hereby instructed to file a certified copy of this Ordinance and the updated maps with the Bastrop County Clerk and any other entities as required by law.

Section 6: The City shall have the power to administer and enforce the provisions of this ordinance as may be required by governing law. Any person violating any provision of this ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations, and such violation is hereby declared to be a nuisance. Nothing in this ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this ordinance and to seek remedies as allowed by law and/or equity.

Section 7: This Ordinance shall be effective immediately upon passage and publication.

Section 8: 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.

[Signatures on following page]

READ & APPROVED on First Reading on this the 8th day of August, 2023.

READ & ADOPTED on the Second Reading on this the 22nd day of August, 2023.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney



Professional Land Surveying, Inc. Surveying and Mapping Office: 512-443-1724 Fax: 512-389-0943 3500 McCall Lane Austin, Texas 78744

169.971 ACRES BASTROP COUNTY, TEXAS

EXHIBIT "A"

A DESCRIPTION OF A 169.971 ACRES IN THE NANCY BLAKEY SURVEY, A-98 IN BASTROP COUNTY, TEXAS, BEING A PORTION OF A CALLED 391.394 ACRE TRACT CONVEYED TO JOHN DALE WEAVER IN A SPECIAL WARRANTY DEED DATED MARCH 31, 2009, AND RECORDED IN VOLUME 1903, PAGE 237, OFFICIAL PUBLIC RECORDS, BASTROP COUNTY, TEXAS (OPRBCT), SAVE AND EXCEPT THEREFROM, THAT CERTAIN 0.013 ACRE TRACT CONVEYED BY DEED WITHOUT WARRANTY RECORDED IN DOCUMENT NO. 201903110, OPRBCT; SAID 169.971 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINING at a 1/2" rebar found in the southeast right-of-way line of F.M. Highway No. 20 (100' right-of-way width), being a northwest corner of said 391.394 acre tract, being also the southwest corner of a 42.697 acre tract described in Volume 2297, Page 496, Deed Records, Bastrop County, Texas (DRBCT);

THENCE with the common line of said 391.394 acre tract and said 42.697 acre tract, the following three (3) courses and distances:

- 1. North 87°42'33" East, a distance of 2581.84 feet to a 1/2" rebar with "Chaparral" plastic cap found for the southeast corner of said 42.697 acre tract;
- 2. North 00°51'41" West; a distance of 793.29 feet to a 1/2" rebar found;
- 3. North 01°22°25" West, a distance of 773.46 feet to a 1/2" rebar with "Chaparral" plastic cap set in the south right-of-way line of State Highway No. 71 (right-of-way width varies), being a northwest corner of said 391.394 acre tract, being also the northeast corner of said 42.697 acre tract, from which a rebar with illegible plastic cap found, bears North 61.922'25" West, a distance of 0.36 feet and additional 1/2" rebar found, bears North 82°05'52" West, a distance of 0.45 feet;

THENCE North 87°46'177 East, with the south right-of-way line of State Highway No. 71 and the north line of said 394.394 acre tract, at a distance of 410.76 feet passing a rebar with "TXDOT" aluminum cap found, and continuing for a total distance of 710.76 feet to a cotton spindle with washer set at the intersection of the south right-of-way line of State Highway No. 71 and the west right-of-way line of Bear Hunter Drive (40' right-of-way width) as shown on Bear Hunter Drive Phase 1, a subdivision of record in Cabinet 5, Slide 120-A, Plat Records, Bastrop County, Texas (PRBCT), Hunters Crossing Section Seven B, a subdivision of record in Cabinet 5, Slide 113-A, PRBCT, Hunters Crossing Section Four B, a subdivision of record in Cabinet 4, Slide 113-A, PRBCT, and Hunters Crossing Section Three G, a subdivision of record in Cabinet 5, Slide 11-A, PRBCT, being also a northeast corner of said 391.394 acre tract, from which a rebar with "TXDOT" aluminum

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EXHIBIT "A"

Page 2 of 2

cap found in the south right-of-way line of State Highway No. 71, bears North 87°46'17" East, a distance of 720.01 feet;

THENCE South 01°03'03" East with the west right-of-way line of Bear Hunter Drive and the east line of said 391.394 acre tract, passing a rebar with "TJ Dodd 1882" plastic cap found at a distance of 2271.70 feet and continuing for a total distance of 3241.75 feet to a rebar with illegible plastic cap found for the southwest termination of Bear Hunter Drive, being on or near the north line of the Mozea Rouseau Survey, A-56, and the south line of said Nancy Blakey Survey, A-98;

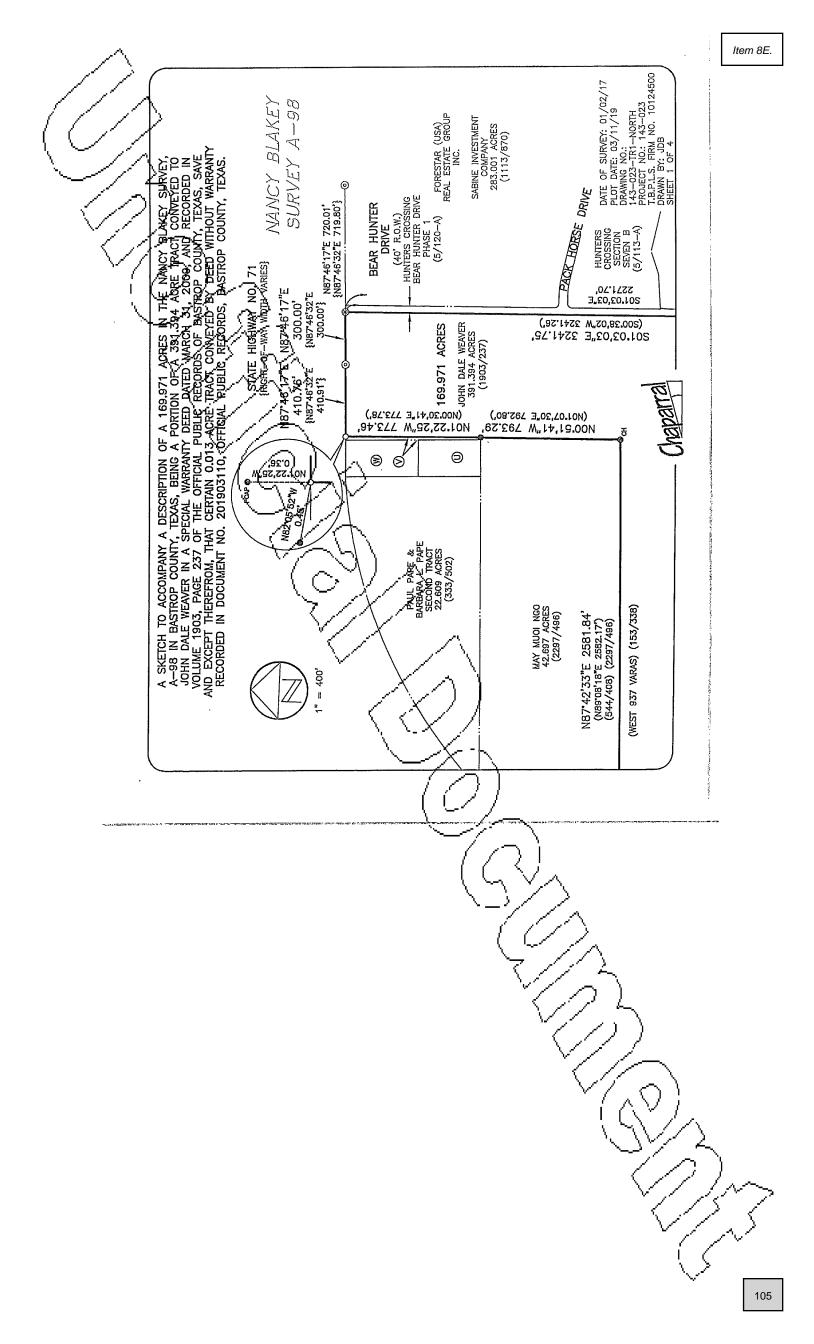
THENCE South 88°00'01" West, crossing said 391.394 acre tract, generally along said survey lines, a distance of 3936.56 feet to a fence post found for a reentrract corner of said 391.394 acre tract;

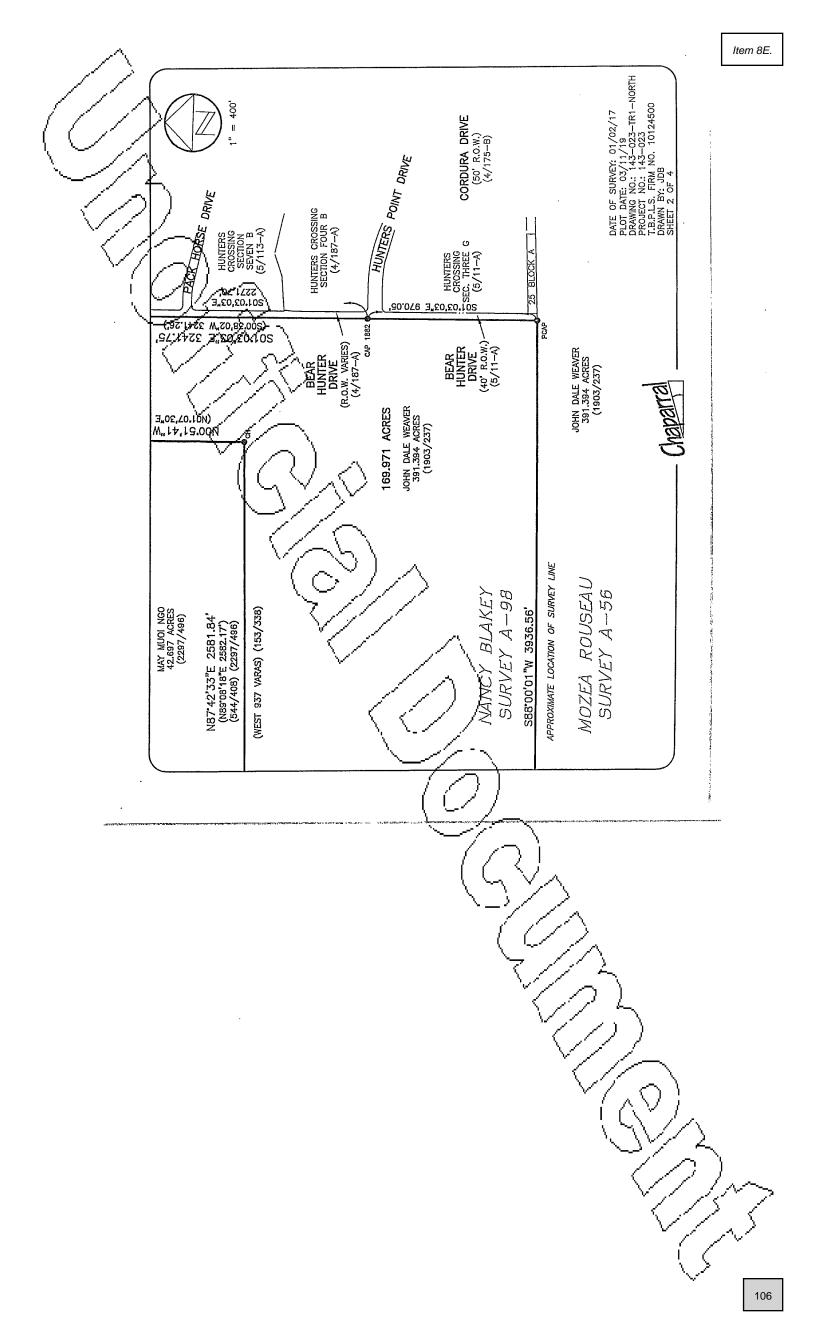
THENCE South 87°16'48" West with the south line of said 391.394 acre tract, a distance of 331.20 feet to a fence post found in the southeast right-of-way line of F.M. Highway No. 20, from which a 1/2" rebar found, bears North 67°27'37" East, a distance of 1.15 feet:

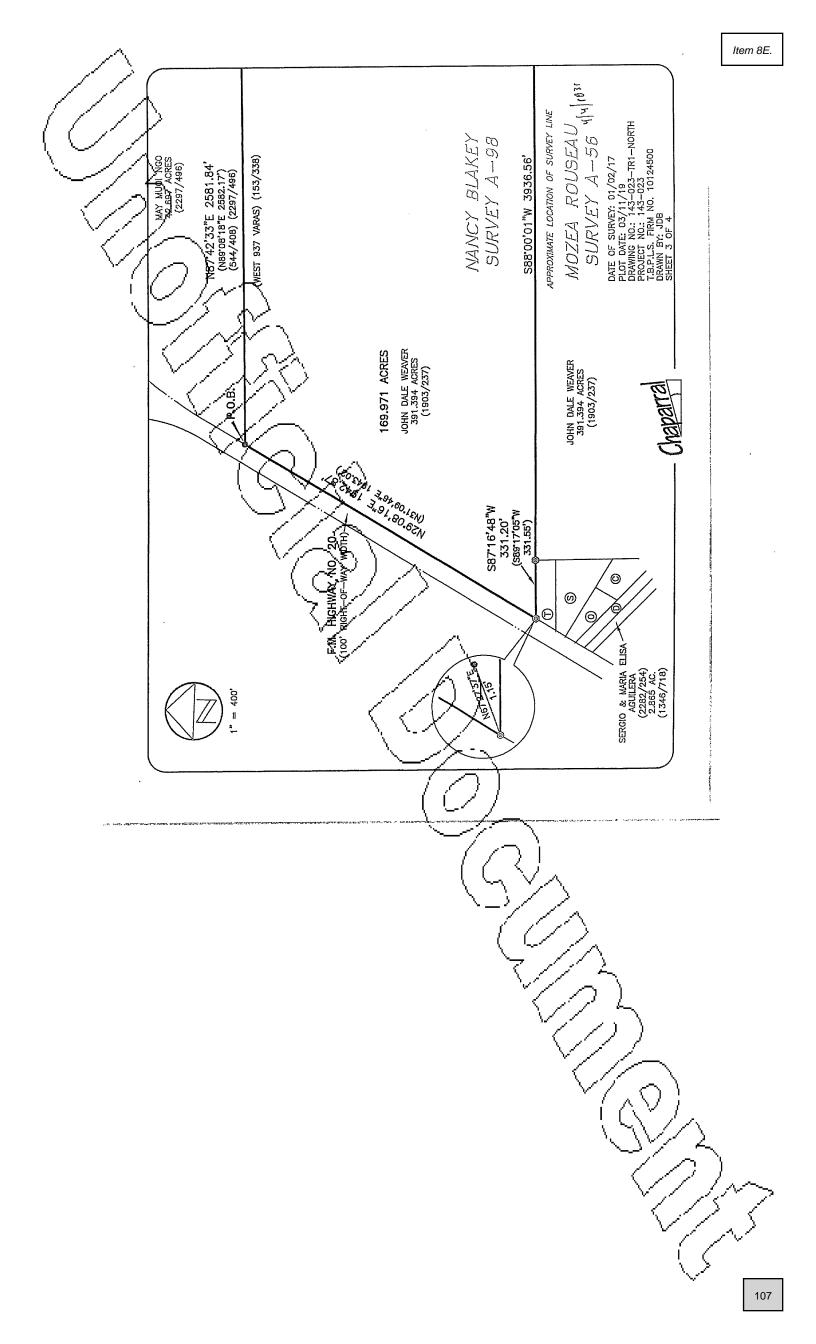
THENCE North 29°08'16" East with the southeast right-of-way line of F.M. Highway No. 20 and the northwest line of said 391.394 acre tract, a distance of 1942.87 feet to the POINT OF BEGINNING, containing 169.971 acres of land, more or less.

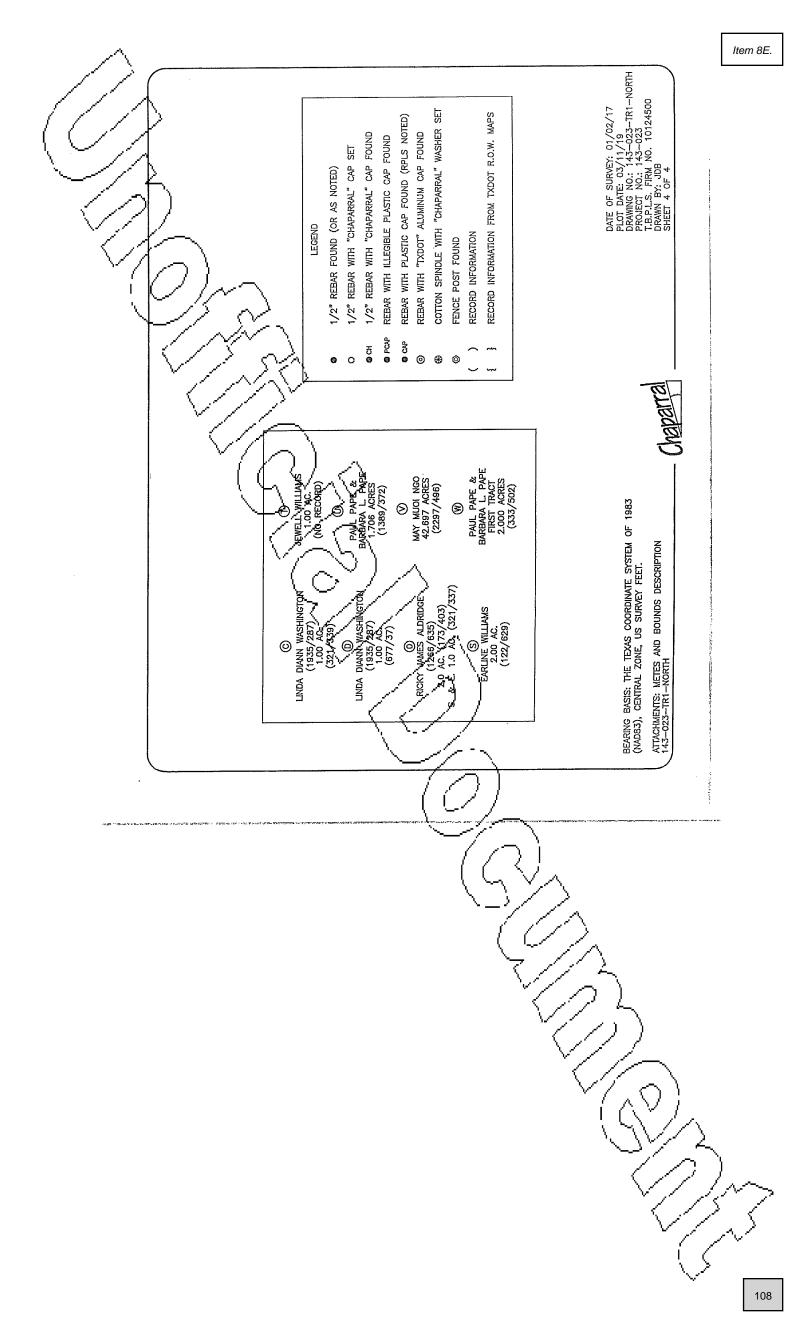
Surveyed on the ground January 2, 2017, January 26, 2019, and February 11, 2019.

Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone, US Survey Feet. Attachments: Drawing 143-023-TR1-NORTH 22 1m 2019 Harch AED TO Ul la ews BRYAN D. NEWSOMI Bryan D. Newsome 30 5657 Registered Professional Land Surveyor State of Texas No. 5657 SUR T.B.P.L.S. Firm No. 10124500 143-023-TR1-NORTH.docx









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EXHIBIT "B"

¹/₂ interest in and to all oil, gas, and other minerals, in, on, under or that may be produced from the Property, together will all rights relating thereto, express or implied, reserved unto the grantor in Deed executed by Ivor W. Young to John Dale Weaver and Charlotte Weaver dated December 29, <u>19</u>60, recorded in Volume 153, Page 338, deed Records of Bastrop County, Texas.

 Easement to Aqua Water Supply Corporation recorded at Volume 356, Page 916, Official Records, Bastrop County, Texas.

 Easement to Lower Colorado River Authority recorded at Volume 103, Page 582 of the Deed
 Records of Bastrop County, Texas, modified in Volume 1175, Page 678 Official Public Records of Bastrop County, Texas.

- Annexation Ordinance No. 2011-27, recorded in Volume 2108, Page 266, Official Public Records of Bastrop County, Texas.
- 5. Easement to City of Bastrop recorded at Volume 2222, Page 852, Official Public Records, Bastrop County, Texas.

6. Easement to City of Bastrop recorded at Volume 2222, Page 860, Official Public Records, Bastrop County, Texas.

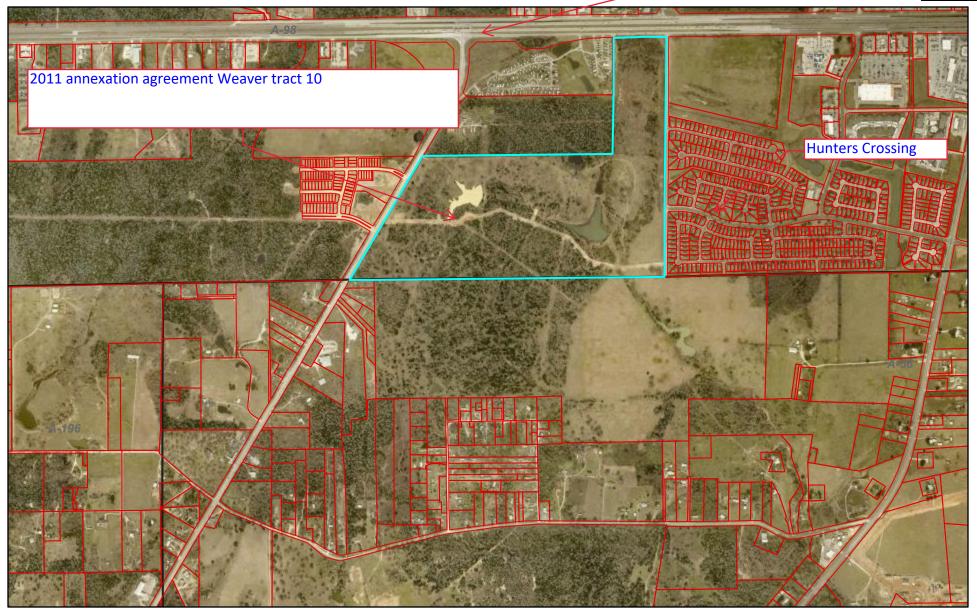
- 7. Easement to West Edstrop Village, Ltd. recorded at Clerk's File No. 201604146 and corrected at Clerk's File No. 201902177, Official Public Records, Bastrop County, Texas.
- 8. Easement to Aqua Water Supply Corporation recorded at Clerk's File No. 201812790, Official Public Records, Bastrop County, Texas.
- Apparent utility easements along the northern and north easterly boundary of the Property as evidenced by storm sewer manholes, underground gas/telephone markers, water meter and well location shown on the survey prepared by Bryan D. Newsome R.P.L.S. No. 5657, dated 3/1/2019.
- 10. Apparent utility easement as evidenced by the overhead utility lines, guy wires and poles crossing the property outside of easement areas as shown on the survey prepared by Bryan D. Newsome R.P.L.S. No. 5657, dated 3/1/2019.
- 11. Rights, if any, of the adjoining property owner in and to the stock pond situated across the property line as shown on the survey prepared by Bryan D. Newsome R.P.L.S. No. 5657, dated 3/1/2019.
- 12. Any claim, right or assertion of title by the adjoining and owner in and to that strip of land located between the property line and the fence(s) as shownlon the survey prepared by Bryan D. Newsome R.P.L.S. No. 5657, dated 3/1/2019.
- 13. Any easement rights related to the unpaved drives extending across the property as shown on the survey prepared by Bryan D. Newsome R.P.L.S. No. 5657, dated 3/1/2019.

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Bastrop CAD Web Map

SH 71

Item 8E.





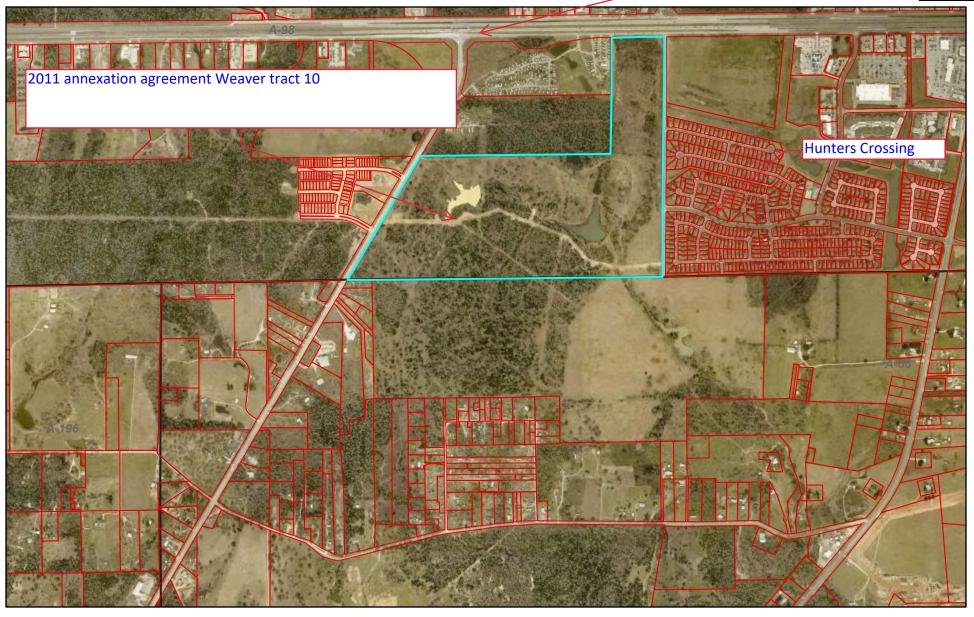
Bastrop County Appraisal District, BIS Consulting - www.bisconsulting

Disclaimer: This product is for informational purposes only and has not been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of boundaries.

Bastrop CAD Web Map

SH 71

Item 8E.





Bastrop County Appraisal District, BIS Consulting - www.bisconsulting

Disclaimer: This product is for informational purposes only and has not been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of boundaries.

CITY OF BASTROP MUNICIPAL SERVICE PLAN FOR ANNEXATION OF +/- 169.773 ACRES IN THE A98 NANCY BLAKEY SURVEY ADJACENT TO THE CITY OF BASTROP MUNICIPAL LIMITS

Owner <u>John Dale Weaver, Jr, c/o Walters Southwest</u> Parcel Acreage <u>+/-169.773 Acres</u>

Number<u>10</u> R # <u>R</u>108532

SERVICE PLAN NUMBER 10

INTRODUCTION

The City Council of the City of Bastrop has directed staff to proceed with procedures for the annexation of land generally comprised of the following:

Approximately 169.773 acres within the A98 Nancy Blakey Survey (Number 10) in Bastrop County., as shown on the map attached hereto as Exhibit "A". See also the list of parcels proposed for annexation identified by the Annexation 2011 Excel Spreadsheet "Parcel Number R108532 (Number 10)" attached hereto as Exhibit "B."

The area consists of undeveloped land and is agriculturally exempt. A topographical map of the area is attached hereto as Exhibit "C."

This Service Plan (the "Plan") is made by the City of Bastrop, Texas ("City") pursuant to Sections 43.056 of the Texas Local Government Code. The City hereby adopts this Plan as it relates to the annexation into the City for:

+/- 169.773 acres in the A98 Nancy Blakey Survey, see Exhibit "D."

The provisions of this Plan were made available for public inspection and explained to the public at the two public hearings held by the City on September 13, 2011 and September 27, 2011 in accordance with Section 43.056 of the LGC

TERM OF SERVICE PLAN

Pursuant to Section 43.056 of the Local Government Code, this Plan shall be in effect for a tenyear period commencing on the effective date of the ordinance approving the annexation. Renewal of the Plan shall be at the discretion of the City Council and must be accomplished by Ordinance.

INTENT

It is the intent of the City of Bastrop that services under this Plan shall provide full municipal services as required and defined by the Texas Local Government Code.

<u>FIRE</u>

Existing Services: ESD #2

Services to be Provided: Fire suppression will continue to be provided from ESD #2, as provided by such service provider's authorized service plans and approved areas, and as approved by the citizens in the election for ESD services for this tract. Primary fire response by EDS #2 will be provided by Bastrop Station No. 1 located on 802 Chestnut in Bastrop, Texas.

ESD #2 fire suppression services, may however, be supplemented by services provided by the Bastrop Fire Department, and ESD #1 pursuant to mutual aid and/or interlocal polices and agreements. If so, such fire response services will be provided from Bastrop Fire Department (Bastrop Station No. 2) located on 120 Corporate Drive in Bastrop, Texas or ESD #1, Still Forest Station (Bluebonnet No. 1) located on 213 Still Forest Drive in Cedar Creek, Texas, or future stations located in proximity to the annexed area. Adequate supplemental fire suppression activities by the Bastrop Fire Department may be afforded to the annexed area within City's current budget appropriation.

In addition, fire prevention activities will be provided by the City of Bastrop's Fire Marshall's office, as needed.

ESD Service areas are shown on attached Exhibit "E."

POLICE

Existing Services: Bastrop County Sheriff's Department

Services to be Provided: Currently, the area is under the jurisdiction of the Bastrop County Sheriff's Office. However, upon annexation, the City of Bastrop Police Department will extend regular and routine patrols to the area. Thus, law enforcement protection will be provided to this area in the same manner as it is currently provided to other similarly situated land within the corporate limits of the City. These services include: routine police patrols and responses to calls, handling of complaints and incident reports, service by special units, such as traffic enforcement, criminal investigations, narcotics, gang suppression and special factics team. In addition, the City Code Enforcement and Animal Control Services will be provided by the City of Bastrop to the area, as appropriate. It is anticipated that the implementation of City's Police Department, Animal Control and Code Enforcement activities can be effectively accommodated within the City's current budget and staff appropriation.

EMERGENCY MEDICAL SERVICE

Existing Services: Bastrop County/Guardian EMS

Services to be Provided: Bastrop County/Guardian EMS will continue to provide emergency and safety services to the annexation area, pursuant to existing agreements.

BUILDING INSPECTION

Existing Services: None

Services to be Provided: Upon annexation, the City of Bastrop's Building Inspection Department will provide Building Code Enforcement Services. These services will include: issuing building permits, as well as issuing electrical, HVAC and plumbing permits, for any new construction and remodeling. Upon annexation, the Building Inspection Department will also assist in issuance and enforcement activities related to all other applicable City of Bastrop Codes and regulations which apply to building construction within the City of Bastrop. It is anticipated that the implementation of City's Building Inspection Department activities can be effectively accommodated within the City's current budget and staff appropriation.

PLANNING AND ZONING - SUBDIVISION AND DEVELOPMENT

Existing Services: None

Services to be Provided: The Planning and Zoning Department's responsibility for regulating development and land use through the administration of the City of Bastrop Zoning Ordinance will extend to this area on the effective date of the annexation. The annexed tract will also continue to be regulated under the requirements of the City of Bastrop Subdivision Ordinance. These services can be provided within the department's current budget. The Plan's services include: site plan review, zoning approvals, sign regulations, platting and construction services. For a complete list and description of all Planning, Zoning, Subdivision and Development services that will be provided by the City, see the City's Code of Ordinances, Chapter 10 and Chapter 14. It is anticipated that the implementation of these activities can be effectively accommodated within the City's current budget and staff appropriation.

<u>LIBRARY</u>

Existing Services: City

Services to be Provided: Upon annexation, The City of Bastrop's municipal library use privileges will continue to be provided by the City to persons residing in the annexed area. It is anticipated that the implementation of these Library activities can be effectively accommodated within the City's current budget and staff appropriation.

HEALTH CODE SERVICE

Existing Services: Bastrop County

Services to be Provided: Upon the effective date of the annexation, the Bastrop County Health Department will continue to oversee the enforcement of the State, County and City of Bastrop's health ordinances and regulations, for example those related to inspections of commercial kitchens, mobile food vendors, food preparation establishments and handling operations.

The City will perform other Code Enforcement of the City of Bastrop's heath and sanitation ordinances and regulations, including but not limited to weed, brush control, and control over

Annexation Service Plan for 2011 Annexations

junked and abandoned vehicles, will be provided by the City's Code Enforcement Department, Police Department and shall begin in this area of the effective date of the annexation. Additionally, the City's control of dilapidated structures will be handled by the City pursuant to its regulations and Code. It is anticipated that the implementation of these activities can be effectively accommodated within the City's current budget and staff appropriation.

STREET

Existing Services: State of Texas ("TxDOT") and Bastrop County

Services to be Provided: Upon annexation, the City of Bastrop's Public Works Department will maintain public streets over which the City has jurisdiction. Maintenance to the street facilities will continue to be provided in accordance with the City's policies and procedures for City streets and roadways. Bastrop County shall continue to be responsible for County Roads, and TxDOT shall continue to be responsible for State of Texas highways and farm to market roadways, pursuant to their statutory authorities.

As new subdivisions and development occurs within the annexed area, the developers of property will be required to construct City streets in accordance with the City of Bastrop's Subdivision Code, regulations and policies that are in place at the time of the development. Upon completion of, dedication to, and the City's acceptance of new streets and public rights-of-way the City, the City shall provide on-going operation and maintenance for those streets, rights-of ways and roadways. Emergency street maintenance to street facilities not otherwise maintained by the County or TxDOT, under their respective governmental authority, will be provided by the City, as of the effective date of the annexation. Routine maintenance program, in accordance with the current policies and procedures of the City. It is anticipated that the implementation of these activities can be effectively accommodated within the City's current budget and staff appropriation.

STORM WATER MANAGEMENT

Existing Services: Bastrop County

Services to be Provided: Upon annexation, the City Public Works Department and Planning and Development Department will provide maintenance on existing public drainage systems and floodplain management in the annexed areas. The same standard of drainage maintenance and floodplain regulations provided to other residents of the City, as per the City's regulations and Code in affect at the time of development, shall be provided to property owners within the annexed area. Developers will provide storm water drainage and meet floodplain requirements as per the City's Code, regulations and policies, and such facilities will be inspected by the City's Engineer at the time of completion of such facilities. The City will maintain public drainage facilities within the City right-of-way, as per the City's Code, regulations and policies. It is anticipated that the implementation of these activities can be effectively accommodated within the City's current budget and staff appropriation.

STREET LIGHTING

Existing Services: None

Services to be Provided: Upon annexation, the City of Bastrop will maintain public street lighting over which the City has jurisdiction, and as part of this municipal service, will coordinate any request for improved street lighting with the appropriate and certificated electric provider, in accordance with State and local laws, and the City's and other providers' policies and agreements. It is the policy of the City of Bastrop that adequate street lighting for the protection of the public and property be installed in all new subdivisions. Installation procedures and acceptable standards for street lights shall be governed by the utility standards of the City of Bastrop in effect at the time of subdivision construction or additions thereto. It is anticipated that the implementation of these activities can be effectively accommodated within the City's current budget and staff appropriation.

WATER SERVICE

Existing Services: Aqua Water Supply Corporation

Services to be Provided: Water service to the area will be provided by Aqua Water Supply Corporation and/or in accordance with the applicable State law and City Codes, regulations and/or policies applicable to the certified service areas. When property develops, water service shall be provided in accordance with State law or contractual agreements in affect and controlling the areas to be served. When applicable, extension of City services by the Developer or the City shall comply with the City's Code, regulations and policies. Extensions of another provider's facilities shall be done in accordance with the regulations of the authorized provider, and may also include infrastructure that meets certain City requirements. It is anticipated that the implementation of these activities can be effectively accommodated within the City's current budget and staff appropriation.

Water CCN area is shown on attached Exhibit "F."

SANITARY SEWER SERVICE/WASTEWATER SERVICE

Existing Services: None – On Site Septic Facilities

Services to be Provided: Sanitary sewer service to the area of proposed annexation will be provided in accordance with applicable State and local regulations and policies and in accord with all applicable laws, and Codes. As property develops in the future, the sanitary sewer service shall be provided in accordance with the then existing City policies, Codes, regulations and policies in affect at that time and as applicable to similarly situated tracts located within the City's corporate limits, including, when applicable the City's then existing extension Ordinance and/or policy.

Wastewater CCN area is shown on attached Exhibit "G."

Annexation Service Plan for 2011 Annexations

Number 10

SOLID WASTE SERVICES

Existing Services: Varies, by contract.

Services to be Provided: If, at the date of annexation, controlling private solid waste service contracts are in place between property owners and service providers within the annexed area, property owners may elect to continue to have such services pursuant to the contracts for up to 2 years following annexation. At the end of two years or earlier if desired by the property owners, sold waste services to the area will be provided as per the City's then existing franchises, contracts or agreements. At this time, solid waste collection in the City of Bastrop is provided by Allied Waste, pursuant to a franchise ordinance controlling the terms of such service. Solid waste collection and disposal services shall comply with existing City policies, and regulations. City of Bastrop services available for the City's residential customers (via Allied Waste) currently includes garbage, recycling, and yard trimmings collection. It is anticipated that the implementation of these activities can be effectively accommodated within the City's current budget and staff appropriation.

PARKS AND RECREATION:

Existing Services: None

Services to be Provided: No City parks, playgrounds, and/or swimming pools exist within the proposed annexation area, as of the time of annexation. At the time such parks and recreational facilities are developed in the annexed area, the City of Bastrop's standards and policies in force within the City limits at that time will be followed in maintaining and expanding recreational facilities to serve the annexed area. Upon annexation, the owners and residents of property located within the annexed area shall be entitled to the use of all City of Bastrop parks and recreational facilities, subject to the same restrictions, fees, and availability that pertains to the use of those facilities by other citizens of the City. It is anticipated that the implementation of these activities can be effectively accommodated within the City's current budget and staff appropriation.

BUSINESS LICENSES AND REGULATIONS

Existing Services: None

Services to be Provided: At the time of annexation, existing businesses shall be grandfathered for continuing operation. Otherwise, upon annexation, the provisions of Chapter 4 of the City Code of Ordinances relating to business licenses and regulations (Carnivals Circuses and Other Exhibitions; Electrician's Licenses; Gross Receipts Charge or Street Rental; Peddlers and Solicitors; Taxicabs, Buses and Other Vehicles for Hire; Horse Drawn Carriages and other Non-Motorized Vehicles for Hire; Sexually Oriented Businesses; and Alcoholic Beverages) shall apply in the annexed area. It is anticipated that the implementation of these activities can be effectively accommodated within the City's current budget and staff appropriation.

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ELECTRIC SERVICE:

Existing Services: Bluebonnet Electric Cooperative

Services to be Provided: Bluebonnet Electric will continue to provide electric utility service to all areas in which it is the authorized provider, pursuant to its authority granted by the State and/or the Public Utility Commission of Texas.

Bluebonnet's Electric CCN area is shown on attached Exhibit "H."

TRAFFIC ENGINEERING:

Existing Services: None

Services to be Provided: The City of Bastrop's Public Works Department will provide, after the effective date of annexation, any additional traffic control devices as may be deemed necessary by the City.

Traffic engineering, upon development in the annexed areas, shall comply with City of Bastrop Codes, regulations and policies in affect at that time. It is anticipated that the implementation of these activities can be effectively accommodated within the City's current budget and staff appropriation.

MISCELLANEOUS

All other applicable municipal services will be provided to the area in accordance with the City of Bastrop's established policies governing extension of municipal services to newly annexed and similarly situated areas.

CAPITAL IMPROVEMENTS, AVAILABILITY AND LEVEL OF SERVICES

The areas annexed in 2011 will be included with all other areas of the City for future planning for any new or expanded facilities, functions and service to be funded by future capital improvements programs of the City. The priorities assigned by these plans are driven be a desire to maintain and equitable level of service to all areas of the City, with the same population density, land use and topographical characteristics, and in accord with State and local laws.

Nothing in this plan shall require that the City provide a uniform level or municipal service to each area of the City, including annexed areas, if difference characteristics of topography, land use, and population densities are sufficiently distinct to justify a different level of service by the City, or when other service providers areas of service and/or other existing and contractual agreements provide for such service.

AMENDMENTS

The City Council may amend the Service Plan to conform to the changed conditions or subsequent occurrences pursuant to the Texas Local Government Code or accommodate significant changes in the population and density characteristics of the 2011 Annexation Area.

Annexation Service Plan for 2011 Annexations

USE OF PROPERTY

In accordance with Texas Local Government Code Section 43.002, Continuation of Land Use, all legal uses of property in the 2011 Annexation Area shall be allowed by the City to continue in the manner in which the property was being used on May 23, 2003.

CONFLICTS

In the event that any provision of this Service Plan conflicts with any other plan, comprehensive plan, or program of the City of Bastrop, the provision contained in this Service Plan shall control.

STAFFING

Staffing of City services will be provided to the level necessary to provide equal services to all residents.

Annexation Service Plan for 2011 Annexations





STAFF REPORT

MEETING DATE: August 22, 2023

TITLE:

Consider action to approve Resolution No. R-2023-124 of the City Council of the City of Bastrop, Texas approving and adopting the Investment Policy and Investment Strategies attached as Exhibit A; approving the list of Qualified Brokers attached as Exhibit B; making various provisions related to the subject; and establishing an effective date.

AGENDA ITEM SUBMITTED BY:

Submitted by: Tracy Waldron, Chief Financial Officer

BACKGROUND/HISTORY:

Provided in the Public Funds Investment Act (PFIA) section 2256.005(e) the governing body will review the Investment Policy annually and provide a written instrument stating that it has reviewed the Policy. The Act requires that a list of qualified brokers be approved annually. No changes are recommended to this list. There were no legislative updates to the Public Funds Investment Act this year. Staff has recommended the following changes to this policy:

- Option to use a third-party investment advisor.
 - Added specific language about Certificate of Deposits issued by Credit Unions (suggestion from CD broker)
 - Extending average dollar-weighted maturity of investments from one to three years
 - Extending final stated maturity from three to five years.

The Chief Financial Officer is the Investment Officer per the policy. The training requirement for this position will be required of the person accepting the job. This training is only required every two years.

This policy, as approved on August 24, 2021, was submitted to the Governmental Treasurer's Organization of Texas to be evaluated for the Certificate of Distinction. This program confirms that the City's Investment policy follows the PFIA. This certification is good for two years ending June 30, 2024.

FISCAL IMPACT:

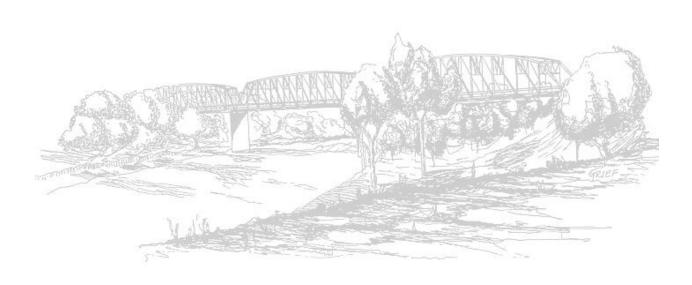
N/A

RECOMMENDATION:

Tracy Waldron, CFO recommends approval of Resolution No. R-2023-124 of the City Council of the City of Bastrop, Texas approving and adopting the Investment Policy and Investment Strategies attached as Exhibit A; approving the list of Qualified Brokers attached as Exhibit B; making various provisions related to the subject; and establishing an effective date.

ATTACHMENTS:

- Resolution No. R-2023-124 •
- Investment Policy and Investment Strategies Exhibit A List of Qualified Brokers Exhibit B •
- •



RESOLUTION NO. R-2023-124

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING AND ADOPTING THE INVESTMENT POLICY AND INVESTMENT STRATEGIES ATTACHED AS EXHIBIT A; APPROVING THE LIST OF QUALIFIED BROKERS ATTACHED AS EXHIBIT B; MAKING VARIOUS PROVISIONS RELATED TO THE SUBJECT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Public Funds Investment Act, Texas Government Code Ann., Chapter 2256 (the "Act"), provides that the governing body of an investment entity shall adopt a written investment policy and investment strategies regarding the investment of its funds; and

WHEREAS, the Act provides that the governing body of an investing entity shall review its investment policy and investment strategies not less than annually; and

WHEREAS, the City Council has reviewed the investment policy and investment strategies; and

WHEREAS, the Act provides that the governing body of an investing entity shall review, revise and adopt its list of qualified brokers at least annually.

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

<u>Section 1:</u> The City Council of the City of Bastrop, Texas, approves and adopts the Investment Policy and Investment strategies attached hereto as Exhibit A and list of Qualified Brokers Exhibit B made a part hereof by this reference.

Section 2: Any prior resolution of the City Council in conflict with the provisions contained in this resolution are hereby repealed and revoked.

<u>Section 3:</u> Should any part of this resolution be held to be invalid for any reason, the reminder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

Section 4: This resolution shall take effect immediately from and after its passage, and duly resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop, Texas this 22nd day of August 2023.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

Exhibit A



Investment Policy

DRAFT AUGUST 22, 2023

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INTRODUCTION

The purpose of this document is to set forth specific investment policy and strategy guidelines for the City of Bastrop to achieve the goals of safety, liquidity, yield, and public trust for all investment activity. The City Council of the City of Bastrop shall review its investment strategies and policy annually. This policy serves to satisfy the statutory requirement (specifically the Public Funds Investment Act. Texas Government Code, Chapter 2256 (the "Act") to define, adopt and review a formal investment strategy and policy. The policy provides conformance to all statutes, rules, and regulations governing the investment of public funds.

INVESTMENT STRATEGY

The City of Bastrop may maintain separate portfolios, or one commingled portfolio which utilize four specific investment strategy considerations designed to address the unique characteristics of the fund groups represented in the portfolios. The investment objective for each portfolio will maintain the following priorities in order of importance: preservation and safety of principle, liquidity, diversification, understanding of the suitability of the investment to the financial requirements of the City, marketability of the investment and lastly yield.

The objective for all operating fund accounts will be to ensure that anticipated cash flows are matched with adequate investment liquidity. An additional objective is to create a diversified portfolio structure, which will experience minimal volatility during economic cycles. This may be accomplished by purchasing high quality, short- to medium-term securities, which will complement each other in a laddered or barbell maturity structure. The maximum dollar weighted average maturity of 1 year or less will be calculated using the stated final maturity date of each security.

Debt service funds shall have as their objective the assurance of investment liquidity adequate to cover the debt service obligation on the required payment date. No extended investment may be made unless the prior debt service dates are fully funded.

Debt service reserve fund's primary objective is the ability to generate a revenue stream to the appropriate debt service fund from securities with a low degree of volatility. Securities should be high quality and, except as may be required by the bond ordinance specific to an individual issue, of short to intermediate-term maturities. Volatility shall be further controlled through the purchase of securities, within the desired maturity and quality range.

Special projects or special purpose fund portfolios will have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. These portfolios should include at least 10% in highly liquid securities to allow for flexibility and unanticipated project outlays. The state final maturity dates of securities held should not exceed the estimated project completion date.

Perpetual Care funds will have as the primary objective to ensure that the preservation and safety of the principle is the highest priority while experiencing higher yield over a longer period due to the nature of the fund.

SCOPE

This investment policy applies to all financial assets of the City of Bastrop. These funds are accounted for in the City's Annual Financial Report and include the General Fund, Special Revenue Funds, Debt

Service Funds, Capital Projects Funds, Enterprise/ Proprietary Funds, Fairview Cemetery Perpetual Care Fund, and any new fund unless specifically exempted by the City Council.

OBJECTIVES

The primary objective of the City's investment activity is the preservation of capital in the overall portfolio. Each investment transaction shall be conducted in a manner to avoid capital losses, whether they are from securities defaults or erosion of market value. All investments shall be designed and managed in a manner responsive to the public trust and consistent with State and local law.

The City shall maintain a comprehensive cash management program, which includes collection of accounts receivable, vendor payment in accordance with invoice terms, and prudent investment of available cash. Cash management is defined as the process of managing monies to insure maximum cash availability and maximum yield on short-term investment of pooled idle cash.

The City's investment portfolio shall be structured such that the City is able to meet all obligations in a timely manner. This shall be achieved by matching investment maturities with forecasted cash flow requirements, by investing in securities with active secondary markets.

The City's cash management portfolio shall be designed with the objective of regularly matching or exceeding the yield on comparable U.S. Treasury Bill. The investment program shall seek to augment returns above this threshold consistent with risk limitations identified herein and prudent investment policies.

DELEGATION OF RESPONSIBILITY

INVESTMENT OFFICER

Under the direction of the City Manager, the Chief Financial Officer is designated as investment officer of the City and is responsible for investment decisions and activities. The investment officer shall attend at least ten (10) hours of training relating to the officer's responsibility under the Act within 12 months of taking officer or assuming duties. Thereafter, eight (8) hours of training must be completed every two fiscal years. The training cycle is concurrent with the city's fiscal year. Training must be received from an independent source, approved by the entity's governing body or investment committee, and must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with PFIA. If deemed appropriate, the City may engage the services of an outside registered investment advisor.

The Investment Officer shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair the ability to make impartial investment decisions. City staff shall disclose to the City Manager any material financial interests in financial institutions that conduct business with the City, and they shall further disclose positions that could be related to the performance of the City's portfolio. City staff shall subordinate their personal financial transactions to those of the City, particularly with regard to timing of purchases and sales.

An investment officer of the City who has a personal business relationship with an organization seeking to sell an investment to the City shall file statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship. A statement

required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity.

CITY COUNCIL

The City Council holds ultimate fiduciary responsibility for the portfolio. It will receive and review quarterly reporting, approve broker/dealers, and review and adopt the Investment Policy and Strategy at least annually.

PRUDENCE

The standard of prudence to be applied by the investment officer shall be the "prudent investor" rule, which states:

"Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."

In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- 1. The investment of all funds, or funds under the City's control, over which the officer has responsibility rather than a consideration as to the prudence of single investment.
- 2. Whether the investment decision was consistent with the written investment policy of the City.

The investment officer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported immediately, and that appropriate action is taken to control adverse developments.

REPORTING

The Chief Financial Officer shall submit a written and signed quarterly investment report of investment transactions for the preceding reporting period to the City Manager and City Council. The report will include a description in detail of the investment position of the City, to include:

- 1. describe in detail the investment position of the entity on the date of the report;
- 2. a summary of investments, and their beginning market value, additions and changes to the market value during the period, ending market value;
- 3. fully accrued interest for the reporting period;
- 4. a description of each investment;
- 5. The market value of the portfolio must be determined at least monthly. Market prices will be obtained from an independent source.
- 6. state the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;
- 7. state the maturity date of each separately invested asset that has a maturity date;
- 8. state the compliance of the investment portfolio to the investment policy and strategy and the

Investment Policy – Page 3

Act.

If the City invests in other than money market mutual funds, investment pools or bank time and demand accounts in any bank the reports prepared by the investment officers under this section shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

INVESTMENT PORTFOLIO

ACTIVE PORTFOLIO MANAGEMENT

The City shall pursue a conservative pro-active versus passive portfolio management philosophy. That is, securities may be sold before they mature if market conditions present an opportunity for the City to benefit from the trade. The investment officer will routinely monitor the contents of the portfolio, the available markets, and the relative value of competing instruments, and will adjust the portfolio accordingly. The City is not required to liquidate investments that were authorized investments at the time of the purchase. All prudent measures will be taken to liquidate an investment that is downgraded to less than the required minimum rating.

INVESTMENTS

Assets of the City of Bastrop may be invested only in the following instruments as further defined in the Act. At least 3 competitive offers or bids must be obtained for all individual security purchases and sales. These bids can be obtained orally, in writing, electronically or any combination of these methods. (Transactions with money market mutual funds, local government investment pools and when- issued securities shall also be evaluated with comparable investments).

AUTHORIZED

- a. Obligations of the United States Government, or its agencies and instrumentalities, including the Federal Home Loan Banks.
- b. General debt obligations of any US state or political subdivision rated AA or better.
- c. Other obligations, the principal of and interest on which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States.
- d. FDIC insured or collateralized depository certificates of deposit from banks collateralized in accordance with this policy and with a maximum maturity of three years.
- e. FDIC insured brokered certificate of deposit securities issued by any US state delivered versus payment to the City's safekeeping agent not to exceed three years to maturity. Before purchase, the investment officer must verify the FDIC status of the bank on www.fdic.gov to assure the bank is FDIC insured.

e.f. Certificate of deposit or share certificate if issued by a depository institution that is guaranteed

or insured by the Federal Deposit Insurance Corporation (FDIC) or its successor or the National Credit Union Share Insurance Fund (NCUSIF) or its successor and secured by obligations described in the Public Funds Investment Act, Sec. 2256-009.

- f.g. AAA-rated, Local government investment pools in Texas which strive to maintain a \$1 net asset value (NAV) as defined by the Act and authorized by resolution of the City Council.
- g.<u>h.</u>Commercial paper rated A1/P1 or equivalent by two rating agencies with a maximum maturity of 365 days or fewer from the date of the issuance.
- h.i. FDIC insured or collateralized Interest bearing and money market accounts in any bank in Texas.
- i.j._AAA-rated, SEC registered money market funds striving to maintain a \$1 NAV.
- j.k. No-load Money Market Mutual Fund for investment of the perpetual care funds only, that is registered with and regulated by the Securities and Exchange Commission, provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 and complies with Federal Securities and Exchange Commission Rules 2a-7.

NOT AUTHORIZED

The City's authorized investments options are more restrictive than those allowed by state law. State law specifically prohibits investment in the following investment securities:

- a. An obligation whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.
- b. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.
- c. Collateralized mortgage obligations that have a state final maturity date of greater than 10 years.
- d. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

HOLDING PERIOD

The City of Bastrop intends to match the maturities with liability and liquidity needs of the City. In no case, will the average dollar-weighted maturity of investments of the City's operating funds exceed one three years. The maximum final stated maturity of any investment shall not exceed three five years.

RISK AND DIVERSIFICATION

The City recognizes that investment risks can result from issuer defaults, market price changes or various technical complications leading to temporary illiquidity. Risk is controlled through portfolio diversification, which shall be achieved by the following general guidelines:

Risk of issuer default is controlled by limiting investments to those high credit quality instruments allowed by the Act, further restricted by policy.

Market risk can be limited by avoiding over-concentration assets in a specific maturity sector and limitation of average maturity of operating funds investment to two years.

SELECTION OF BANKS AND DEALERS

DEPOSITORY

At least every five years a Depository shall be selected through the City's banking services procurement process, which shall include a formal request for proposal (RFP). In selecting a depository, the services, costs, earning potential and credit worthiness of institutions shall be considered. The Chief Financial Officer shall conduct a comprehensive review of prospective depositories' credit characteristics and financial history.

SECURITY BROKER/DEALERS

All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the following as appropriate:

- audited financial statements.
- proof of Financial Industry Regulatory Authority (FINRA) certification
- proof of Texas registration
- policy certification of review of the City's investment policy signed by an authorized representative of the organization to include acknowledgment that the firm has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity's entire portfolio or requires an interpretation of subjective investment standards.

LIST OF QUALIFIED BROKERS

The City Council will annually adopt, by resolution a list of authorized brokers to engage in investment transactions with the City. Each broker/dealer will provide the required policy certification before any transaction can be executed.

COLLATERAL, SAFEKEEPING AND CUSTODY

TIME AND DEMAND DEPOSIT PLEDGED COLLATERAL

All bank time and demand deposits shall be secured by pledged collateral. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 102% of market value of principal and accrued interest on the deposits less an amount insured by the FDIC. Evidence of the pledged collateral shall be provided by the Custodian. Reports of collateral shall be provided directly from the custodian on a monthly basis.

Collateral pledged to secure deposits of the City shall be held by an independent financial institution outside the holding company of the depository in accordance with a written safekeeping agreement under the terms of FIRREA. The safekeeping agreement shall clearly define the procedural steps for gaining access to the collateral should the City determine that the City's funds are in jeopardy. The

safekeeping institution shall be the Federal Reserve Bank or an institution not affiliated with the firm pledging the collateral.

AUTHORIZED COLLATERAL DEFINED

The City of Bastrop shall accept only the following securities as collateral:

- 1. FDIC insurance coverage.
- 2. Obligations of the US Government, its agencies and instrumentalities including mortgagebacked securities and CMO which pass the bank test.
- 3. Obligations, the principal and interest on which, are unconditionally guaranteed or insured by the State of Texas.
- 4. Securities from any US state and its subdivisions rated as A or better by two national recognized rating agencies.

SUBJECT TO AUDIT

All collateral shall be subject to inspection and audit by the Chief Financial Officer or the City's independent auditors.

INTERNAL CONTROLS

The Chief Financial Officer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management. Accordingly, the Chief Financial Officer shall establish a process for an annual independent review by an external auditor to assure compliance with policies and procedures. The internal controls shall address the following points:

- Control of collusion.
- Separation of transaction authority from accounting and record keeping.
- Custodial safekeeping.
- Clear delegation of authority to subordinate staff members.
- Written confirmation for telephone (voice) transactions for investments and wire transfers.

Annually the Investment Officer shall perform an internal compliance audit to assure compliance with requirements of this Policy and the Act. Annually, the City's external auditor shall review the quarterly reports.

CASH FLOW FORECASTING

Cash flow forecasting is designed to protect and sustain cash flow requirements of the City. The Investment Officer will analyze and maintain a cash flow plan to monitor and forecast cash positions for Investment purposes.

DELIVERY VS. PAYMENT SECURITY SETTLEMENT

All securities shall be settled into City safekeeping using the delivery vs. payment method. That is, payments shall not be made until the correct security was received by the safekeeping agent. The security shall be held on behalf of the City. The Trustee's records shall assure the notation of the City's ownership of or explicit claim on the securities. The original copy of all safekeeping receipts shall be delivered to the City by the safekeeping agent.

LOSS OF CREDIT RATING

The investment officer shall monitor, on no less than a monthly basis, the credit rating on all authorized investments in the portfolio requiring ratings based upon independent information from a nationally recognized rating agency. If any security falls below the minimum rating required by Policy, the Investment Officer shall notify the City Manager of the loss of rating, conditions affecting the rating and possible loss of principal with liquidation options available.

MONITORING FDIC COVERAGE

The Investment Officer shall monitor, on no less than a weekly basis, the status and ownership of all banks issuing brokered CDs owned by the City based upon information from the FDIC. If any bank has been acquired or merged with another bank in which brokered CDs are owned, the investment officer shall immediately liquidate any brokered CD which places the City above the FDIC insurance level.

INVESTMENT POLICY ADOPTION

The City of Bastrop Investment Policy shall be reviewed and adopted by resolution of the City Council on at least an annual basis. Any changes made to the policy shall be reflected in the adopting resolution.

Last Adopted: August 23, 2022

GLOSSARY OF TREASURY TERMS

Agencies: Federal agency securities.

Asked: The price at which securities are offered to be sold to the City.

Bid: The price at which the City would sell its securities.

Broker: A broker brings buyers and sellers together for a commission paid by the initiator of the transaction or by both sides; he does not position.

Certificate of Deposit (CD): A time deposit with a specific maturity evidenced by a certificate. Largedenomination CD's are typically negotiable.

Collateral: Securities, evidence of deposit or other property, which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies and used to define the securities bought and sold under a repurchase agreement signifying ownership by the City.

Comprehensive Annual Financial Report (CAFR): The official annual report for the City of Bastrop. It includes five combined statements and basic financial statements for each individual fund and account group prepared in conformity with GAAP. It also includes supporting schedules necessary to demonstrate compliance with finance-related legal and contractual provisions, extensive introductory material, and detailed statistical section.

Coupon: (a) The annual rate interest that a bonds' issuer promises to pay the bondholder on the bond's face value. (b) A certificate attached to bond evidencing interest due on a payment date.

Dealer: A dealer, as opposed to a broker, carries an inventory of securities and may act as a principal in all transactions, buying and selling for his own account.

Debenture: A bond secured only by the general credit of the issuer.

Delivery versus Payment (DVP): Delivery versus payment means delivery of securities with a simultaneous exchange of money for the securities. It guarantees that the City always has control of its security or its fund.

Discount: The difference between the cost price of security and its value at maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

Discount Securities: Non-interest bearing, money market instruments that are issued at a discount and redeemed at maturity for full face value, for example: U.S. Treasury bills.

Diversification: Dividing investment funds among a variety of securities offering independent returns.

Federal Credit Agencies: Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, for example: S&L's, small business firms, students, farmers, farm cooperatives, and exporters.

Federal Deposit Insurance Corporation (FDIC): A federal agency that insures bank deposits, currently up to \$250,000 per depositor.

Federal Funds Rate (the "Fed Rate"): The rate of interest at which Federal funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

Federal Home Loan Banks (FHLB): The institutions that regulate and lend to savings and loan associations. The Federal Home Loan Banks play a role analogous to that played by the Federal Reserve Banks in relation to member commercial banks.

Federal National Mortgage Association (FNMA or Fannie Mae): FNMA, like GNMA, was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development, H.U.D. It is the largest single provider of residential mortgage funds in the United States. Fannie Mae is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and secondary loans in addition to fixed-rate mortgages. FNMA's securities are highly liquid and widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

Federal Open Market Committee (FOMC): Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The president of the New York Federal Reserve Bank is a permanent member while the other presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of government securities in the open market as a means of influencing the volume of bank credit and money.

Federal Reserve System: The central bank of the United States created by Congress and consisting of a seven-member Board of Governors in Washington, D.C., twelve (12) regional banks, and about 5,700 commercial banks that are members of the system.

Liquidity: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable quantities can be purchased at those quotes.

Local Government Investment Pool (LGIP): A local cooperative of a political subdivisions allowing for joint investment and reinvestment of assets.

Market Value: The price at which a security is trading and could presumably be purchased or sold.

Master Repurchase Agreement: A simultaneous buy-sell transaction used primarily for short term investing performed only under a Bond Market Association Master Repurchase Agreement. The master agreement defines the transaction, identifies the relationship between the parties, establishes practices regarding ownership and custody of the securities during the term of the investment, provides remedies in the case of default, and clarifies ownership.

Maturity: The date on which the principal or stated value of an investment becomes due and payable.

Money Market: The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

Open Market Operations: Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

Portfolio: Collection of securities held by an investor.

Primary Dealer: A primary dealer is designated by the NY Fed with strong restrictions which submits daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and is subject to its formal oversight. The list of current primaries is found on the www.nyfed.gov.

Prudent Person Rule: An investment standard. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

Rate of Return: The rate obtainable on a portfolio or security based on its purchase price or its current market price. A rate of return portfolio is based on and traded to parallel an index and indicates active trading of the portfolio.

Repurchase Agreement (RP or REPO): A buy-sell transaction in which a holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money increasing bank reserves.

Safekeeping: A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

SEC Rule 15C3-1: See uniform net capital rule.

Secondary Market: A market made for the purchase and sale of outstanding issues following the initial distribution.

Securities & Exchange Commission (SEC): Agency created by Congress to protect investors in securities transactions by administering securities legislation.

Treasury Bills (T Bills): A non-interest-bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months or one year.

Treasury Bond: The longest U.S. Treasury securities being auctioned at the time – usually 30-year maturity.

Treasury Notes: Intermediate-term, coupon-bearing U.S. Treasury securities having initial maturities from two to ten years.

Uniform Net Capital Rule: Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital

of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

Yield: The rate of annual income returns on an investment, expressed as a percentage. (a) Income Yield is obtained by dividing the current dollar income by the current market price of the security. (b) Net Yield or Yield to Maturity is the current income yield minus any premium above par.

EXHIBIT B

Eligible Broker/Dealer List August 22, 2023

BROKER

Financial Northeastern Companies

Multi-Bank Securities, Inc.



STAFF REPORT

MEETING DATE: August 22, 2023

TITLE:

Consider action to approve Resolution No. R-2023-125, of the City Council of the City of Bastrop, Texas, approving the City of Bastrop Purchasing Policy, which is attached as Exhibit A; providing for a repealing clause; and establishing an effective date.

AGENDA ITEM SUBMITTED BY:

Submitted by: Tracy Waldron, Chief Financial Officer

BACKGROUND/HISTORY:

This policy was previously adopted on August 23, 2022. This policy is to be reviewed and approved by City Council annually as a part of the budget process.

This policy was reviewed by all finance staff and there are not any recommended changes this year.

FISCAL IMPACT:

N/A

RECOMMENDATION:

Tracy Waldron, CFO recommends approval of Resolution No. R-2023-125 of the City Council of the City of Bastrop, Texas, approving the City of Bastrop Purchasing Policy, which is attached as Exhibit A; providing for a repealing clause; and establishing an effective date.

ATTACHMENTS:

- Resolution No. R-2023-125
- Purchasing Policy

RESOLUTION NO. R-2023-125

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING THE CITY OF BASTROP PURCHASING POLICY, WHICH IS ATTACHED AS EXHIBIT A; PROVIDING FOR A REPEALING CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the responsibility of local government to ensure that public funds are managed in a prudent and financially sound manner; and

WHEREAS, the City of Bastrop Purchasing Policy was last adopted by City Council on August 24, 2021; and

WHEREAS, the Chief Financial Officer and the City Manager have performed an annual review of the Purchasing Policy; and

WHEREAS, the City Attorney has reviewed the City of Bastrop Purchasing Policy and found it to be in compliance with all State procurement laws; and

WHEREAS, the City Council requests that the Purchasing Policy be reviewed and adopted annually by Council as a part of the budget adoption process to ensure this policy is current with State Law and appropriately addresses operational needs.

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

<u>Section 1</u>. The City Council hereby approves the City of Bastrop Purchasing Policy, which is attached as Exhibit A, and requests that it be reviewed and adopted annually as a part of the budget adoption process.

Section 2. All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 3. This resolution shall take effect immediately from and after its passage, and it is duly resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 22nd day of August 2023.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney



Purchasing Policy

DRAFT AUGUST 22, 2023

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PAYMENT OF FUNDS

PURPOSE

It is the policy of the City of Bastrop that all purchasing shall be conducted strictly based on economic and business merit. This policy is intended to promote the best interest of the citizens of the City of Bastrop, Texas.

The City of Bastrop intends to maintain a cost-effective purchasing system conforming to good management practices. The establishment and maintenance of a good purchasing system is possible only through cooperative effort. It must be backed by proper attitudes and cooperation of not only every Department Director and Official, but also every Supervisor and Employee of the City of Bastrop.

The purchasing process is not instantaneous. Time is required to complete the steps required by State law. In order to accomplish timely purchasing of products and services, at the least cost to the City of Bastrop, all departments must cooperate fully. Prior planning and the timely submission of requisitions are essential to expedite the purchasing process and to assure that the process is orderly and lawful.

This Policy reaffirms the City of Bastrop's commitment to strengthen purchasing and property controls to reasonably assure that assets are received and retained in the custody of the City of Bastrop.

CODE OF ETHICS

It is important to remember that when employees are participating in the purchasing process, they represent the City of Bastrop. By participating in the purchasing process, employees of the City of Bastrop agree to:

- a. Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.
- b. Demonstrate loyalty to the City of Bastrop by diligently following the lawful instructions of the employer, using reasonable care, and only authority granted.
- c. Refrain from any private business or professional activity that would create a conflict between personal interests and the interest of the City of Bastrop.
- d. Refrain from soliciting or accepting money, loans, credits, or prejudicial discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence or appear to influence purchasing decisions.
- e. Handle confidential or proprietary information belonging to employer or suppliers with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- f. Promote positive supplier relationships through courtesy and impartiality in all phases of the purchasing cycle.
- g. Expose corruption and fraud wherever discovered.
- h. Texas Law prohibits component purchasing, separate purchasing and sequential purchasing of any kind. An employee commits an offense by intentionally or knowingly making or authorizing component, separate or sequential purchasing to avoid the competitive bidding requirements.
- i. Adherence to the City's Ethics Ordinance is mandatory. If there is a conflict between the two Ethics policies, the stricter of the two would apply.

COMPETITIVE PURCHASING REQUIREMENTS

The City of Bastrop policy requires three quotes for purchases over \$3,000. The only exceptions to this rule are for items purchased under a cooperative contract, sealed bid award, sole source purchases or purchases for an emergency.

Under no circumstances shall multiple requisitions be used in combination to avoid otherwise applicable bidding requirements or City Council approval.

WHO IS AUTHORIZED TO MAKE PURCHASES?

Purchases will only be processed if authorized by a Department Head or approved representative in an employee's direct chain of command.

INSTRUCTIONS FOR SOLICITING BIDS

When soliciting bids, City of Bastrop buyers must follow the steps below:

- 1. Give the same exact specifications to each vendor.
- 2. Give each bidder same deadline for turning in bids.

City of Bastrop buyers must inform vendors that bids submitted are all inclusive. Any charges for freight and handling, fuel fees or other costs must be included in the bid. To obtain contract status, the Department Head is responsible for first adhering to the procurement requirements stated below. City Manager approval or his designee is required.

PURCHASING CONTROL

Authorization levels established within the ERP system for appropriations previously approved by the City Council are as follows:

- Directors' or their designee not to exceed \$9,999.99
- Chief Financial Officer or designee up to \$14,999.99
- City Manager or designee approving purchases exceeding \$15,000.00

All purchases requiring a purchasing summary must have an approved purchase order before placing the order.

FLEET PURCHASES

The Finance Department will create a Fleet Appropriations List at the beginning of every fiscal year based on the adopted budget. A unit number will be assigned to each vehicle and equipment included on this list. This list will be distributed to each department with vehicles and equipment on the list.

Each department will complete and submit their purchasing summaries to the Finance Department, which should include the unit number assigned, as close to October 1st as possible. The purchasing summaries will be checked against the Fleet Appropriations List and reviewed for accuracy and

completeness. Once reviewed by the Finance Department, the summaries will go to the City Manager for approval.

Upon approval by the City Manager, a purchase order will be created and authorized by the Finance Department for each approved purchasing summary. At the time of issuance of the purchase order, budgeted funds will be encumbered to prevent the funds from being reallocated.

Approved purchase orders will be sent to each department with authorized vehicles and equipment on the Fleet Appropriations List. Once the department has received the approved purchase order, fleet orders can be placed with the selected vendor.

DOLLAR LIMITATIONS

The following dollar limitations should be used as a guideline. These limitations may not apply in all cases. Dollar limitations pertain to total purchase or invoice total not per single item cost. It is the Department Directors responsibility to ensure Purchasing policies are being adhered to.

\$0.01-\$3,000: Purchases of non-contract goods or services totaling \$3,000 or less require no quotation but are recommended.

If invoices for a single service contractor combine to total greater than \$3,000 in a fiscal year, the city will require the standards of \$3,001 to \$49,999 for purchasing to apply. As clearly identified in the Code of Ethics item h. Texas Law prohibits component purchasing, separate purchasing and sequential purchasing of any kind. An employee commits an offense by intentionally or knowingly making or authorizing component, separate or sequential purchasing to avoid the competitive bidding requirements.

Note that an employee does not commit an offense by making or authorizing component, separate, or sequential purchasing to address unexpected circumstances (such as unanticipated repairs) rather than to avoid competitive bidding requirements. Accordingly, if invoices for a single service contractor combine to total greater than \$3,000 in a fiscal year due to unexpected circumstances (and not to avoid competitive bidding requirements), the standards that apply to purchase totaling \$3,001 to \$49,999 will not apply.

If you have questions about which standards apply, contact the Finance Department.

\$3,001-\$49,999: Except where otherwise exempted by applicable State law, purchases totaling \$3,001 to \$49,999 require three (3) written quotes attached to a Purchasing Summary Form and a purchase order provided to the Finance Department.

No purchase orders of non-contract goods or services will be issued in excess of \$15,000 without City Manager or his designee prior approval.

If the lowest responsible quote is not selected, an explanation should be provided on the Purchasing Summary Form and approval by the City Manager will be required, no matter the dollar amount. Only the City Manager or his designee may determine "Best Value". The City Manager may elect to accept less than three quotes from a Director if due diligence has been documented by the Director in trying to adhere to the purchasing policy. A memo will be required from the Director providing a reason for their inability to obtain three written quotes and the scope of services being provided if applicable. It must be approved and signed by the City Manager and attached to each Purchasing Summary Form and purchase order provided to the Finance Department.

According to State Law, two (2) Historically Underutilized Businesses (HUBs) are to be contacted on a rotating basis. HUB vendors are obtained from the Texas Comptroller of Public Accounts website. If the list fails to identify a historically underutilized business in the county in which the municipality is situated, the municipality is exempt.

If purchasing through a cooperative purchasing alternative, i.e., BuyBoard, DIR, TXMAS provide only one (1) written quote; proof or identification that the quote is from a cooperative source, complete a Purchasing Summary Form and a purchase order. Any vendor specific contracts should be on file with the Finance Department prior to final approval being given if applicable. It is the Department Director's responsibility to ensure the cooperative information is on file with the Finance Department.

\$50,000+: Except as otherwise exempted by applicable State law, requisitions for item(s) whose aggregate total cost is more than \$50,000 must be processed as competitive solicitations (e.g., sealed bids, request for proposals, and request for offers). Texas Local Government Code, Subchapter B, Section 252.021 defines the requirements for competitive bids.

The Code requires that sealed bids and request for proposals (RFP) are advertised in a local newspaper for two consecutive weeks prior to the bid opening. All bids must be received sealed and turned in to the City Secretary's Office by the date and time listed in the bid. Any bids received after the stated time will be returned unopened. The bid opening process is open to the public and all vendors that respond to the specific are invited to attend. Questions concerning pricing will not be addressed at the opening. Contracts for services require Errors & Omissions coverage.

If purchasing through a cooperative purchasing alternative, i.e., BuyBoard, DIR, TXMAS provide only one (1) written quote; proof or identification that the quote is from a cooperative source, complete a Purchasing Summary Form and a purchase order. All cooperative vendor specific contracts should be on file with the Finance Department prior to final approval being given if applicable. It is the Department Director's responsibility to ensure the cooperative information is on file with the Finance Department. City Manager written approval is required.

Rental Agreement: Vendors who provide rental items to the city are required to carry insurance. The type and amounts of insurance required vary based on the item rented. The Chief Financial Officer must review all rental contracts before the contract is awarded.

PERSONAL OR PROFESSIONAL SERVICES

Under the Professional Services Procurement Act, a contract for the purchase of a personal or professional service is exempt from competitive bidding requirements. The City also provides exemption for the purchasing of planning services.

The City may not select providers of professional services based on competitive bids. In these situations, the City must make the selection and award based on demonstrated competence and qualifications for performing the services for a fair and reasonable price.

City of Bastrop Purchasing Po

Professional services may include:

- Accounting
- Architecture
- Landscape architecture
- Land surveying
- Medicine
- Optometry
- Engineering
- Real estate appraisal
- Nursing

According to the Texas Attorney General's Office professional services may include "members of disciplines requiring special knowledge or attainment and a high order of learning, skill and intelligence."

OTHER EXEMPTIONS

State law authorizes other categories of exempt purchases. Purchases from other governments, some auctions and going-out-of-business sales, and other purchases are exempt under provisions of the Local Government Code and Vernon's Statutes.

The following is a list of other areas that are exempt from competitive bidding requirements:

- 1. Land or right-of-way
- 2. Items that can be obtained from only one source, including:
 - a. items for which competition is precluded because of the existence of patents, copyrights, secret processes or monopolies;
 - b. films, manuscripts or books;
 - c. electric power, gas, water, and other utility services; and
 - d. captive replacement parts or components for equipment;
- 3. Food
- 4. Personal property sold:
 - a. at an auction by a state licensed auctioneer;
 - b. at a going-out-of-business sale; or
 - c. by a political subdivision of the state, a state agency, or an entity of the federal government
- 5. Any work performed and paid for by the day is exempt from the competitive bidding process.
- 6. Work performed under a contract for community and economic development made by a county designed to reasonably increase participation by historically underutilized businesses in public contract awards by establishing a contract percentage goal for HUB businesses.

SOLE SOURCE PURCHASES

Sole Source purchases must be approved by the City Manager before purchasing. These conditions occur when the purchase involves compatibility of equipment, accessories, or replacement parts or when the goods or services is a one-of-a kind or protected by a patent, copyright, secret process. The product is only available from a regulated or natural monopoly. The product is a component or repair part that may only be purchased from the original supplier. The following items are necessary to provide

sufficient justification for sole source purchase:

- 1. A memorandum to the City Manager with a statement must be attached to the Purchasing Summary Form that says enough vendors have been contacted to determine that only one practical source of supply exists or states the reasons only one source exists. This memorandum should include the City Manager's signature signifying his approval.
- 2. A bid from the sole source provider on company letterhead.
- 3. A letter from the vendor stating they are the sole supplier of the good.

A Purchasing Summary Form and purchase order is still required with the above information attached.

CHANGE ORDERS

According to purchasing law, the City of Bastrop may make changes to plans, specifications, or quantities after award of the contract, if necessary. However, no increase may exceed 25% of the original contract amount and any decrease of 25% or more must have the consent of the contractor.

Increases that cause a change in dollar limitations or purchasing law may supersede the 25% rule:

Example: If a contract is awarded for \$45,000, the allowable increase under the 25% rule would be \$11,250. However, this would cause the new price to exceed \$50,000, which by State law requires sealed bids and advertising. Increase would be limited.

Any change in a purchasing contract that exceeds 25% of the original amount will void the original contract.

MAKING THE PURCHASE

City of Bastrop buyers are responsible for making sure that the purchased good or service is received as specified. Under no circumstance should a buyer accept more goods or services than ordered. Employees are only authorized to purchase items that have been approved by their Department Head. A purchase over the original amount requires additional approval.

30 DAY ACCOUNTS PAYABLE CYCLE

Texas law requires municipalities to pay invoices within 30 days or be subject to the payment of interest. It is the responsibility of each department to make sure the signed invoices, purchase orders and any other required paperwork is submitted to the Finance Department as soon as the product is received, or service rendered.

It is the responsibility of Accounts Payable to pay all vendor invoices within 30 days of the date the services or products are received. If the invoice date is different from the service/product receipt date, the department will need to note on the invoice the date of receipt of the product or service. Any Variance between the purchase order and the vendor invoice must be reconciled and documented on the purchase order. Vendor payments can only be made for the original or modified purchase order amount.

EMERGENCY PROCEDURES

Valid emergencies are those that occur because of the breakdown of equipment which must be kept in operation to maintain the public's safety or health, or whose breakdown would result in the disruption of City operations. It is required to get City Manager or his designee approval on any emergency purchases.

The Legislature exempted certain items from sealed bidding in the *Texas Local Government Code Section 252.022(a)*, including, but not limited to:

- 1. A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;
- 2. A procurement necessary to preserve or protect the public health or safety of the municipality's residents;
- 3. Procurement necessary because of unforeseen damage to public machinery, equipment, or other property.

The following steps must be taken when making emergency purchases:

- 1. Employee must receive approval from the City Manager or his designee.
- 2. Employee will make every effort to solicit bids unless circumstances prevent employee from doing so.
- 3. A written statement concerning the emergency must be provided following the incident to provide necessary documentation in Accounts Payable and must include the City Managers signature or his designees.

FEDERAL PROGRAMS

The City of Bastrop has adopted *Federal 2 CFR 200.318 - 200.326 and Appendix II to Part 200* for Federal Programs to ensure City procures materials and services in an efficient and economical manner that follows the applicable provisions of federal, state and local laws and executive orders. Federal 2 CFR 200 section 318 to 326 cover the following regulations:

- 200.318 General Procurement Standards
- 200.319 Competition
- 200.320 Methods of Procurement to be followed

200.321 – Contracting with Small & Minority businesses, women business enterprises & labor surplus area firms

- 200.322 Procurement of Recovered Materials
- 200.323 Contract Cost & Price
- 200.324 Federal awarding agency or pass-through entity review
- 200.325 Bonding requirements
- 200.326 Contract Provisions

ASSET CONTROL

INVENTORY CONTROL

The purpose of inventory control is to create and maintain a record/inventory of all fixed assets of the City of Bastrop. Fixed assets include all items over \$5,000 with a life expectancy of two (2) or more years. "Minor Capital Outlay" items must also be inventoried. These items will include assets purchased for \$1,000 to \$4,999.

When a fixed asset is received by the city, it is tagged with a City of Bastrop property tag (if feasible) and added to the Departments master list. A new asset form should be completed, signed, and provided to the Finance Department.

Each Department shall keep an inventory list of all fixed assets permanently assigned to an employee.

A wall-to-wall inventory of all fixed assets shall be performed every year or as deemed necessary. It is recommended that Departments perform an annual fixed assets inventory of equipment permanently assigned to employees.

USE OF PROPERTY

City of Bastrop employees should be aware that the use of City property for personal gain is strictly prohibited. City vehicles should only be used for official City business. City Personnel Policies list theft and unauthorized use of City property as grounds for immediate dismissal.

In addition, employees are not to use personal property for the performance of their job or at their work site. Personal items such as radios, coffee pots, picture frame, books, etc. is permissible: however, the City of Bastrop is not responsible for damage to or theft of these items.

DISPOSAL OF SURPLUS MATERIALS AND EQUIPMENT/ DONATIONS

City surplus materials and equipment (a/k/a 'surplus items') includes any City owned personal property such as furniture, fixtures, equipment, computers, vehicles, tools, clothing, or other such items, which have lost useful value to the City, have become non-functional or are obsolete. Such surplus items may be disposed of by one of the following methods:

- Sold competitively, by accepting sealed bids or by public auction;
- Traded in for acquisition of new equipment;
- Donated by the City to a recognized charitable organization;
- Provided to other governmental entities (donation or exchange).
- Sold as 'scrap' (for cash), if the items have no value except for salvage and the City Manager or his designee has authorized the sale for scrap; or
- Disposed of through solid waste collection services if the item has no salvage or other value and the City Manager or his designee has authorized such disposal.

Trade-In or Donation: Before trading-in and/or donating surplus items, the Department Head must prepare a memorandum to the City Manager and remit a copy to the Finance Department stating: 1) the identity of the surplus items to be disposed of, traded-in or donated, 2) the reasons for the surplus

items being declared surplus, 3) the original purchase price (if ascertainable) of the surplus items, and 4) the value of proposed "trade-in" or "donation", in the estimation of the Department Head. If the Department Head receives approval by City Manager to proceed, the Department Head must coordinate their trading-in and/or donating surplus items with the Finance Department to ensure a Disposed Fixed Asset Form is completed and any other ancillary paperwork.

[Note: All property is owned in the name of the City of Bastrop and is not vested in any specific department.]

Sales: If the surplus items are to be sold, then the Department Head must prepare a memorandum to the City Manager and remit a copy to the Finance Department. The memo should include: 1) the identity of the items to be sold to include year, make, model, and any other identification characteristics, 2) a brief description providing why it is necessary to dispose of the item. The Department Head having received approval to sell a surplus item may then utilize one of the following options: 1) post notice in the local newspaper and/or through an approved on-line auction provider 2) advertise in the local newspaper, 3) request sealed bids, or 4) sell through a public auction, which may take place at a specified location or, by means of an on-line sale.

Preferred Disposition: Whenever reasonably feasible, it is the City's preference that the Department Head dispose of the surplus equipment by means of a public auction or sale held in cooperation with other City departments and surrounding government entities.

Procedures: The City Manager shall have the authority to approve the disposal, sale, trade-in, or donation of surplus items when the value of same is less than \$50,000, in total. If the total value exceeds \$50,001, then the City Manager shall obtain Council approval of the proposed disposal, sale, trade-in, or donation of surplus items.

Once approved by either the City Manager or Council, as appropriate, to document the disposal, sale, trade-in, or donation of surplus items a Disposed Fixed Asset Form must be prepared and submitted to the Finance Department in addition to providing the license plates for any vehicles or equipment disposed of. The Finance Department manages the change of ownership and the receipt of funds.

City decals must be removed from all surplus City vehicles, machinery, and equipment before disposal, donation, trade-in, or sale.

City employees may participate, on their own time, in public auctions for the purchase of surplus City items.

LOST PROPERTY

After conducting an annual inventory and property is discovered to be lost, an explanation for the lost must be provided immediately to the Department Head using the Fixed Asset Form. Property losses that come to the attention of the employee before the annual inventory should be reported within 24 hours using the Fixed Asset Form.

All thefts are to be reported to a supervisor or Department Head as soon as possible. The City of Bastrop, Police Department must be notified immediately. Stolen fixed asset must be removed from the Master Inventory List and a copy of the police report attached to the Fixed Asset Form.

SECURITY MEASURES

All equipment will be kept in a secure area when not in use. Access to this area will be limited to the employees assigned to the secure area. In case of theft, the security of the area should be evaluated to determine if changes or re-keying of locks should be necessary.

RESPONSIBILITIES OF PARTIES

DEPARTMENT HEADS

- 1. Monitor and approve overall purchases to ensure that funds are spent judiciously and that budgeted resources are within their control and available for all procurement.
- 2. Reject requests for purchases that do not have proper authorization or include required documentation.
- 3. Approve all purchases up to \$9,999 excluding budgeted capital.
- 4. Adhere to the Purchasing Policies and the Code of Ethics.
- 5. Place cooperative agreements and Request for Proposals on file with Finance and monitor purchases to ensure that supply agreements are used.
- 6. Ensure that sole source requests meet the guidelines and include required documentation.
- 7. Inventory all fixed assets every year.
- 8. Verify goods and services are received as ordered before approving payment.
- 9. Annually inventory equipment assigned to employee.
- 10. Keep records of losses occurring in their areas to detect patterns of theft in one area or individual employee.

SUPERVISORS

- 1. Maintain security of equipment on-site
- 2. Keep a log of equipment issued to employees on a long-term basis.
- 3. Keep a log of equipment issued to employees on a short-term basis.
- 4. Forward all receipts and invoices to Department Head as soon as possible.
- 5. Check that equipment and supplies are returned upon termination of an employee.

CITY OF BASTROP ACCOUNTS PAYABLE

- 1. Pay bills in an accurate and timely manner.
- 2. Reject requests for purchases that do not have proper authorization or include required documentation.
- 3. Monitor purchases to ensure that supply agreements are used.
- 4. Ensure that purchasing policy requirement guidelines are met and required documentation included.

CITY OF BASTROP ACCOUNTING

- 1. Maintain the master fixed asset property list.
- 2. Assign inventory tags for fixed assets.
- 3. Provide Fixed Assets Forms.
- 4. Produce Master Inventory List as needed.
- 5. Process fixed asset transfers and retirements.
- 6. Review, approve and enter all purchase orders for budgeted fleet purchases.

PURCHASING CARD PROGRAM

PURPOSE

The purpose of the Purchasing Card Program is to provide the City with an efficient and controllable method of making small dollar commodity, service, and travel purchases. This program is to be used to procure low-value maintenance, repair, and operational expense items. By using the purchasing card, it will simplify the payment process and take advantage of the rebate program the card provider offers. The City will issue cards via the provider of its choice. This card policy is not intended to replace, but rather supplement existing purchasing, travel, and other City polices. The same restrictions that apply to other methods of purchasing also apply to the purchasing cards.

ELIGIBILITY

Department Directors and Supervisors can make a request to the City Manager for a purchasing card in their name. Department purchasing cards can be issued to each department and be the responsibility of the Department Director or his designee. Criteria for determining which departments should be issued a department card:

- Will the use of a Credit Card enhance productivity?
- Will the use of a Credit Card reduce paperwork?
- Will the Credit Card be utilized regularly for the purchasing of authorized (budgeted) goods, supplies and services?

USAGE

Each card will have a daily and monthly limit. The daily limit on the Department Director cards is set by the City Manager. The Department Directors will provide to the Program Administrator in writing, the limits for Supervisors individual cards. The daily limit for the department cards is \$500. Limits can be changed on a temporary or permanent basis when warranted and a written request is received by the Program Administrator from the Department Director.

Purchasing Cards may be used for small dollar purchases which do not exceed the daily transaction limit established by the Purchasing Policy and that do not exceed the cards maximum limit.

Acceptable purchases are:

- Maintenance and repair of equipment
- Operational expense items (within the dollar limits stated above)
- Registration Fees
- Travel expenses (must adhere to the Travel Policy)

Purchases made on the purchasing card will be for City business only. The purchasing card is not a personal line of credit and must never be used for personal or private purchases of any nature. When in doubt as to whether a purchase is allowable under the City policy, the Cardholder should either contact the Program Administrator before making the purchase or make payment personally and seek reimbursement from the City afterwards. Please remember that reimbursement for any out-of-pocket purchase made without authorization is subject to the City Manager's approval. Unauthorized purchases or use of the purchasing card in violation of this or any other City policy are prohibited, and purchaser will be subject to disciplinary action.

The Finance Department has a purchasing card with a \$125,000 monthly limit. This card is used solely to pay vendors that allow credit card payments and do not charge a processing fee. The advantage to this additional payment method is to obtain the rebate provided through the purchasing card program.

DUTIES AND RESPONSIBILITIES

- A. Cardholder
 - 1. The employee who is issued a card is called a "Cardholder" whether it was issued in their name or just in their custody (i.e. department card). The purchasing card has daily transaction limits as well as a maximum monthly limit.
 - 2. Every transaction made using the purchasing card must have corresponding backup and be entered into the credit card program. All transactions will be reviewed and approved by the appropriate supervisor. All transactions, once reconciled, will be downloaded into the accounting system monthly.
 - 3. Each Cardholder shall use the card only for authorized purchases. A hardcopy itemized receipt must be obtained from the vendor each time the card is used and be signed by the Cardholder and their Supervisor (when applicable).
 - 4. The Cardholder is responsible for immediately notifying the Purchasing Card Provider, their Supervisor, and the Program Administrator if the card is lost or stolen.
 - 5. Each Cardholder must acknowledge receipt of the purchasing card, understand the rules of usage, and sign the Purchasing Cardholder Agreement. Failure to abide by this Purchasing Card Policy may result in disciplinary action, up to and including termination of the employee. The Cardholder will be required to reimburse the City for any unauthorized transaction.
 - 6. Upon resignation or termination of employment of a Cardholder, the Department Director shall notify the Program Administrator immediately, and the card shall be turned in to the Program Administrator.
- B. Program Administrator

The Program Administrator is the Chief Financial Officer or their designee. The Program Administrator manages the Purchasing Card Program and has the following responsibilities:

- 1. Establishing purchasing card accounts and authorized limits
- 2. Point of contact for any Purchasing Card Program questions

- 3. Ensure compliance with the Purchasing Card Policy and the Purchasing Policy
- 4. Reviews all purchasing card transactions monthly
- 5. Terminating cards as needed
- C. Departmental Responsibility

The Department Director determines who will be issued a purchasing card and the daily and monthly limits assigned. The Department Director will also ensure that purchases are authorized and adhere to City policies. Departments may implement more stringent internal authorization procedures that its Cardholders must follow to make purchases with the card. Directors or their designee are responsible for approving receipts and making sure the statements for each card are reconciled and backup uploaded to the credit card program within 15 days of the statement date to facilitate timely approval and processing.

PURCHASING CARD PROVIDER

The Purchasing Card Provider will generate a monthly billing statement at the close of every month. This statement can be obtained online. All Cardholders should receive instructions on how to establish a login to their account. The Cardholder is responsible for reconciling their respective statement, matching each transaction with a receipt as soon as it is received. If a transaction is listed which is not known to the Cardholder, the Cardholder is responsible for immediately notifying the Purchasing Card Provider and the Program Administrator of the disputed charge. It is imperative that each Cardholder promptly process the transactions and for approval by their supervisor

TRANSACTION/CARD LIMITS

Each individual purchasing card will have transaction and/or spending limits. The Chief Financial Officer in coordination with Department Director has the authority to limit types of purchases, places of purchases, and hours of day purchases that can be made on individual cards. The total purchase price as printed on the individual credit card receipt is known as the "transaction amount". The purchasing card may be limited by the merchant type, transaction amount, and monthly transaction limit. Each Cardholder will be set up with limits for each of these categories and will be made aware of the limits. A card transaction will be denied when swiped if the transaction exceeds any of the limits. The card transaction limits may not exceed those set in the policy guidelines.

SALES TAX

As a tax-exempt government agency, the City of Bastrop does not pay sales tax. Cardholders will be provided a copy of the City's Tax Exemption Certificate when requested. Cardholders are responsible for ensuring that the merchant does not include sales tax in the transaction, if possible. In the event sales tax is charged, the Cardholder is required to go back to the vendor/merchant to request a refund of the sales tax paid. If a refund is not possible, the Cardholder is required to submit a memorandum monthly to the Finance Department that includes an explanation as to why the sales tax paid cannot be credited along with a copy of the receipts showing the sales tax amount. The Finance Department will deduct the sales tax paid during the monthly sales tax reporting process.

RETURNS

Each Cardholder is responsible for coordinating returns with the vendor and making sure a proper credit slip is obtained. Credit shall be issued to the Cardholder's account. **Cash refunds are not allowed.**

RESTRICTIONS AND EXEMPTIONS

- A. Employees may *not* use the card for the following:
 - 1. Any purchases of items for personal use.
 - 2. Cash refunds or advances.
 - 3. Any purchase of goods/services or from a merchant type not considered prudent or of good judgment.
 - 4. No purchases are to be processed through the employee's personal account online. You must establish a City account to process the purchase.
 - 5. Any transaction amount greater than the Cardholder's transaction limit.
 - 6. Items under contract unless an emergency exception is granted.
 - 7. Alcohol or liquor of any kind. Patronization of bars, drinking places, and package stores must not be paid for with the purchasing card.
 - 8. Separate, sequential, and component purchases or any transaction made with intent to circumvent the City Purchasing Policy or state law.
 - 9. Any transaction that may cause or be perceived to cause damage to the City of Bastrop's reputation and goodwill, and/or reflect poorly on the ethical and moral decision-making of the Cardholder, staff, and elected officials.
 - 10. Any other purchase specifically excluded in the City's Purchasing Policy.
- B. Documentation

Supporting documentation must accompany each transaction including an itemized receipt signed by the Cardholder and Supervisor, when applicable. If a receipt is not obtained, a memo explaining the purchase must accompany the card statement.

C. Personal Use Restrictions

The card may not be used to pay spouse/family expense incurred while traveling. Only City business expenses are allowable, and the Cardholder must pay personal expenses separately.

OBTAINING A PURCHASING CARD

- A. Steps:
 - 1. Department Director submits in writing requests for a purchasing card and determines the appropriate daily and monthly transaction limits.
 - 2. The Program Administrator will request the Purchasing Card Provider to issue a purchasing card with these established limits.

Upon receipt of the purchasing card, the Program Administrator will have the Cardholder review and sign the Purchasing Cardholder Agreement.

- 3. The new Cardholder receives copies of:
 - a) Purchasing Cardholder Agreement
 - b) Purchasing Card Policy
 - c) Purchasing Policy
 - d) Travel Policy

REVOCATION OF THE PURCHASING CARD

The purchasing card is subject to revocation at any time at the discretion of the Department Director or Chief Financial Officer. When a card is revoked, changes are made online and take effect immediately. The Program Administrator is further authorized to temporarily suspend use of the card via electronic methods if unauthorized use is discovered and such use poses a threat to internal financial controls.

PAYMENT OF FUNDS

PURPOSE

The Finance Department, under the direction of the Chief Financial Officer, is responsible for overseeing the payment process for the city, including oversight of appropriate payment methods, the approval process, and disbursement controls. This policy provides guidance governing all disbursements of city funds, except those for salaries and wages, and the appropriate usage of various payment methods. This policy establishes the Chief Financial Officer as the designated officer as required by Texas Local Government Code Section 105 to direct all payment of funds.

ROLES AND RESPONSIBILITIES

The finance department's accounts payable staff oversees the city disbursement process to ensure that only authorized disbursements are made, and that the disbursement process is efficient.

The Chief Financial Officer is responsible for working with accounts payable staff to develop and maintain adequate internal controls in the disbursement process, and to assess risks and review quality assurance standards. All disbursement documents are reviewed by the Chief Financial Officer or their designee prior to processing the disbursement to verify proper authorization of complete documentation is included.

The department heads are responsible for ensuring that the disbursement transactions are properly authorized, verifies that the transaction meets the conditions of this purchasing policy, is appropriate with the department's approved annual budget, and is allowable within the applicable funding source restrictions.

The accounts payable staff will process only those transactions bearing appropriate departmental authorization and secondary authorization if required based on the approval limits stated in this purchasing policy.

TYPES OF PAYMENT REQUESTS

<u>Invoices</u> – It is the responsibility of the departments to submit invoices to accounts payable as quickly as possible and to expedite any other steps necessary to process invoices for payment. Vendor statements or quotes are not considered appropriate supporting documentation for purchases, and the city will not pay from such documents. It is expected that the purchaser of goods and services will always perform a receiving function, confirming that the goods and/or services ordered were received in accordance with the order. Department approval of invoices constitutes confirmation of receipt of goods and services.

<u>Check Requests</u> - Check requests may be submitted for payments of non-employees or employee reimbursements and other direct payments that cannot be made using a purchasing card or standard invoice submission. Appropriate supporting documentation must be attached to the check request to be processed.

FORMS OF PAYMENT

The City utilizes various forms of payment methods such as checks, direct deposit, electronic funds transfer (EFT), purchasing card, and wires. There is a two-step authorization process when using the check and EFT methods of payment, using secure signatures (electronic signatures) the employee processing the payments must enter a code and the Chief Financial Officer or their designee must enter a code. The signatures that appear on the checks must be authorized signers with the bank depository account.

The City encourages the electronic funds transfer payment method for the following reasons: eliminating storage of paper checks, reduce time spent on reconciliation, eliminating the occurrence of lost or stolen checks, reducing security risks, and improving tracking of payments using integrated banking technologies. This also gets the vendor paid much faster than mailing checks.

ANNUAL REVIEW AND REPORTING

These policies will be reviewed administratively by the City Manager at least annually, prior to preparation of the operating budget. The Chief Financial Officer will report to the City Manager on compliance with these policies.

Tracy Waldron, Chief Financial Officer

Sylvia Carrillo, City Manager

History of Purchasing Policy: Previously Approved 09/23/2014 Previously Approved 10/23/2018 Previously Approved 09/24/2019 Previously Approved 09/08/2020 Previously Approved 08/24/2021 Previously Approved 08/23/2022

GLOSSARY OF PURCHASING TERMS

Component Purchases: Purchases of component parts of an item that in normal purchasing practices would be accomplished by one purchase. (Purchasing parts and assembling a finished product.)

Pecuniary Benefit: Any form of economic gain (money, gifts, etc.).

Fixed Assets: A piece of equipment with a value of \$5,000 or more and a life expectancy of two (2) year or more.

Separate Purchases: Purchases made separately of items that in normal purchasing practices would be accomplished by one consolidated purchase. (Multiple purchase orders of similar items to avoid bidding procedures.)

Sequential Purchases: Purchases, made over a period, of items in normal purchasing practices would be combined and bid as one purchase. (Similar to above but multiple purchases of the same items to avoid bids.)







MEETING DATE: August 22, 2023

TITLE:

Consider action to approve Resolution No. R-2023-119 of the City Council of the City of Bastrop, Texas, awarding a contract, attached as Exhibit A, for the installation of holiday lighting to Décor IQ in the amount of One Hundred Seventy-Six Thousand One Hundred Seventy-Five and 00/100 Dollars (\$176,175.00); authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

STAFF REPRESENTATIVE:

Curtis Hancock, Director of Public Works

BACKGROUND/HISTORY:

This item is identified in the Work Plan as UE#7 (Unique Environment), which is "Improve Christmas Lighting at Fisherman's Park & Downtown." City Council and the Executive Team have put a great deal of effort into developing an Organizational Work Plan that addresses nine focus areas that are identified as drivers to successfully fulfill the City's Mission & Vision. 2017 was the first year to improve the holiday lighting and we received a great deal of positive feedback. This year's proposal includes lighting downtown, as well as in Fisherman's Park, at a cost of \$176,175.00, and by removing items that were not popular - Gingerbread girl & boy photo op., Santa Holiday House, Gingerbread Man, Candy Canes, and Snowflakes around town. We will replace with Logo Photo Frame, Walk-through Shooting Arch (3), Walk though Ornament, 12 Days of Christmas, and a Light up Santa Sleigh.

POLICY EXPLANATION:

A Request-for-Proposal (RFP) was developed to provide holiday lighting for Fisherman's Park and Main Street. Décor IQ provided per unit pricing detail, which is attached as Exhibit A to the Resolution. Funding of \$176,175.00 is provided in the FY 2023 Budget for Christmas Lights. This project will not exceed the budgeted amount.

FUNDING SOURCE:

These funds are budgeted for FY23.

RECOMMENDATION:

Consider action to approve Resolution No. R-2023-119 of the City Council of the City of Bastrop, Texas, awarding a contract, attached as Exhibit A, for the installation of holiday lighting to Décor IQ in the amount of One Hundred Seventy Six Thousand One Hundred Seventy-Five and 00/100 Dollars (\$176,175.00); authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

ATTACHMENTS:

- Resolution
- Holiday Lighting Request for Proposal
- 2023 Fishermans Park Decor
- 2022 Cost
- Draft Contract with Décor IQ



RESOLUTION NO. R-2023-119

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AWARDING A CONTRACT, ATTACHED AS EXHIBIT A, FOR THE INSTALLATION OF HOLIDAY LIGHTING TO DÉCOR IQ IN THE AMOUNT OF ONE HUNDRED SEVENTY-SIX THOUSAND ONE HUNDRED SEVENTY-FIVE AND 00/100 DOLLARS (\$176,175.00); AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The City Council has appointed the City Manager as the Chief Administrative Officer of the City; and

WHEREAS, The City Manager is responsible for the proper administration of all affairs of the City; and

WHEREAS, The City Council has the vision to improve Bastrop's Unique Environment through enhancing programming to a four diamond, AAA standard Christmas; and

WHEREAS, Improving the holiday lighting at Fisherman's Park and on Main Street meets that intent and is Item UE#7 in the City's Workplan; and

WHEREAS, The City of Bastrop has received all proposals, and found the lowest responsible bidder to be qualified.

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

Section 1: That the City Manager is hereby authorized to execute a contract for the installation of holiday lighting in Fisherman's Park and on Main Street with Décor IQ in the amount of One Hundred Seventy-Six Thousand One Hundred Seventy-Five and 00/100 Dollars (\$176,175.00), which is attached as Exhibit A.

Section 2: That the City Council of the City of Bastrop has found Décor IQ, to be a subject matter expert in the field of holiday lighting.

Section 3: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4: 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 22nd day of August 2023.

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

\$0.00



Customer Name:	City of Bastrop	Date:	7/27/23
Billing Address:	P.O. Box 427 – 300 Water Street	Quote Number:	BAS72723
	Bastrop, Texas 78602	Valid Thru:	8/27/23
PO#:		Rep Name:	HW
Contact Number:	Curtis Hancock 512-332-8960	_	

Location	Product Description	Qty		Price	Total
Chestnut Street Bridge	Warm White 5mm LED Lights wrapped on ten (10) Crape Myrtles at East Side of Bridge (52,000 Lights)	10	\$	1,010.00	\$ 10,100.00
Chestnut Street Bridge	Warm White 5mm LED Lights wrapped on one (1) Burr Oak at East Side of Bridge (4,000 Lights)	1	\$	770.00	\$ 770.00
Chestnut Street Bridge	Warm White 5mm LED Lights wrapped on four (4) Trees at West Side of Bridge (20,000 Lights)	4	\$	955.00	\$ 3,820.00
Bastrop City Hall	Warm White C9 LED Lights on Roofline at City Hall (1,000 feet)	1000	\$	4.20	\$ 4,200.00
Bastrop Convention Center	Warm White C9 LED Lights on Roofline at Convention Center (1,000 feet)	1000	\$	4.20	\$ 4,200.00
Loop 150 Tree in Median	Loop 150 Tree base wrapped with 5mm Warm White Lights, and Canopy installation with Warm White 5mm Twinkle Lights (every 5th bulb blinking)	1	\$	5,240.00	\$ 5,240.00
Bastrop Library	Warm White 5mm LED Lights on Library Switchback ramp	1	\$	1,260.00	\$ 1,260.00
Bastrop Library	Warm White C9 LED Lights on Roofline at Library (780 feet)	780	\$	5.00	\$ 3,900.00
Fire Department	Warm White C9 LED Lights on Roofline at Fire Department (350 feet)	350	\$	5.00	\$ 1,750.00
Downtown Bastrop	Warm White 5mm LED Lights in Trees (Trunks, branches and Canopies)	13	\$	1,890.00	\$ 24,570.00
Downtown Bastrop	Ornamented and Lighted Garland on Pine Street Parking Lot Lamp Posts	15	\$	170.00	\$ 2,550.00
Downtown Bastrop	3ft Unlit Center Mount Wreath with Bow - Option B	20	\$	350.00	\$ 7,000.00
Fishermans Park/June Hill Pape Riverwalks	Candy Cane Decor Package for Christmas Tree - Option C	1	\$	3,525.00	\$ 3,525.00
Fishermans Park/June Hill Pape Riverwalks	Warm White 5mm LED Lights on pipe railing and fense (12,000 feet)	12,000	\$	1.05	\$ 12,600.00
Fishermans Park/June Hill Pape Riverwalks	Warm White 5mm LED Lights wrapped to 15ft height on 7 Pecan Tree Trunks	7	\$	350.00	\$ 2,450.00
Fishermans Park/June Hill Pape Riverwalks	Warm White 5mm LED Lights on black iron fence rail (850 feet)	850	\$	1.05	\$ 892.50
Fishermans Park/June Hill Pape Riverwalks	Warm White 5mm LED Lights wrapped to 15ft height on 65 Park Riverwalk Trees	65	\$	157.50	\$ 10,237.50
Fishermans Park/June Hill Pape Riverwalks	Warm White Twinkle 5mm LED Lights draped from tree Canopies of 25 Park Riverwalk Trees	25	\$	215.00	\$ 5,375.00
Fishermans Park/June Hill Pape Riverwalks	Lighted Garland on Two (2) Overlooks on the Riverwalk	2	\$	472.50	\$ 945.00
Fishermans Park/June Hill Pape Riverwalks	24ft Artificial Branch Christmas Tree (Installation and Removal)	1	\$	9,450.00	\$ 9,450.00
Fishermans Park/June Hill Pape Riverwalks	Red and White LED Rope Light for Candy Candy Lighted Light Poles (41 Poles - Estimate)	41	\$	290.00	\$ 11,890.00
Fishermans Park/June Hill Pape Riverwalks	Logo Photo Frame	1	\$	4,200.00	\$ 4,200.00
Fishermans Park/June Hill Pape Riverwalks	Walk through shooting arch	1	\$	9,450.00	\$ 9,450.00
Fishermans Park/June Hill Pape Riverwalks	Walk through orgnament	1	\$	17,000.00	\$ 17,000.00
Fishermans Park/June Hill Pape Riverwalks	12 Days of Christmas	1	\$	12,000.00	\$ 12,000.00
Fishermans Park/June Hill Pape Riverwalks	Light up Santa Sleigh	1	\$	6,800.00	\$ 6,800.00
			•	SubTotal:	\$ 176,175.00

Project Notes

Payment Terms 50% Deposit, 25% at time of Installation, 25% at time of Removal ales Tax \$0.00 Total: \$ 176,175.00

Freight:

Sales Tax



By signing this proposal, the customer agrees to pay for the items listed above. Payment beyond terms will incur finanace charges of 18% per annum. Customer is responsible for all finanace charges and collection effort in unpaid. Payment beyond terms voids all warrantees; both expressed and implied.

***Customer acknowledges that any changes to Customer's design may require additional supplies or labor and may result in additional fees being charged. ***Customer agrees to pay DecorlQ in accordance with the rates and terms set out in the Estimate. Any amount not paid, is subject to a late charge of 1.5% per month (18% per annum). Overdue payments will be applied firstly to accrued interest and secondly to the unpaid principal balance. ***Damage or missing items that are leased will be charged at full retail replacement cost. ***DecorlQ will not be responsible for any defects or damage associated with weather conditions or vandalism, including but not limited to wind, rain, snow, ice, extreme cold or theft. Repairs will be billed at \$60 per man hour plus materials. On multi-year leases a 25% cancellation fee will be invoiced based on the remaining balance of contract from date the 30-day notice was received. ***Customer is responsible for reporting any damaged items within 48 hours. This includes any items that are lost in transit. All items recieved are to be inspected by the customer and checked for and missing items or visible damage. Any damages to items upon receipt must be noted on the delivery bill of lading and a claim filed directly with the delivery company. Photos and documentation of evidence of damages must be filed with Decor IQ within 48 hours of identification of damages. ***Products may be returned only after receiving an RMA# (Return Merchandise Authorization) from Decor IQ. Returns without an RMA# will not be accepted. Returns through no fault of Decor IQ will be subject to a 20% restocking fee. Shipping charges are nonrefundable. To receive credit for defect merchandise, it must be returned to Decor IQ; do not destroy or dispose of defective merchandise and it must be returned in the original packaging. Used merchandise, unless found to be defective within the warranty period, cannot be returned. Shipping-related damages or discrepancies must be reported to the carrier immediately.Decor

Decor IQ

1310 W. Laurel San Antonio, Texas 78201 210.667.3603

City Of Bastrop Christmas Lights Last Years Description Qty Rate Total **CHESTNUT STREET BRIDGE** Crape Myrtles East Side of Bridge \$10,100.00 10 \$1,010.00 Burr Oak East Side of Bridge 1 \$770.00 \$770.00 4 Trees on West Side of Bridge \$955.00 \$3,820.00 Total \$14,690.00 LOOP 150 TREE Base Wrapped and Canopy 1 \$5,240.00 \$5,240.00 DOWNTOWN BASTROP Base Wrapped and Canopy 13 \$1,890.00 \$24,570.00 Pine St. Parking Lot Lamp Post 15 \$170.00 \$2,550.00 20 \$350.00 \$7,000.00 Mount Wreath with Bow to Light Poles \$34,120.00 Total **FISHERMAN'S / RIVERWALK** 12,000' Lights on pipe railing & fence \$1.05 \$12,600.00 7 \$2,450.00 Wrapped 7 Pecan trees up to 15' \$350.00 Lights on black iron fence rail 850' \$1.05 \$892.50 Wrapped 65 trees in Park & Riverwalk 65 \$157.50 \$10,237.50 Canopies on 25 trees in Park/Riverwalk 25 \$215.00 \$5,375.00 Lighted Garland 2 Overlooks 2 \$472.50 \$945.00 24' Christman tree 1 \$9,450.00 \$9,450.00 Candy Cane package for Christman tree 1 \$3,525.00 \$3,525.00 Red/White lights on light pole 41 \$290.00 \$11,890.00 Total \$57,365.00 **FISHERMAN'S OPTIONS** \$1,700.00 Gingerbread Girl Photo Op. 1 \$1,700.00 1 \$1,700.00 \$1,700.00 **Gingerbread Boy Photo Op.** Santa Holiday House 1 \$18,945.00 \$18,945.00 2 **Gingerbread Man** \$3,895.00 \$7,790.00 **Candy Canes** 3 \$2,399.00 \$7,197.00 Total \$37,332.00 20 \$10,190.00 **Snowflakes around town CITY BUILDINGS** City Hall 1,000' \$4.20 \$4,200.00 **Convention Center** 1000' \$4.20 \$4,200.00 \$5,160.00 Library **Fire Station** 350' \$5.00 \$1,750.00 Total \$15,310.00

TOTAL

\$174,247.00

Item 9A.

CITY OF BASTROP STANDARD CONTRACT FOR GENERAL SERVICES

Over \$50K (8-16-2021)

This General Services Contract ("Contract") is entered by and between the **City of Bastrop**, a Texas Home-Rule Municipal Corporation (the "City"), and **Deor IQ** acting by **Hailey Weidenfeller** (the "Engineer/Contractor"), and together with the City jointly referred to as the "Parties," for the following work described on the Scope of Services, Exhibit A-2, attached and incorporated herein to this Contract (the "Work" or "Project" or "City of Bastrop Installation of Holiday Lighting").

I. General Information and Terms.

Engineer's/Contractor's Name and Address:	Decor IQ 1310 W. Laurel San Antonio, Texas 78201 Atten: Hailey Weidenfeller
General Description of Services:	City of Bastrop Installation of Holiday Lighting
Maximum Contract Amount:	\$176,175.00
Effective Date:	On the latest of the dates signed by both parties.
Termination Date:	See II.D.

Contract Parts: This Contract consists of the following parts:

I. General Information and TermsII. Standard Contractual ProvisionsIII. Additional Terms or ConditionsIV. Additional Contract DocumentsV. Signatures

II. Standard Contractual Provisions.

A. <u>Contractor's Services</u>. The Contractor will provide to the City the professional engineering services ("Services") described in the Scope of Services, Exhibit A-2 attached and incorporated herein to this Contract under the terms and conditions of this Contract.

B. <u>Billing and Payment</u>. The Contractor will bill the City for the Services provided at intervals of at least 30 days from receipt of Contractor's invoices, except for the final billing. The City will pay the Contractor within 30 days from receipt of Contractor's invoices for the Services provided for in this Contract with current revenues available to the City, but all of the City's payments to

the Contractor, including the time of payment and the payment of interest on overdue amounts, are subject to the provisions of Chapter 2251 of the Government Code. The City shall have the right to withhold payment, or any part thereof, of any of invoice presented by Contractor until resolution providing reasonable verification of the correctness thereof is reached. The City shall notify the Contractor, in writing, of the disputed amount within thirty (30) days. The City is not liable to the Contractor for any taxes which the City is not liable by law, including state and local sales and use taxes (Texas Tax Code Section 151.309 and Title 3) and federal excise tax (Internal Revenue Code Subtitle D). Accordingly, those taxes may not be added to any bill.

C. <u>Executed Contract.</u> The "Notice to Proceed" will not be given nor shall any Services commence until this Contract is fully executed and all exhibits and other attachments are completely executed and attached to this Contract.

D. Termination Provisions.

- (1) Unless terminated earlier as allowed by this Contract, this Contract terminates:
 - (a) On the termination date, if any, specified in the General Information in Part I, but the obligation of a party to complete a contract requirement pending on the date of termination survives termination; or
 - (b) If there is no termination date specified in the General Information in Part I, the Contract terminates when both parties have completed all their respective obligations under the Contract.

(2) The City Manager may terminate this Contract during its term at any time for any reason by giving written notice to the Contractor not less than five (5) business days prior to the termination date, but the City will pay the Contractor for all Services rendered in compliance with this Contract up to the date of termination. The City may terminate the Contract anytime if the City does not have available funds pursuant to Texas Government Code Chapter 2251.

(3) If the City Council does not appropriate funds to make any payment for a fiscal year after the City's fiscal year in which the Contract becomes effective and there are no proceeds available for payment from the sale of bonds or other debt instruments, then the Contract automatically terminates at the beginning of the first day of the successive fiscal year. (Section 5, Article XI, Texas Constitution).

E. <u>Delays</u>. Contractor shall have no damages for delay or hindrance. In the event of delay or hindrance that is not the fault of Contractor, an extension of time shall be the Contractor's sole remedy.

F. <u>Independent Contractor</u>. It is understood and agreed by the Parties that the Contractor is an independent contractor retained for the Services described in the Scope of Services, Exhibit A-2, attached and incorporated herein. The City will not control the manner or the means of the CITY OF BASTROP, GENERAL SERVICES CONTRACT/Page 2

Contractor's performance but shall be entitled to work product as detailed in the Exhibit A-2. The City will not be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies. This Contract does not create a joint venture. Services performed by the Contractor under this Contract are solely for the benefit of the City. Nothing contained in this Contract creates any duties on the part of the Contractor toward any person not a party to this Contract. No person or entity not a signatory to this Contract shall be entitled to rely on the Contractor's performance of its Services hereunder, and no right to assert a claim against the Contractor by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Contract or the performance of the Contractor's Services hereunder.

G. <u>Subcontractor</u>. The term "subcontractor" shall mean and include only those hired by and having a direct contract with Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by Contractor for performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments due. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

H. <u>Assignment</u>. The Contractor may not assign this Contract without the City's prior written consent.

I. <u>Law Governing and Venue</u>. This Contract is governed by the law of the State of Texas and a lawsuit may only be prosecuted on this Contract in a court of competent jurisdiction located in or having jurisdiction in Bastrop County, Texas.

J. <u>Entire Contract</u>. This Contract represents the entire Contract between the City and the Contractor and supersedes all prior negotiations, representations, or contracts, either written or oral. This Contract may be amended only by written instrument signed by both parties.

K. <u>Dispute Resolution Procedures</u>. If either party disputes any matter relating to this Contract, then before bringing any legal action, the parties agree to try in good faith, to settle the dispute by submitting the matter to mediation before a third party who will be selected by agreement of the parties. The parties will each pay one-half of the mediator's fees.

L. <u>Attorney's Fees</u>. Should either party to this Contract bring suit against the other party for any matter relating to this Contract, the prevailing Party shall be entitled to have and recover from the losing Party reasonable attorney's fees and all other costs of such action.

M. <u>INDEMNIFICATION</u>. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW,THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, VOLUNTEERS, AND EMPLOYEES FROM AND AGAINST CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY, INCLUDING REIMBURSEMENT OF REASONABLE ATTORNEY'S FEES AND COST IN PROPORTION OF CONTRACTOR'S LIABILITY, FOR INJURY TO OR DEATH OF ANY PERSON OR FOR DAMAGE TO ANY PROPERTY TO THE EXTENT CAUSED BY THE NEGLIGENT ACT, CITY OF BASTROP, GENERAL SERVICES CONTRACT/Page 3 ERROR, OR WILLFUL MISCONDUCT OF THE CONTRACTOR, ITS AGENTS, REPRESENTATIVES, EMPLOYEES, OR ANYONE WHOM THE CONTRACTOR IS LEGALLY LIABLE FOR UNDER THIS CONTRACT.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES WHETHER UNDER BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY, SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, ENHANCED, TREBLE (OR STATUTORY EQUIVALENT), OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF BUSINESS OPPORTUNITY OR LOSS OF PROSPECTIVE REVENUE, ARISING OUT OF THIS AGREEMENT OR ANY WORK OR SERVICES PERFORMED OR TO BE PERFORMED HEREUNDER.

N. <u>RELEASE</u>. THE CONTRACTOR ASSUMES FULL RESPONSIBILITY FOR THE WORK TO BE PERFORMED HEREUNDER AND HEREBY RELEASES, RELINQUISHES, AND DISCHARGES THE CITY, ITS OFFICERS, AGENTS, VOLUNTEERS, AND EMPLOYEES FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO OR DEATH OF ANY PERSON, AND ANY LOSS OF OR DAMAGE TO ANY PROPERTY THAT IS CAUSED BY, OR ALLEGED TO BE CAUSED BY, THE NEGLIGENCE, RECKLESSNESS, OR WILLFUL MISCONDUCT OF CONTRACTOR, ITS AGENTS, REPRESENTATIVES, VOLUNTEERS, EMPLOYEES, OR SUBCONTRACTORS..

O. <u>Severability</u>. If a court finds or rules that any part of this Contract is invalid or unlawful, the remainder of the Contract continues to be binding on the parties.

P. <u>Conflicting Provisions</u>. If there is a conflict between a provision in the Contractor's Additional Contract Documents and a provision in the remainder of this Contract, the latter controls.

Q. <u>Documents and Data, Licensing of Intellectual Property, and Copyright</u>. All Work progress and final documents and data produced by Contractor during the term of the Contract shall be and remain the property of the City. For purposes of this Contract, the term "Documents and Data" include any original work (the Work), reports, analyses, plans, drawings, designs, renderings, specifications, notes, summaries, charts, schedules, spreadsheets, calculations, lists, data compilations, documents, or any other material developed and assembled by or on behalf of the City in the performance of this Contract. It also includes any medium in which the Documents and Data are kept, including digitally, magnetically, or electronically. This Contract creates at no cost to the City, a perpetual license for the City to use any picture, video, music, brochure, writing, trademark, logo, or other work created by the Contractor for the use of the City, as a "work made for hire" as defined by federal copyright law. The City, as the author and owner of the copyright to the Work, may alter, reproduce, distribute, or make any other use of the Work as it deems appropriate.

R. <u>Standard of Care for Architects and Engineers</u>. Services must be performed with the professional skill and care ordinarily provided by competent licensed engineers or registered architects practicing in the same or similar locality and under the same or similar circumstances and professional license.

S. <u>Disclosure of Interested Persons for Council-Approved Contracts</u>. Contracts that require City Council approval, such as contracts that exceed \$50,000, are subject to the requirements of Texas Government Code Section 2252.908. Under the provisions of this statute:

(1) The City may not enter into a contract with a business entity that requires Council approval unless the business entity submits a disclosure of interested persons at the time the business entity submits a signed contract to the City;

(2) A disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission (Commission), attached, and incorporated herein as Exhibit A-1, that includes:

- (a) A list of each interested party for the contract of which the contractor business entity is aware, an interested party being a person who has a controlling interest in the business entity or who actively participates in facilitating or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity; and
- (b) The signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury.

T. <u>Compliance with Laws</u>. The Contractor must comply with the federal, state, and local laws, rules and regulations applicable to the Project and its services under this Contract.

U. <u>Prohibition on Contracts with Companies Boycotting Israel</u>. Certain contracts for goods and services are subject to the requirements of Texas Government Code Section 2270.002, (H.B. 89, as amended by H.B. 793). Specifically, contracts for good and services that:

(1) are between the City and a company with ten (10) or more full-time employees; and

(2) have a value of \$100,000.00 or more that is to be paid wholly or partly from public funds of the City.

Under the provisions of this statute, if the above conditions apply the City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it:

(1) does not boycott Israel; and

(2) will not boycott Israel during the term of the contract.

If this is a contract to which the verification requirement applies, the City has approved a verification form which must be filled out and signed by the Contractor and submitted to the City at the time of execution of this Contract.

III. Additional Terms or Conditions.

Insurance

At all times this Agreement is in effect, Contractor shall maintain insurance of the types and amounts as those required in Exhibit B-1. All of Contractor's insurance policies in any way relating to the Work, whether or not required by this Agreement and regardless of the enforceability or validity of any of the indemnities or other assumptions of liability by Contractor, shall, to the full coverage limits of all such policies without any limitations based on the minimum requirements set forth above: (a) other than the worker's compensation insurance, name City Group as additional insureds on a broad form basis with such additional insured coverage including coverage for the sole or concurrent negligence of the additional insured and not being restricted to (i) "ongoing operations," (ii) coverage for vicarious liability, or (iii) circumstances in which the named insured is partially negligent; (b) provide for waiver of all rights of subrogation against City and the other members of City Group; and (c) be primary and noncontributory as to all other policies (including any deductibles or self-insured retentions) and self-insurance that may provide coverage to any member of City Group, and shall be fully applied and exhausted before application of any applicable indemnity obligations of City or of any applicable insurance coverage provided by City or any other member of City Group.

A. Audit

Contractor and the Contractor's affiliates, subsidiaries, subcontractors, consultants, agents, and any other person associated with Contractor shall keep full and accurate books and records with respect to all Work performed, all payments and all expenditures in connection with this Agreement. The records to be maintained and retained by Contractor shall include, without limitation: (a) payroll records accounting for total time distribution of Contractor's employees working full or part time on the Project, as well as canceled payroll checks or signed receipts for payroll payments in cash; (b) invoices for purchases, receiving and issuing documents, and all other unit inventory records for Contractor's stores, stock, or capital items; (c) paid invoices and canceled checks for materials purchased and for subcontractors' and any other Third Parties' charges, including, but not limited to, Equipment rental; (d) travel and entertainment documentation, including, but not limited to, employee expense reports and Contractor facility usage reports; and (e) all field tickets or similar documentation evidencing the Work. The City shall have the right at all reasonable times, for a period of five (5) years from the completion of the Work, to audit and inspect such books and records (excluding trade secrets, formulas, confidential data, proprietary information, or processes).

B. Reports of Incidents

Within twenty-four (24) hours upon occurrence, Contractor shall provide in writing to the City notice and details of any accidents or occurrences resulting in injuries to persons, property, or pollution arising in any way arising out of or related to the Work whether done by Contractor or any subcontractor of Contractor or any other member of Contractor Group performing Work pursuant to this Contract. Contractor shall provide notice, in writing, within twenty-four (24) hours of any claim, demand, or suit that may be presented to or served upon it arising out of or as a result of Work.

IV. Additional Contract Documents. The following documents attached to this Contract are part of this Contract:

- EXHIBIT A-1: Certificate of Interested Parties (1295 Form)
- EXHIBIT A-2 Scope of Work
- EXHIBIT A-3 House Bill 89 Verification
- EXHIBIT B-1 Requirements for General Services Contract

V. Signatures.

DÉCOR IQ

CITY OF BASTROP

By:	By:
Printed Name:	Printed Name:
Title:	Title:
Date:	Date:

EXHIBIT A-1

Certificate of Interested Persons with Certification of Filing (Form 1295)

(See Attached)

EXHIBIT A-2

Scope of Services dated XXXX XX, 2022

(See Attached)

EXHIBIT A-3

House Bill 89 Verification

(See Attached)

EXHIBIT B-1 REQUIREMENTS FOR GENERAL SERVICES CONTRACT

The Contractor shall comply with each and every condition contained herein. The Contractor shall provide and maintain the minimum insurance coverage set forth below during the term of its agreement with the City, including any delay periods. If the Project is not finalized and the insurance expires, Contractor is obligated to extend the insurance coverage. Any Subcontractor(s) hired by the Contractor shall maintain insurance coverage equal to that required of the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The City of Bastrop accepts <u>no responsibility</u> arising from the conduct, or lack of conduct, of the Subcontractor.

INSTRUCTIONS FOR COMPLETION OF INSURANCE DOCUMENT

With reference to the foregoing insurance requirements, Contractor shall specifically endorse applicable insurance policies as follows:

- A. The City of Bastrop shall be named as an additional insured with respect to General Liability and Automobile Liability <u>on a separate endorsement</u>
- **B.** A waiver of subrogation in favor of The City of Bastrop shall be contained in the Workers Compensation and all liability policies and must be provided <u>on a separate endorsement.</u>
- **C.** All insurance policies shall be endorsed to the effect that The City of Bastrop will receive at least thirty (30) days' written notice prior to cancellation or non-renewal of the insurance.
- **D.** All insurance policies, which name The City of Bastrop as an additional insured, must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.
- E. Chapter 1811 of the Texas Insurance Code, Senate Bill 425 82(R) of 2011, states that the above endorsements cannot be on the certificate of insurance. Separate endorsements must be provided for each of the above.
- **F.** All insurance policies shall be endorsed to require the insurer to immediately notify The City of Bastrop of any material change in the insurance coverage.
- G. All liability policies shall contain no cross-liability exclusions or insured versus insured restrictions.
- H. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
- I. Contractor may maintain reasonable and customary deductibles, subject to approval by The City of Bastrop.
- J. Insurance must be purchased from insurers having a minimum AmBest rating of B+.
- **K.** All insurance must be written on forms filed with and approved by the Texas Department of Insurance. (ACORD 25 2016/03) Coverage must be written on an <u>occurrence</u> form.
- L. Contractual Liability must be maintained covering the Contractors obligations contained in the contract. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting all endorsements and insurance coverages according to requirements and instructions contained herein.
- M. Upon request, Contractor shall furnish The City of Bastrop with certified copies of all insurance policies.
- N. A valid certificate of insurance verifying each of the coverages required above shall be issued directly to the City of Bastrop within ten (10) business days after contract award and prior to starting any work by the successful contractor's insurance agent of record or insurance company. Also, prior to the start of any work and at the same time that the Certificate of Insurance is issued and sent to the City of Bastrop, all required endorsements identified in sections A, B, C and D, above shall be sent to the City of Bastrop. The certificate of insurance and endorsements shall be sent to:

City of Bastrop Public Works Department P. O. Box 427 1311 Chestnut Street Bastrop, TX 78602

INSURANCE REQUIREMENTS

Items marked "X" are required to be provided if award is made to your firm. **Coverages Required & Limits (Figures Denote Minimums)**

X Workers' Compensation Statutory limits, State of TX. **X** Employers' Liability \$500,000 per employee per disease / \$500,000 per employee per accident / \$500,000 by disease aggregate **X** Commercial General Liability: _X_ Medium Risk Very High/High Risk Low Risk Each Occurrence \$1,000,000 \$300,000 \$500,000 Fire Damage \$300,000 \$100,000 \$100,000 Personal & ADV Injury \$1,000,000 \$1,000,000 \$600,000 General Aggregate \$2,000,000 \$1,000,000 \$600,000 Products/Compl Op \$2,000,000 \$500.000 \$300.000 \$500,000 \$300,000 XCU \$2,000,000 X Automobile Liability: (Owned, Non-Owned, Hired and Injury & Property coverage for all) Very High/ High Risk X Medium Risk Low Risk Combined Single Limits **Combined Single Limits Combined Single Limits** \$500,000 Bodily \$1,000,000 Bodily \$300,000 Bodily Garage Liability for BI & PD \$1,000,000 each accident for Auto, \$1,000,000 each accident Non-Auto \$2,000,000 General Aggregate _Garage Keepers Coverage (for Auto Body & Repair Shops) \$500,000 any one unit/any loss and \$200,000 for contents Umbrella each-occurrence with respect to primary Commercial General Liability, Automobile Liability, and Employers Liability policies at minimum limits as follows: Contract value less than \$1,000,000: not required Contract value between \$1,000,000 and \$5,000,000: \$4,000,000 is required Contract value between \$5,000,000 and \$10,000,000: **\$9,000,000 is required** Contract value between \$10,000,000 and \$15,000,000: \$15,000,000 is required Contract value above \$15,000,000: \$20,000,000 is required Excess coverage over \$10,000,000 can be provided on "following form" type to the underlying coverages to the extent of liability coverage as determined by the City. X_ Professional Liability, including, but not limited to services for Accountant, Appraiser, Architecture, Consultant, Engineering, Insurance Broker, Legal, Medical, Surveying, construction/renovation contracts for engineers, architects, constructions managers, including design/build Contractors. Minimum limits of \$1,000,000 per claim/aggregate. This coverage must be maintained for at least two (2) years after the project is completed. Builder's Risk (if project entails vertical construction, including but not limited to bridges and tunnels or as determined by the City of Sugar Land) Limit is 100% of insurable value, replacement cost basis Pollution Liability for property damage, bodily injury and clean up (if project entails possible contamination of air, soil or ground or as determined by the City of Sugar Land) \$1,000,000 each occurrence \$2,000,000 aggregate Other Insurance Required: _

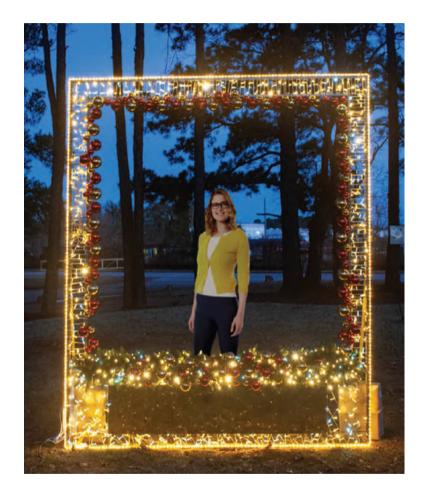
NOTE: The nature/size of a contract/agreement may necessitate higher limits than shown above. These requirements are only meant as a guide, but in any event, should cover most situations. Check with Purchasing & Risk Management if you need assistance or need additional information.

2023 HOLIDAY UPGRADES



CITY OF BASTROP PHOTO POINT LOGO PHOTO FRAME 10FT





















HOLIDAY 2023





thank you

HAILEY WEIDENFELLER 210-912-5052 HWEINDENFELLER@DECORIQ.NET







STAFF REPORT

MEETING DATE: August 22, 2023

TITLE:

Consider action to approve Resolution No. R-2023-122 of the City Council of the City of Bastrop, Texas, awarding a contract, attached as Exhibit A, for the installation of Shade Structures at Ferry Park and Hunter's Crossing Park to T.F. Harper in the amount of Sixty-Four Thousand Nine Hundred Twenty-Nine and 74/100 Dollars (\$64,929.74); authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

STAFF REPRESENTATIVE:

Curtis Hancock, Director of Public Works

BACKGROUND/HISTORY:

Playgrounds offer a naturally exciting place for children to play and adults to gather. In today's world, playground sunshade structures are critical, helping to protect children and play equipment from the harmful effects of the sun.

There are numerous advantages of including quality shade structures on your playground and some of these benefits include:

- Blocking up to 97% of harmful UV rays.
- Safeguarding both people and playground equipment against sun and weather damage.
- Increasing airflow and comfort in the shade, providing for a more enjoyable visit.
- Providing protection for those who may be more vulnerable to UV and heat exposure, including children, individuals with disabilities, the elderly, and those on medications that make them more susceptible to sunburns and overheating.

The 2023 fiscal year budget included an allocation of \$65,000 for a public works project to install a new shade structure at Hunters Crossing and Ferry Parks over the Playscapes.

The scope of this public works improvement comprises of installation of two new shade structure: at Hunters Crossing Park a 40 feet wide by 40 feet long by 12 feet high and at Ferry Park a 36 foot wide by 36 foot long by 15 foot high, cantilevered steel framing structure including footings and foundations, metal perforated panels, powder coating, and all other appurtenant work necessary for the new shade structure over the existing Playscapes.

POLICY EXPLANATION:

A Request-for-Proposal (RFP) was developed to provide for the installation of Shade Structures AT Ferry Park and Hunters Crossing Parks. T.F. Harper provided per unit pricing detail, which is attached as Exhibit A to the Resolution. Funding of \$64,919.74 is provided in the FY 2023 Budget for Shade Structure. This project will not exceed the budgeted amount.

FUNDING SOURCE:

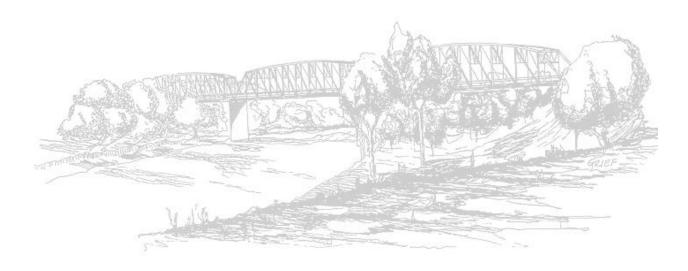
These funds are budgeted for FY23.

RECOMMENDATION:

Consider action to approve Resolution No. R-2023-122 of the City Council of the City of Bastrop, Texas, awarding a contract, attached as Exhibit A, for the installation of Shade Structures to T.F. Harper in the amount of Sixty-Four Thousand Nine Hundred Twenty-Nine and 74/100 Dollars (\$64,929.74); authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

ATTACHMENTS:

- Resolution
- Proposals for Ferry and Hunters Crossing
- Draft Contract with T.F. Harper



RESOLUTION NO. R-2023-122

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AWARDING A CONTRACT, ATTACHED AS EXHIBIT A, FOR THE INSTALLATION OF SHADE STRUCTURES TO T.F. HARPER IN THE AMOUNT OF SIXTY-FOUR THOUSAND NINE HUNDRED TWENTY-NINE AND 74/100 DOLLARS (\$64,929.74); AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The City Council has appointed the City Manager as the Chief Administrative Officer of the City; and

WHEREAS, The City Manager is responsible for the proper administration of all affairs of the City; and

WHEREAS, The City Council has the vision to improve Bastrop's Parks and Playgrounds to enhance the playtime of children; and

WHEREAS, Improving the shade structures at Ferry Park and Hunters Crossing Park; and

WHEREAS, The City of Bastrop has received all proposals, and found the lowest responsible bidder to be qualified.

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

<u>Section 1:</u> That the City Manager is hereby authorized to execute a contract for the installation of shade structures to T.F. Harper in the amount of Sixty-Four Thousand Nine Hundred Twenty-Nine And 74/100 Dollars (\$64,929.74).

Section 2: That the City Council of the City of Bastrop has found T.F. Harper to be a subject matter expert in the field of shade structures.

Section 3: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4: 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 22nd day of August 2023.

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

t.f.har	per
& associat	tes LP

QUOTE

QUOTE #:

DATE:

06192023-JG-100

June 19, 2023

To:	City of Bastrop	
Attn:	Thomas Martinez	
Address:	300 Water St. Bastrop, TX 78602	BuyBoard #679-22
Install Site:	502 Water St. Bastrop, TX 78602	
Phone:	(512) 332-8922	Ferry Park Shade Canopy
Email:	tmartinez@citvofbastrop.org	

QTY	DESCRIPTION OF EQUIPMENT	UN		Т	TOTAL COST
I	Modern Shade 4 Post Hip Canopy 36'W x 28'L x 15'H - Inground	\$	18,489.00	\$	18,489.00
I	Install: Mobilization, New Footers, Assembly, and Installation of Modern Shade Canopy	\$	8,328.96	\$	8,328.96
I	Underground Utilities Survey	\$	1,500.00	\$	1,500.00
I	Engineer Sealed Drawings	\$	750.00	\$	750.00
				-	
I	T.F. Harper Discount	\$	(1,453.40)	\$	(1,453.40)
Notes	\$ (18,586.50) DEPOSIT FOR EQUIPMENT NEEDED WITH SIGNED PO / CONTRACT	S	ub-Total	\$	27,614.56
	Modern Shade Canopies Wind Loads (90MPH including 3 gusts) Live Loads (5PSF including snow)		Freight	\$	97.50
		S	Sales Tax		EXEMPT
			TOTAL	\$	27,712.06

QUOTE IS VALID FOR 20 CALENDAR DAYS FROM DATE OF QUOTE OR FROM DATE OF REVISION

July 9, 2023

PRICING IS BASED ON FULL ACCESS TO INSTALL AREA BY TRUCK / BOBCAT / SKYTRAK.

NOT INCLUDED: Permits, Bonds/Fees (if required), Site Work in Excess of Normal Installation (example: site prep - excavation/infill, concrete slab, french drains, excess rock removal, landscaping).

Any installation charges quoted are based upon a soil work site (not rocky) that is freely accessible by truck, no fencing, tree/landscaping or utility obstacles, etc.), and level (+/- 1-2% max slope). Any site work not expressly described is excluded. All underground utilities must be located and clearly marked before any work can begin. Installation of all products (equipment, borders, ground cover, amenities) are as quoted and approved by acceptance of quote/drawings. The installer is not responsible for any damages or re-work resulting from after-hours events or activities during the work in progress period. The customer is responsible for maintaining the integrity of completed installation work until components have seated and/or cured (concrete footings, etc.). By signing or issueing a PO to this quote, you are hereby agreeing to the attached Utility/ Rock Clause. If underground utilities are unknown and unmarked pricing is subject to an additional \$1,500.00 fee or signed waiver waving financial responsibility in case any underground utilities are damaged during installation.

Payment Terms: Deposit for equipment cost due (\$18,586.50); balance due upon completion of work and receipt of invoice. Estimated Delivery & Installation: 14-16 weeks after receipt of signed quote, deposit and color selections.

Lead Time may vary dependent on manufacturers schedule for distribution

Accepted by:

Date:

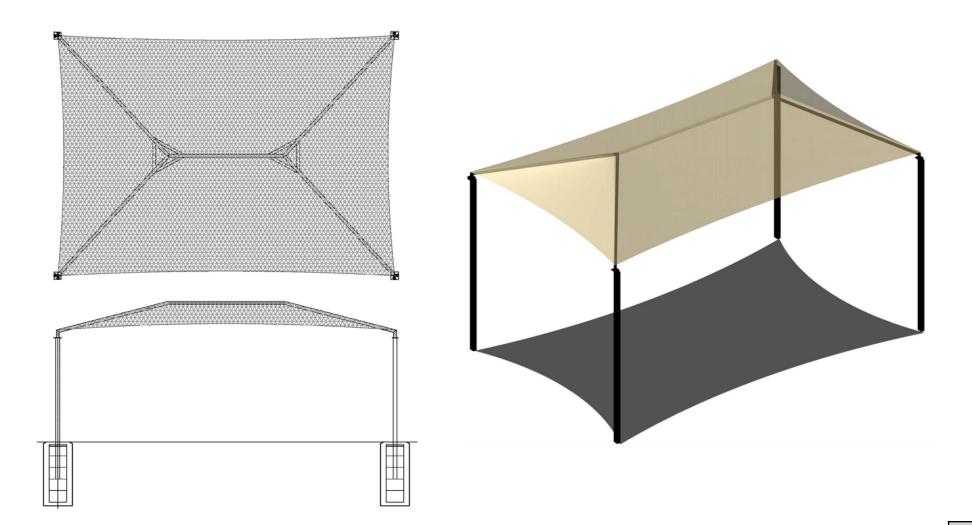
P.O. # (if applicable):

Thank you for giving us the opportunity to quote this equipment. Jessica Carter

4 POST HIP









Item 9B.

Color Selection Worksheet

Customer Name:

Project Name:

SHADE FABRIC COLORS:

Charcoal	Yellow	White
Turquoise	Steel Grey	Sky Blue
Rivergum	Royal Purple	Orange
Navy Blue	Natural	Gun Metal
Desert Sand	Deep Ochre	Cherry Red
Cedar	Cayenne	Brunswick
Brown	Bright Green	Black
Aquatic Blue		
·		

POWDER COAT POLE COLORS:

Signal White	Brown Red
Signal Red	Sepia Brown
Beige	Signal Blue
Cobalt Blue	Moss Green
Zinc Yellow	Traffic Black
Window Grey	Light Ivory

Approved by: ____

(Print	Name)
· ·	

(Signature)

(Date)

Commercial Play & Recreational Equipment www.tfharper.com - - 800.976.0107 - - local: 512.440.0707 - - fax: 512.440.0736



Charcoal	Yellow	White	Turquoise
Steel Grey	Sky Blue	Rivergum	Royal Purple
Orange	Navy Blue	Natural	Gun Metal
Desert Sand	Deep Ochre	Cherry Red	Cedar
Cayenne	Brunswick	Brown	Bright Green
Black	Aquatic Blue		
	coat Color ad finish available upo		
Signal Red RAL 3001	Brown Red RAL 3011	Sepia Brown RAL 8014	Beige RAL 1001
Signal Blue RAL 5005	Cobalt Blue RAL 5013	Moss Green RAL 6005	Zinc Yellow RAL 1018
Traffic Black	Window Grey	Light Ivory RAL 1015	Signal White



Claim Procedure: In the event a warranty claim is required, please contact Jacquelyn Gonzales, Project Coordinator / Estimator 800-976-0107 or 512-440-0707 FAX: 512-440-0736

Warranty

Modern Shade, LLC. ("MODERN SHADE") warrants that all Commercial Shade Products (Product) sold shall be free of defects in materials or workmanship. The Warranty set forth shall be the purchaser's sole and exclusive Warranty and is effective from the date of Product shipment or pickup. MODERN SHADE further warrants:

LIMITED 20 YEAR <u>NON-PRORATED</u> WARRANTY against failure due to rust-through corrosion on all Commercial steel frames with the exception of powder coated steel frames installed within 5 miles of the coast which has a 10 YEAR NON-PRORATED WARRANTY against failure due to rust-through corrosion. Failure to provide routine maintenance as stated in the below Required Maintenance and Care will void the Warranty.

LIMITED 10 YEAR <u>NON-PRORATED</u> WARRANTY on all HDPE Commercial shade fabric and Teflon stitching against cracks, tears, material breakdown or significant fading as a direct result of ultra-violet exposure with the exception of Red, which carries a 3 year limited warranty. MODERN SHADE reserves the right, in cases where certain fabric colors have been discontinued, to offer the customer a choice of available colors to replace the warranted fabric of the discontinued color.

Note: All HDPE Commercial shade fabric and Teflon stitching over 40' in length carry a limited 5 year non-prorated warranty. Other non-HDPE fabrics are covered by their respective manufacturer's warranty.

LIMITED 1 YEAR WARRANTY on all moving parts, surface coat finish or any other product or part not covered by one of the above warranties.

All of the above Warranties exclude any cosmetic issues. MODERN SHADE reserves the right to repair or replace any item covered by this Warranty. MODERN SHADE shall deliver all repaired or replacement part or parts to the customer **FREE OF CHARGE**. MODERN SHADE shall not be responsible for providing labor or the cost of labor for the removal of the defective part or parts and the installation of any replacement part or parts. All Repaired or Replacement parts shall be warranted for remainder of original warranty. The Warranty shall be void if the Product is not paid for in full within 30 days. MODERN SHADE specifically denies the implied warranties of fitness for a particular purpose and merchantability. The Warranty is void if the Product is not installed in strict compliance with the MODERN SHADE specifications. Purchaser shall notify MODERN SHADE in writing within thirty (30) days following the discovery of the alleged defect, detailing any defects for which a Warranty claim is being made; otherwise the Warranty shall be void. The Warranty shall be void if damage to the Product or any of its components is caused by misuse; harmful chemicals; excessive loads, pressures or forces such as abnormal weather conditions outside or in excess of the design specifications; acts of God; falling objects other than hail; explosions; fire; riots; civil commotion; vandalism; external forces; acts of war; radiation; harmful fumes or foreign substances in the atmosphere; floods; abuse by machinery, equipment or any persons; immersion in salt or chlorine water; not performing maintenance as described in the below Required Maintenance and Care; causes not within MODERN SHADE'S control; or if modifications are made to the Product without prior written consent from MODERN SHADE including but not limited to attaching signs, banners, lights or decorations. All Commercial shade products are designed for 90 MPH wind speed (three second gusts) and 5 PSF snow load, unless otherwise stated. Fabric Tops must be removed if weather conditions are expected to exceed these design limits. Commercial steel frames without a membrane top are designed for 150 MPH wind speed (three second gusts). Light fixtures are limited solely to the manufacturer's warranty.





Liability Limitation:

Modern shade shall not, in any event, be liable in contract or in tort (including negligence) for loss of profits or revenue, loss of use of equipment or facilities, cost of capital, or for any special, indirect, incidental or consequential damages of any nature resulting from or in any manner relating to the product covered hereby, it's design, use, any inability to use the same or any delay in delivery of the same. Furthermore, it is understood and agreed that the sole and exclusive remedy with respect to defective product shall be the repair, correction or replacement thereof pursuant to the foregoing provisions. Should the product or any part of it prove so defective, however as to preclude the remedying of warranted defects by repair or replacement, the customer's sole and exclusive remedy shall be the refund of the purchase price of the product, or part thereof which is defective, upon its return to modern shade. Furthermore, modern shade is not liable for damage to property caused by rain or hail. Corrections of non-conformities and defects in the manner and for the period of time provided above shall constitute fulfillment of all liabilities of modern shade to the customer, whether based on contract, negligence or otherwise with respect to or arising out of such product. No warranties or representation at any time made by any sales representative, dealer, agent or any person shall be effective to vary or expand the above express warranty or any other term hereof.

Required Maintenance and Care

Failure to provide the following routine maintenance shall void the Warranty.

Maintenance of Fabric Tops:

Fabric tops should be checked annually to ensure proper cable tension is maintained throughout the Warranty period. To remove dirt or bird droppings from fabric tops, simply spray the underside with water. For stubborn dirt, mild dish soap may be applied and rinsed.

Maintenance of Steel Frame:

Owner is responsible for routine maintenance to preserve the finish and welded joints. If surface rust or corrosion appears (regardless of cause), owner shall remove with sand paper or wire brush, prime and repaint. Ensure all connecting hardware is properly secured. Ensure all bolted connections and slip fit joints are caulked as needed. Failure to provide routine maintenance will void the Warranty.



Claim Procedure: In the event a warranty claim is required, please contact Jacquelyn Gonzales, Project Coordinator / Estimator 800-976-0107 or 512-440-0707 FAX: 512-440-0736



June 30, 2022

- To: All our Valued Dealers and Customers From: Modern Shade LLC
- Re: Price Increase Notification

Due to significant cost increases throughout our supply chain, we have had to implement price increases across our entire product line. In 2022 alone, our labor cost has risen more than 20% and fabric prices increased again on June 17, 2022. We hope prices have finally stabilized but it's difficult to forecast future shortages and inflation. We appreciate your continued partnership and understanding as we navigate these challenging times.

Please contact us with any questions you may have.

Thank you,

Clay Biderell

Clay Bridwell, CEO



1685 S EN Item 9B. Buda 9610

10:	City of Bastrop
Attn:	Donald Smuck
Address:	300 Water St Bastrop, TX 78602
Install Site:	301 Hunters Crossing Blvd Bastrop, TX 78602
Phone:	(512) 332-8920
Email:	dsmuck@cityofbastrop.org

QUOTE #: 06202023-JG-103R DATE: July 25, 2023

BuyBoard #679-22

OUOTE

Hunter's Crossing

OTV		UNIT COST	TOTAL	T202
QTY	DESCRIPTION OF EQUIPMENT	UNIT COST	TOTAL	.031
I	Modern Shade 4 Post Hip Super 40'W x 40'L x 12'H - Inground 24" x 7' piers	\$ 20,271.25	\$ 2	20,271.25
I	Install: Mobilization, New Footers, Assembly, and Installation of Modern Shade Canopies Above	\$ 15,338.00	\$	5,338.00
Ι	Underground Utilities Survey	\$ I,500.00	\$	1,500.00
I	Sealed Engineered Drawings	\$ I,000.00	\$	1,000.00
-	T.F. Harper Discount	\$ (1,143.28)	\$	(1,143.28)
Notes	\$ (20,522.96) DEPOSIT FOR EQUIPMENT NEEDED WITH SIGNED PO / CONTRACT	Sub-Total	\$ 36	,965.97
	Modern Shade Canopies Wind Loads (90MPH including 3 gusts) Live Loads (5PSF including snow)	Freight	\$	251.71
		Sales Tax	EXEMF	ΡT
		TOTAL	\$ 37,	217.68

OUOTE IS VALID FOR 20 CALENDAR DAYS FROM DATE OF OUOTE OR FROM DATE OF REVISION

August 14, 2023

PRICING IS BASED ON FULL ACCESS TO INSTALL AREA BY TRUCK / BOBCAT / SKYTRAK.

NOT INCLUDED: Permits, Bonds/Fees (if required), Site Work in Excess of Normal Installation (example: site prep - excavation/infill, concrete slab, french drains, excess rock removal, landscaping).

Any installation charges quoted are based upon a soil work site (not rocky) that is freely accessible by truck, no fencing, tree/landscaping or utility obstacles, etc.), and level (+/- 1-2% max slope). Any site work not expressly described is excluded. All underground utilities must be located and clearly marked before any work can begin. Installation of all products (equipment, borders, ground cover, amenities) are as quoted and approved by acceptance of quote/drawings. The installer is not responsible for any damages or re-work resulting from after-hours events or activities during the work in progress period. The customer is responsible for maintaining the integrity of completed installation work until components have seated and/or cured (concrete footings, etc.). By signing or issueing a PO to this quote, you are hereby agreeing to the attached Utility/ Rock Clause. If underground utilities are unknown and unmarked pricing is subject to an additional \$1,500.00 fee or signed waiver waving financial responsibility in case any underground utilities are damaged during installation.

Payment Terms: Deposit for equipment cost due (\$20,522.96); balance due upon completion of work and receipt of invoice. Estimated Delivery & Installation: 14-16 weeks after receipt of signed quote, deposit and color selections. Lead Time may vary dependent on manufacturers schedule for distribution

Accepted by:

Date:

P.O. # (if applicable):

Thank you for giving us the opportunity to quote this equipment. Jessica Carter



1685 S F Item 9B. Buda, Texas 78610

ROCK CLAUSE

IN THE EVENT THAT SITE SOIL OR ROCK CONDITIONS ARE SUCH TO PREVENT NORMAL INSTALLATION TIME AND PROCEDURES, THE OWNER/CUSTOMER WILL BE RESPONSIBLE FOR ADDITIONAL EQUIPMENT AND LABOR EXPENSES IN THE AMOUNT OF FOUR HUNDRED AND FIFTY AND NO/100 DOLLARS (\$450.00) PER DAY IN ORDER TO ACCOMPLISH THE INSTALLATION.

UNDERGROUND UTILITY CLAUSE

NEITHER T. F. HARPER & ASSOCIATES, ITS EMPLOYEES OR ITS SUB-CONTRACTORS ARE RESPONSIBLE FOR ANY DAMAGE DONE TO ANY TYPE OF UNDERGROUND UTILITIES ON THE SITE CHOSEN BY THE PROPERTY OWNER/MANAGER TO INSTALL THE EQUIPMENT UNLESS THE OWNER/MANAGER HAS THESE LINES ACCURATELY STAKED PRIOR TO INSTALLATION COMMENCEMENT. WITHOUT PROPER AND ACCURATE STAKING OF THESE UNDERGROUND LINES, ANY COSTS INCURRED TO REPAIR DAMAGED LINES OR TO RENDER MEDICAL TREATMENT IN THE EVENT OF INJURY TO A T. F. HARPER & ASSOCIATES EMPLOYEE OR SUB-CONTRACTOR DUE TO CONTACT WITH UNMARKED UNDERGROUND LINES, SHALL BE THE SOLE RESPONSIBILITY OF THE PROPERTY OWNER/MANAGER. T.F. HARPER & ASSOCIATES, ITS EMPLOYEES OR SUB-CONTRACTORS CANNOT PROCEED WITH ANY IOB WHERE UNDERGROUND LINES ARE THOUGHT TO BE PRESENT WITHOUT ACCURATE MARKINGS.

THE TERMS OF THIS PROPOSAL ARE UNDERSTOOD AND AGREED UPON BY THE UNDERSIGNED. THE UNDERSIGNED, AS THE OWNER OR REPRESENTATIVE OF THE OWNER, SWEARS TO BE AUTHORIZED TO SIGN THIS LEGAL AND BINDING AGREEMENT, THEREFORE ACCEPTING LEGAL RESPONSIBILITY AND LIABILITY FOR THE FULFILLMENT OF THE ABOVE TERMS.

Accepted B	y:											

Date:



Item 9B.

UNDERGROUND UTILITIES WAIVER

AT YOUR REQUEST WE WILL INSTALL EQUIPMENT IN THE LOCATION AS DIRECTED. YOU HAVE NOT CONTRACTED WITH US TO PERFORM UNDERGROUND UTILITIES SURVEYING FOR THIS AREA.

T. F. HARPER & ASSOCIATES WILL NOT BE HELD RESPONSIBLE FOR ANY DAMAGED UNDERGROUND UTILITIES THAT ARE NOT CLEARLY MARKED PRIOR TO MOBILIZATION.

THE TERMS OF THIS PROPOSAL ARE UNDERSTOOD AND AGREED UPON BY THE UNDERSIGNED. THE UNDERSIGNED, AS THE OWNER OR REPRESENTATIVE OF THE OWNER, SWEARS TO BE AUTHORIZED TO SIGN THIS LEGAL AND BINDING AGREEMENT, THEREFORE ACCEPTING LEGAL RESPONSIBILITY AND LIABILITY FOR THE FULFILLMENT OF THE ABOVE TERMS.

Accepted By:

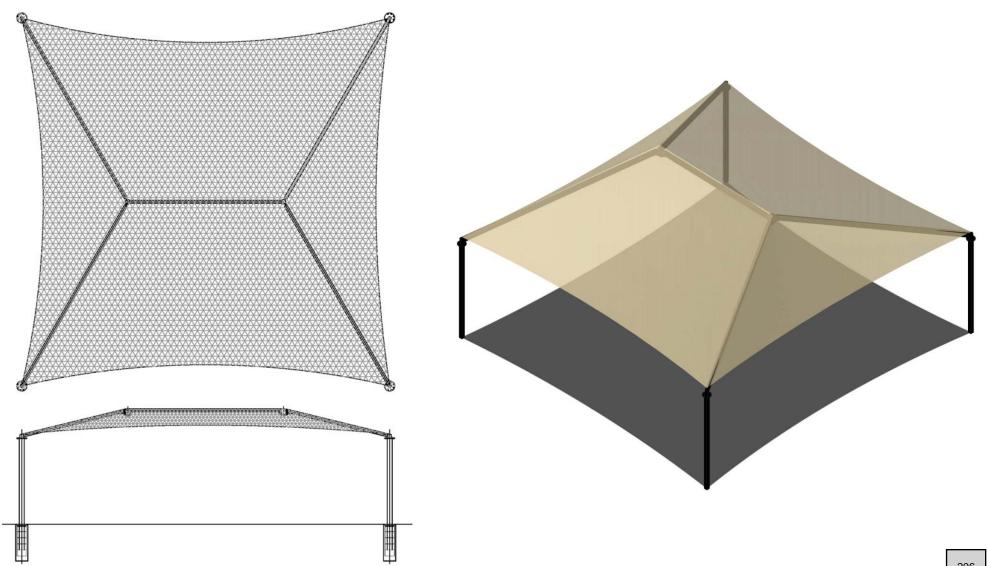
Date:



4 POST HIP-SUPER STRUCTURE



Item 9B.





White

Sky Blue

Orange

Gun Metal

Brunswick

Black

Cherry Red

Color Selection Worksheet

Customer Name:

Project Name:

SHADE FABRIC COLORS:

 _____Charcoal
 ____Yellow

 _____Turquoise
 Steel Grey

 _____Rivergum
 _____Royal Purple

 _____Navy Blue
 _____Natural

 _____Desert Sand
 _____Deep Ochre

 _____Cedar
 _____Cayenne

 _____Aquatic Blue
 ______Bright Green

POWDER COAT POLE COLORS:

Signal White	Brown Red
Signal Red	Sepia Brown
Beige	Signal Blue
Cobalt Blue	Moss Green
Zinc Yellow	Traffic Black
Window Grey	Light Ivory

Approved by:

P	rir	nt	N	am	e)
		i C	1.40	um	\sim

(Signature)

(Date)



Charcoal	Yellow	White	Turquoise
Steel Grey	Sky Blue	Rivergum	Royal Purple
Orange	Navy Blue	Natural	Gun Metal
Desert Sand	Deep Ochre	Cherry Red	Cedar
Cayenne	Brunswick	Brown	Bright Green
Black	Aquatic Blue		
	coat Color ad finish available upo		
Signal Red RAL 3001	Brown Red RAL 3011	Sepia Brown RAL 8014	Beige RAL 1001
Signal Blue RAL 5005	Cobalt Blue RAL 5013	Moss Green RAL 6005	Zinc Yellow RAL 1018
Traffic Black	Window Grey	Light Ivory RAL 1015	Signal White



Claim Procedure: In the event a warranty claim is required, please contact Jacquelyn Gonzales, Project Coordinator / Estimator 800-976-0107 or 512-440-0707 FAX: 512-440-0736

Warranty

Modern Shade, LLC. ("MODERN SHADE") warrants that all Commercial Shade Products (Product) sold shall be free of defects in materials or workmanship. The Warranty set forth shall be the purchaser's sole and exclusive Warranty and is effective from the date of Product shipment or pickup. MODERN SHADE further warrants:

LIMITED 20 YEAR <u>NON-PRORATED</u> WARRANTY against failure due to rust-through corrosion on all Commercial steel frames with the exception of powder coated steel frames installed within 5 miles of the coast which has a 10 YEAR NON-PRORATED WARRANTY against failure due to rust-through corrosion. Failure to provide routine maintenance as stated in the below Required Maintenance and Care will void the Warranty.

LIMITED 10 YEAR <u>NON-PRORATED</u> WARRANTY on all HDPE Commercial shade fabric and Teflon stitching against cracks, tears, material breakdown or significant fading as a direct result of ultra-violet exposure with the exception of Red, which carries a 3 year limited warranty. MODERN SHADE reserves the right, in cases where certain fabric colors have been discontinued, to offer the customer a choice of available colors to replace the warranted fabric of the discontinued color.

Note: All HDPE Commercial shade fabric and Teflon stitching over 40' in length carry a limited 5 year non-prorated warranty. Other non-HDPE fabrics are covered by their respective manufacturer's warranty.

LIMITED 1 YEAR WARRANTY on all moving parts, surface coat finish or any other product or part not covered by one of the above warranties.

All of the above Warranties exclude any cosmetic issues. MODERN SHADE reserves the right to repair or replace any item covered by this Warranty. MODERN SHADE shall deliver all repaired or replacement part or parts to the customer **FREE OF CHARGE**. MODERN SHADE shall not be responsible for providing labor or the cost of labor for the removal of the defective part or parts and the installation of any replacement part or parts. All Repaired or Replacement parts shall be warranted for remainder of original warranty. The Warranty shall be void if the Product is not paid for in full within 30 days. MODERN SHADE specifically denies the implied warranties of fitness for a particular purpose and merchantability. The Warranty is void if the Product is not installed in strict compliance with the MODERN SHADE specifications. Purchaser shall notify MODERN SHADE in writing within thirty (30) days following the discovery of the alleged defect, detailing any defects for which a Warranty claim is being made; otherwise the Warranty shall be void. The Warranty shall be void if damage to the Product or any of its components is caused by misuse; harmful chemicals; excessive loads, pressures or forces such as abnormal weather conditions outside or in excess of the design specifications; acts of God; falling objects other than hail; explosions; fire; riots; civil commotion; vandalism; external forces; acts of war; radiation; harmful fumes or foreign substances in the atmosphere; floods; abuse by machinery, equipment or any persons; immersion in salt or chlorine water; not performing maintenance as described in the below Required Maintenance and Care; causes not within MODERN SHADE'S control; or if modifications are made to the Product without prior written consent from MODERN SHADE including but not limited to attaching signs, banners, lights or decorations. All Commercial shade products are designed for 90 MPH wind speed (three second gusts) and 5 PSF snow load, unless otherwise stated. Fabric Tops must be removed if weather conditions are expected to exceed these design limits. Commercial steel frames without a membrane top are designed for 150 MPH wind speed (three second gusts). Light fixtures are limited solely to the manufacturer's warranty.





Liability Limitation:

Modern shade shall not, in any event, be liable in contract or in tort (including negligence) for loss of profits or revenue, loss of use of equipment or facilities, cost of capital, or for any special, indirect, incidental or consequential damages of any nature resulting from or in any manner relating to the product covered hereby, it's design, use, any inability to use the same or any delay in delivery of the same. Furthermore, it is understood and agreed that the sole and exclusive remedy with respect to defective product shall be the repair, correction or replacement thereof pursuant to the foregoing provisions. Should the product or any part of it prove so defective, however as to preclude the remedying of warranted defects by repair or replacement, the customer's sole and exclusive remedy shall be the refund of the purchase price of the product, or part thereof which is defective, upon its return to modern shade. Furthermore, modern shade is not liable for damage to property caused by rain or hail. Corrections of non-conformities and defects in the manner and for the period of time provided above shall constitute fulfillment of all liabilities of modern shade to the customer, whether based on contract, negligence or otherwise with respect to or arising out of such product. No warranties or representation at any time made by any sales representative, dealer, agent or any person shall be effective to vary or expand the above express warranty or any other term hereof.

Required Maintenance and Care

Failure to provide the following routine maintenance shall void the Warranty.

Maintenance of Fabric Tops:

Fabric tops should be checked annually to ensure proper cable tension is maintained throughout the Warranty period. To remove dirt or bird droppings from fabric tops, simply spray the underside with water. For stubborn dirt, mild dish soap may be applied and rinsed.

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June 30, 2022

- To: All our Valued Dealers and Customers From: Modern Shade LLC
- Re: Price Increase Notification

Due to significant cost increases throughout our supply chain, we have had to implement price increases across our entire product line. In 2022 alone, our labor cost has risen more than 20% and fabric prices increased again on June 17, 2022. We hope prices have finally stabilized but it's difficult to forecast future shortages and inflation. We appreciate your continued partnership and understanding as we navigate these challenging times.

Please contact us with any questions you may have.

Thank you,

Clay Biderell

Clay Bridwell, CEO

CITY OF BASTROP STANDARD CONTRACT FOR GENERAL SERVICES Over \$50K

(8-16-2021)

This General Services Contract ("Contract") is entered by and between the **City of Bastrop**, a Texas Home-Rule Municipal Corporation (the "City"), and **T.F. Harper & Associates** acting by **Jessica Carter** (the "Engineer/Contractor"), and together with the City jointly referred to as the "Parties," for the following work described on the Scope of Services, Exhibit A-2, attached and incorporated herein to this Contract (the "Work" or "Project" or "City of Bastrop Playground Shade Structures for Ferry and Hunters Crossing Parks").

I. General Information and Terms.

Engineer's/Contractor's Name and Address:	T.F. Harper & Associates 1685 S FM 1626 Buda, Texas 78610 Atten: Jessica Carter
General Description of Services:	City of Bastrop Playground Shade Structures for Ferry and Hunters Crossing Parks
Maximum Contract Amount:	\$64,929.74
Effective Date:	On the latest of the dates signed by both parties.
Termination Date:	See II.D.

Contract Parts: This Contract consists of the following parts:

I. General Information and TermsII. Standard Contractual ProvisionsIII. Additional Terms or ConditionsIV. Additional Contract DocumentsV. Signatures

II. Standard Contractual Provisions.

A. <u>Contractor's Services</u>. The Contractor will provide to the City the professional engineering services ("Services") described in the Scope of Services, Exhibit A-2 attached and incorporated herein to this Contract under the terms and conditions of this Contract.

B. <u>Billing and Payment</u>. The Contractor will bill the City for the Services provided at intervals of at least 30 days from receipt of Contractor's invoices, except for the final billing. The City will pay the Contractor within 30 days from receipt of Contractor's invoices for the Services provided

for in this Contract with current revenues available to the City, but all of the City's payments to the Contractor, including the time of payment and the payment of interest on overdue amounts, are subject to the provisions of Chapter 2251 of the Government Code. The City shall have the right to withhold payment, or any part thereof, of any of invoice presented by Contractor until resolution providing reasonable verification of the correctness thereof is reached. The City shall notify the Contractor, in writing, of the disputed amount within thirty (30) days. The City is not liable to the Contractor for any taxes which the City is not liable by law, including state and local sales and use taxes (Texas Tax Code Section 151.309 and Title 3) and federal excise tax (Internal Revenue Code Subtitle D). Accordingly, those taxes may not be added to any bill.

C. <u>Executed Contract.</u> The "Notice to Proceed" will not be given nor shall any Services commence until this Contract is fully executed and all exhibits and other attachments are completely executed and attached to this Contract.

D. Termination Provisions.

- (1) Unless terminated earlier as allowed by this Contract, this Contract terminates:
 - (a) On the termination date, if any, specified in the General Information in Part I, but the obligation of a party to complete a contract requirement pending on the date of termination survives termination; or
 - (b) If there is no termination date specified in the General Information in Part I, the Contract terminates when both parties have completed all their respective obligations under the Contract.

(2) The City Manager may terminate this Contract during its term at any time for any reason by giving written notice to the Contractor not less than five (5) business days prior to the termination date, but the City will pay the Contractor for all Services rendered in compliance with this Contract up to the date of termination. The City may terminate the Contract anytime if the City does not have available funds pursuant to Texas Government Code Chapter 2251.

(3) If the City Council does not appropriate funds to make any payment for a fiscal year after the City's fiscal year in which the Contract becomes effective and there are no proceeds available for payment from the sale of bonds or other debt instruments, then the Contract automatically terminates at the beginning of the first day of the successive fiscal year. (Section 5, Article XI, Texas Constitution).

E. <u>Delays</u>. Contractor shall have no damages for delay or hindrance. In the event of delay or hindrance that is not the fault of Contractor, an extension of time shall be the Contractor's sole remedy.

F. <u>Independent Contractor</u>. It is understood and agreed by the Parties that the Contractor is an independent contractor retained for the Services described in the Scope of Services, Exhibit A-2, CITY OF BASTROP, GENERAL SERVICES CONTRACT/Page 2

attached and incorporated herein. The City will not control the manner or the means of the Contractor's performance but shall be entitled to work product as detailed in the Exhibit A-2. The City will not be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies. This Contract does not create a joint venture. Services performed by the Contractor under this Contract are solely for the benefit of the City. Nothing contained in this Contract creates any duties on the part of the Contractor toward any person not a party to this Contract. No person or entity not a signatory to this Contract shall be entitled to rely on the Contractor's performance of its Services hereunder, and no right to assert a claim against the Contractor by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Contract or the performance of the Contractor's Services hereunder.

G. <u>Subcontractor</u>. The term "subcontractor" shall mean and include only those hired by and having a direct contract with Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by Contractor for performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments due. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

H. <u>Assignment</u>. The Contractor may not assign this Contract without the City's prior written consent.

I. <u>Law Governing and Venue</u>. This Contract is governed by the law of the State of Texas and a lawsuit may only be prosecuted on this Contract in a court of competent jurisdiction located in or having jurisdiction in Bastrop County, Texas.

J. <u>Entire Contract</u>. This Contract represents the entire Contract between the City and the Contractor and supersedes all prior negotiations, representations, or contracts, either written or oral. This Contract may be amended only by written instrument signed by both parties.

K. <u>Dispute Resolution Procedures</u>. If either party disputes any matter relating to this Contract, then before bringing any legal action, the parties agree to try in good faith, to settle the dispute by submitting the matter to mediation before a third party who will be selected by agreement of the parties. The parties will each pay one-half of the mediator's fees.

L. <u>Attorney's Fees</u>. Should either party to this Contract bring suit against the other party for any matter relating to this Contract, the prevailing Party shall be entitled to have and recover from the losing Party reasonable attorney's fees and all other costs of such action.

M. <u>INDEMNIFICATION</u>. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, VOLUNTEERS, AND EMPLOYEES FROM AND AGAINST CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY, INCLUDING REIMBURSEMENT OF REASONABLE ATTORNEY'S FEES AND COST IN PROPORTION OF CONTRACTOR'S LIABILITY, FOR INJURY TO OR DEATH OF ANY PERSON OR FOR CITY OF BASTROP, GENERAL SERVICES CONTRACT/Page 3 DAMAGE TO ANY PROPERTY TO THE EXTENT CAUSED BY THE NEGLIGENT ACT, ERROR, OR WILLFUL MISCONDUCT OF THE CONTRACTOR, ITS AGENTS, REPRESENTATIVES, EMPLOYEES, OR ANYONE WHOM THE CONTRACTOR IS LEGALLY LIABLE FOR UNDER THIS CONTRACT.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES WHETHER UNDER BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY, SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, ENHANCED, TREBLE (OR STATUTORY EQUIVALENT), OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF BUSINESS OPPORTUNITY OR LOSS OF PROSPECTIVE REVENUE, ARISING OUT OF THIS AGREEMENT OR ANY WORK OR SERVICES PERFORMED OR TO BE PERFORMED HEREUNDER.

N. <u>RELEASE</u>. THE CONTRACTOR ASSUMES FULL RESPONSIBILITY FOR THE WORK TO BE PERFORMED HEREUNDER AND HEREBY RELEASES, RELINQUISHES, AND DISCHARGES THE CITY, ITS OFFICERS, AGENTS, VOLUNTEERS, AND EMPLOYEES FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO OR DEATH OF ANY PERSON, AND ANY LOSS OF OR DAMAGE TO ANY PROPERTY THAT IS CAUSED BY, OR ALLEGED TO BE CAUSED BY, THE NEGLIGENCE, RECKLESSNESS, OR WILLFUL MISCONDUCT OF CONTRACTOR, ITS AGENTS, REPRESENTATIVES, VOLUNTEERS, EMPLOYEES, OR SUBCONTRACTORS..

O. <u>Severability</u>. If a court finds or rules that any part of this Contract is invalid or unlawful, the remainder of the Contract continues to be binding on the parties.

P. <u>Conflicting Provisions</u>. If there is a conflict between a provision in the Contractor's Additional Contract Documents and a provision in the remainder of this Contract, the latter controls.

Q. <u>Documents and Data, Licensing of Intellectual Property, and Copyright</u>. All Work progress and final documents and data produced by Contractor during the term of the Contract shall be and remain the property of the City. For purposes of this Contract, the term "Documents and Data" include any original work (the Work), reports, analyses, plans, drawings, designs, renderings, specifications, notes, summaries, charts, schedules, spreadsheets, calculations, lists, data compilations, documents, or any other material developed and assembled by or on behalf of the City in the performance of this Contract. It also includes any medium in which the Documents and Data are kept, including digitally, magnetically, or electronically. This Contract creates at no cost to the City, a perpetual license for the City to use any picture, video, music, brochure, writing, trademark, logo, or other work created by the Contractor for the use of the City, as a "work made for hire" as defined by federal copyright law. The City, as the author and owner of the copyright to the Work, may alter, reproduce, distribute, or make any other use of the Work as it deems appropriate.

R. <u>Standard of Care for Architects and Engineers</u>. Services must be performed with the professional skill and care ordinarily provided by competent licensed engineers or registered architects practicing in the same or similar locality and under the same or similar circumstances and professional license.

S. <u>Disclosure of Interested Persons for Council-Approved Contracts</u>. Contracts that require City Council approval, such as contracts that exceed \$50,000, are subject to the requirements of Texas Government Code Section 2252.908. Under the provisions of this statute:

(1) The City may not enter into a contract with a business entity that requires Council approval unless the business entity submits a disclosure of interested persons at the time the business entity submits a signed contract to the City;

(2) A disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission (Commission), attached, and incorporated herein as Exhibit A-1, that includes:

- (a) A list of each interested party for the contract of which the contractor business entity is aware, an interested party being a person who has a controlling interest in the business entity or who actively participates in facilitating or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity; and
- (b) The signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury.

T. <u>Compliance with Laws</u>. The Contractor must comply with the federal, state, and local laws, rules and regulations applicable to the Project and its services under this Contract.

U. <u>Prohibition on Contracts with Companies Boycotting Israel</u>. Certain contracts for goods and services are subject to the requirements of Texas Government Code Section 2270.002, (H.B. 89, as amended by H.B. 793). Specifically, contracts for good and services that:

(1) are between the City and a company with ten (10) or more full-time employees; and

(2) have a value of \$100,000.00 or more that is to be paid wholly or partly from public funds of the City.

Under the provisions of this statute, if the above conditions apply the City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it:

(1) does not boycott Israel; and

(2) will not boycott Israel during the term of the contract.

If this is a contract to which the verification requirement applies, the City has approved a verification form which must be filled out and signed by the Contractor and submitted to the City at the time of execution of this Contract.

III. Additional Terms or Conditions.

Insurance

At all times this Agreement is in effect, Contractor shall maintain insurance of the types and amounts as those required in Exhibit B-1. All of Contractor's insurance policies in any way relating to the Work, whether or not required by this Agreement and regardless of the enforceability or validity of any of the indemnities or other assumptions of liability by Contractor, shall, to the full coverage limits of all such policies without any limitations based on the minimum requirements set forth above: (a) other than the worker's compensation insurance, name City Group as additional insureds on a broad form basis with such additional insured coverage including coverage for the sole or concurrent negligence of the additional insured and not being restricted to (i) "ongoing operations," (ii) coverage for vicarious liability, or (iii) circumstances in which the named insured is partially negligent; (b) provide for waiver of all rights of subrogation against City and the other members of City Group; and (c) be primary and noncontributory as to all other policies (including any deductibles or self-insured retentions) and self-insurance that may provide coverage to any member of City Group, and shall be fully applied and exhausted before application of any applicable indemnity obligations of City or of any applicable insurance coverage provided by City or any other member of City Group.

A. Audit

Contractor and the Contractor's affiliates, subsidiaries, subcontractors, consultants, agents, and any other person associated with Contractor shall keep full and accurate books and records with respect to all Work performed, all payments and all expenditures in connection with this Agreement. The records to be maintained and retained by Contractor shall include, without limitation: (a) payroll records accounting for total time distribution of Contractor's employees working full or part time on the Project, as well as canceled payroll checks or signed receipts for payroll payments in cash; (b) invoices for purchases, receiving and issuing documents, and all other unit inventory records for Contractor's stores, stock, or capital items; (c) paid invoices and canceled checks for materials purchased and for subcontractors' and any other Third Parties' charges, including, but not limited to, Equipment rental; (d) travel and entertainment documentation, including, but not limited to, employee expense reports and Contractor facility usage reports; and (e) all field tickets or similar documentation evidencing the Work. The City shall have the right at all reasonable times, for a period of five (5) years from the completion of the Work, to audit and inspect such books and records (excluding trade secrets, formulas, confidential data, proprietary information, or processes).

B. Reports of Incidents

Within twenty-four (24) hours upon occurrence, Contractor shall provide in writing to the City notice and details of any accidents or occurrences resulting in injuries to persons, property, or pollution arising in any way arising out of or related to the Work whether done by Contractor or any subcontractor of Contractor or any other member of Contractor Group performing Work pursuant to this Contract. Contractor shall provide notice, in writing, within twenty-four (24) hours of any claim, demand, or suit that may be presented to or served upon it arising out of or as a result of Work.

IV. Additional Contract Documents. The following documents attached to this Contract are part of this Contract:

- EXHIBIT A-1: Certificate of Interested Parties (1295 Form)
- EXHIBIT A-2 Scope of Work
- EXHIBIT A-3 House Bill 89 Verification
- EXHIBIT B-1 Requirements for General Services Contract

V. Signatures.

T.F. HARPER & ASSOCIATES

CITY OF BASTROP

By:	By:
Printed Name:	Printed Name:
Title:	Title:
Date:	Date:

Certificate of Interested Persons with Certification of Filing (Form 1295)

(See Attached)

EXHIBIT A-2

Scope of Services dated XXXX XX, 2022

(See Attached)

EXHIBIT A-3

House Bill 89 Verification

(See Attached)

EXHIBIT B-1 REQUIREMENTS FOR GENERAL SERVICES CONTRACT

The Contractor shall comply with each and every condition contained herein. The Contractor shall provide and maintain the minimum insurance coverage set forth below during the term of its agreement with the City, including any delay periods. If the Project is not finalized and the insurance expires, Contractor is obligated to extend the insurance coverage. Any Subcontractor(s) hired by the Contractor shall maintain insurance coverage equal to that required of the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The City of Bastrop accepts <u>no responsibility</u> arising from the conduct, or lack of conduct, of the Subcontractor.

INSTRUCTIONS FOR COMPLETION OF INSURANCE DOCUMENT

With reference to the foregoing insurance requirements, Contractor shall specifically endorse applicable insurance policies as follows:

- A. The City of Bastrop shall be named as an additional insured with respect to General Liability and Automobile Liability <u>on a separate endorsement</u>
- **B.** A waiver of subrogation in favor of The City of Bastrop shall be contained in the Workers Compensation and all liability policies and must be provided <u>on a separate endorsement.</u>
- **C.** All insurance policies shall be endorsed to the effect that The City of Bastrop will receive at least thirty (30) days' written notice prior to cancellation or non-renewal of the insurance.
- **D.** All insurance policies, which name The City of Bastrop as an additional insured, must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.
- E. Chapter 1811 of the Texas Insurance Code, Senate Bill 425 82(R) of 2011, states that the above endorsements cannot be on the certificate of insurance. Separate endorsements must be provided for each of the above.
- **F.** All insurance policies shall be endorsed to require the insurer to immediately notify The City of Bastrop of any material change in the insurance coverage.
- G. All liability policies shall contain no cross-liability exclusions or insured versus insured restrictions.
- H. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
- I. Contractor may maintain reasonable and customary deductibles, subject to approval by The City of Bastrop.
- J. Insurance must be purchased from insurers having a minimum AmBest rating of B+.
- **K.** All insurance must be written on forms filed with and approved by the Texas Department of Insurance. (ACORD 25 2016/03) Coverage must be written on an <u>occurrence</u> form.
- L. Contractual Liability must be maintained covering the Contractors obligations contained in the contract. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting all endorsements and insurance coverages according to requirements and instructions contained herein.
- M. Upon request, Contractor shall furnish The City of Bastrop with certified copies of all insurance policies.
- N. A valid certificate of insurance verifying each of the coverages required above shall be issued directly to the City of Bastrop within ten (10) business days after contract award and prior to starting any work by the successful contractor's insurance agent of record or insurance company. Also, prior to the start of any work and at the same time that the Certificate of Insurance is issued and sent to the City of Bastrop, all required endorsements identified in sections A, B, C and D, above shall be sent to the City of Bastrop. The certificate of insurance and endorsements shall be sent to:

City of Bastrop Public Works Department P. O. Box 427 1311 Chestnut Street Bastrop, TX 78602

INSURANCE REQUIREMENTS

Items marked "X" are required to be provided if award is made to your firm. **Coverages Required & Limits (Figures Denote Minimums)**

X Workers' Compensation Statutory limits, State of TX. **X** Employers' Liability \$500,000 per employee per disease / \$500,000 per employee per accident / \$500,000 by disease aggregate **X** Commercial General Liability: _X_ Medium Risk Very High/High Risk Low Risk Each Occurrence \$1,000,000 \$300,000 \$500,000 Fire Damage \$300,000 \$100,000 \$100,000 Personal & ADV Injury \$1,000,000 \$1,000,000 \$600,000 General Aggregate \$2,000,000 \$1,000,000 \$600,000 Products/Compl Op \$2,000,000 \$500.000 \$300.000 \$500,000 \$300,000 XCU \$2,000,000 X Automobile Liability: (Owned, Non-Owned, Hired and Injury & Property coverage for all) Very High/ High Risk X Medium Risk Low Risk Combined Single Limits **Combined Single Limits Combined Single Limits** \$500,000 Bodily \$1,000,000 Bodily \$300,000 Bodily Garage Liability for BI & PD \$1,000,000 each accident for Auto, \$1,000,000 each accident Non-Auto \$2,000,000 General Aggregate _Garage Keepers Coverage (for Auto Body & Repair Shops) \$500,000 any one unit/any loss and \$200,000 for contents Umbrella each-occurrence with respect to primary Commercial General Liability, Automobile Liability, and Employers Liability policies at minimum limits as follows: Contract value less than \$1,000,000: not required Contract value between \$1,000,000 and \$5,000,000: \$4,000,000 is required Contract value between \$5,000,000 and \$10,000,000: **\$9,000,000 is required** Contract value between \$10,000,000 and \$15,000,000: \$15,000,000 is required Contract value above \$15,000,000: \$20,000,000 is required Excess coverage over \$10,000,000 can be provided on "following form" type to the underlying coverages to the extent of liability coverage as determined by the City. X Professional Liability, including, but not limited to services for Accountant, Appraiser, Architecture, Consultant, Engineering, Insurance Broker, Legal, Medical, Surveying, construction/renovation contracts for engineers, architects, constructions managers, including design/build Contractors. Minimum limits of \$1,000,000 per claim/aggregate. This coverage must be maintained for at least two (2) years after the project is completed. Builder's Risk (if project entails vertical construction, including but not limited to bridges and tunnels or as determined by the City of Sugar Land) Limit is 100% of insurable value, replacement cost basis Pollution Liability for property damage, bodily injury and clean up (if project entails possible contamination of air, soil or ground or as determined by the City of Sugar Land) \$1,000,000 each occurrence \$2,000,000 aggregate Other Insurance Required: _

NOTE: The nature/size of a contract/agreement may necessitate higher limits than shown above. These requirements are only meant as a guide, but in any event, should cover most situations. Check with Purchasing & Risk Management if you need assistance or need additional information.



STAFF REPORT

MEETING DATE: August 22, 2023

TITLE:

Consider action to approve Resolution No. R-2023-113 of the City Council of the City of Bastrop, Texas to award a Grant Administrative Service contract to Public Management, Inc. for the preparation of the City's Community Development Block Grant – Mitigation (CDBG-MIT) Regional Method of Distribution (MOD) programs through the Texas General Land Office (GLO) application and subsequent administrative services, if funded, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

AGENDA ITEM SUMBITTED BY:

Submitted by: Tracy Waldron, Chief Financial Officer

BACKGROUND/HISTORY:

The City was notified by Texas General Land Office (GLO) of a grant funding opportunity and for which the City has current projects that would be eligible for this funding stream. The funding amount approved for Bastrop is \$2,358,000. This funding has some restrictions for projects that benefit low and moderate income (LMI) persons. Therefore, 50% or \$1,179,000 of the funding must be used for projects that benefit LMI persons in our community. The City is submitting the Blakey Lane extension project for the non-LMI portion of the funding and will identify most likely a water/wastewater improvement project that will qualify for the LMI portion of the grant.

Part of the application process is procuring grant administrative services through a bid process. Our Request for Proposals received two responses from GrantWorks and Public Management, Inc. Each proposal was scored by a committee of three, as well as having references vetted. Based on these results the staff is recommending a contract with Public Management, Inc for these services.

The grant administrator will guide the city in the project selection, completion of the application and post-award project management if funded. Applications are due December 1, 2023.

FISCAL IMPACT:

The funding for the project will be part of the FY 23/24 budget discussion.

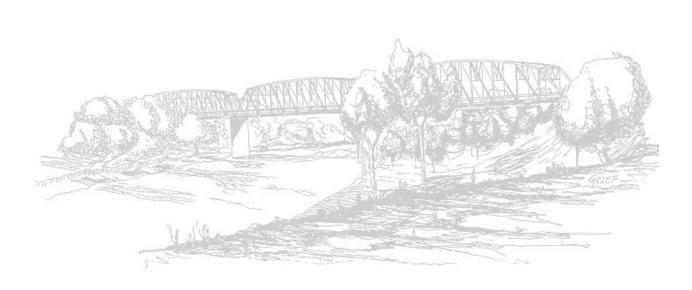
RECOMMENDATION:

Tracy Waldron recommends approving Resolution No. R-2023-113 of the City Council of the City of Bastrop, Texas to award a Grant Administrative Service contract to Public Management, Inc. for the preparation of the City's Community Development Block Grant – Mitigation (CDBG-MIT) Regional Method of Distribution (MOD) programs through the Texas Geneal Land Office (GLO) application and subsequent administrative services, if funded, as attached in Exhibit A;

authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

ATTACHMENTS:

• Resolution R-2023-113



RESOLUTION NO. R-2023-113

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS TO AWARD A GRANT ADMINISTRATION SERVICE CONTRACT TO PUBLIC MANAGEMENT, INC. FOR PREPARATION OF THE CITY'S COMMUNITY DEVELOPMENT GLOCK GRANT-MITIGATION (CDBG-MIT) REGIONAL METHOD OF DISTRIBTION (MOD) PROGRAMS THROUGH THE TEXAS GENERAL ALND OFFICE (GLO) APPLICATION AND SUBSEQUENT ADMINISTRATIVE SERVICES, IF FUNDED; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, certain conditions exist which represent a threat to public health and safety; and

WHEREAS, it is necessary and in the best interests of the City of Bastrop to apply for funding under the Texas General Land Office (GLO) program; and

WHEREAS, the City of Bastrop has sought proposals from administrative consultants through a competitive process; and

WHEREAS, The City of Bastrop, Texas has found Public Management, Inc. to be qualified to provide application and project management services for grant programs including the GLO program.

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

Section 1: That the City Manager is hereby authorized to execute an agreement for Grant Administration Services with Public Management, Inc., to provide application and implementation services for the CDGB- MIT Program.

Section 2: That the city's application be placed in competition for funding under the GLO Community Development Block Grant Program

<u>Section 3:</u> That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.

<u>Section 4:</u> All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 5: 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 22nd day of August 2023.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney



STAFF REPORT

MEETING DATE: August 22, 2023

TITLE:

Consider action to approve the first reading of Ordinance No. 2023-23 of the City Council, of the City of Bastrop, Texas amending the Bastrop City Code of Ordinances, adding Article 1.21 "Payment by Credit Card or Other Electronic Means"; and adding Appendix A, Fee Schedule, Section A1.21 "Payment by Credit Card or Other Electronic Means; providing for a processing fee for credit card payment of fees, fines, court costs, and other charges; providing for a service charge if payment of credit card is not honored; providing for findings of fact, enactment, repealer, severability, effective date, codification, proper notice of meeting, and move to include on the September 12, 2023 consent agenda for a second reading.

AGENDA ITEM SUBMITTED BY:

Tracy Waldron, Chief Financial Officer

BACKGROUND/HISTORY:

The City does not currently have a policy on credit card fees. At the City Council budget workshop on April 19, 2023, it was presented that in FY 2022 the City incurred almost \$93,000 in expenses related to credit card processing fees, \$68,000 of that being for utility payments. We are on track to have this same amount of expense in FY 2023.

Specifically for utility payments, the City offers multiple options that have little or no fee (automatic bank draft, drop off/mail, portal payments through ACH - small fee).

Staff recommedation would be to continue to absorb fees for small transactions (ie. library and recreation fees). All other payments paid by credit card would be passed on to the payor. We want to encourage payment by ACH and absorb that fee (currently \$0.29 per transaction). I would prefer to leave the policy vague enough to be flexible when the City contracts with a new third party vendor (ie. not to exceed limits).

A drafted Ordinance was presented at the July 11, 2023, City Council regular meeting for review and discussion. Recommendations received were incorporated into this ordinance.

FISCAL IMPACT:

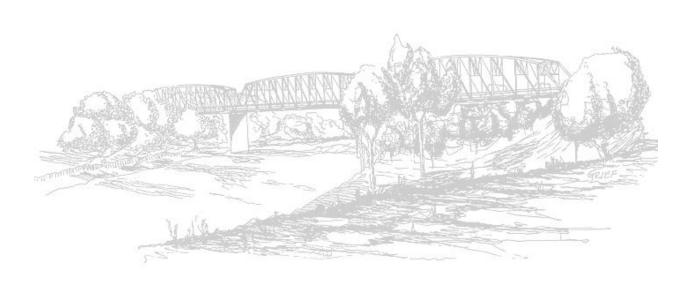
FY 2024 reduce expenses by approx. \$80,000.

RECOMMENDATION:

Consider action to approve the first reading of Ordinance No. 2023-23 of the City Council, of the City of Bastrop, Texas amending the Bastrop City Code of Ordinances, adding Article 1.21 "Payment by Credit Card or Other Electronic Means"; and adding Appendix A, Fee Schedule, Section A1.21 "Payment by Credit Card or Other Electronic Means; providing for a processing fee for credit card payment of fees, fines, court costs, and other charges; providing for a service charge if payment of credit card is not honored; providing for findings of fact, enactment, repealer, severability, effective date, codification, proper notice of meeting, and move to include on the September 12, 2023 consent agenda for a second reading.

ATTACHMENTS:

• Credit Card Fee Policy Ordinance 2023-23



ORDINANCE NO. 2023-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AMENDING THE BASTROP CITY CODE OF ORDINANCES, ADDING ARTICLE 1.21 "PAYMENT BY CREDIT CARD OR OTHER ELECTRONIC MEANS"; AND ADDING APPENDIX A, FEE SCHEDULE, SECTION A1.21 "PAYMENT BY CREDIT CARD OR OTHER ELECTRONIC MEANS"; PROVIDING FOR A PROCESSING FEE FOR CREDIT CARD PAYMENT OF FEES, FINES, COURT COSTS AND OTHER CHARGES; PROVIDING FOR A SERVICE CHARGE IF PAYMENT BY CREDIT CARD IS NOT HONORED; PROVIDING FOR FINDINGS OF FACT, ENACTMENT, REPEALER, SEVERABILITY, EFFECTIVE DATE, CODIFICATION, AND PROPER NOTICE OF MEETING.

WHEREAS, the City of Bastrop is a home-rule municipality established and operating by the laws of the State of Texas; and

WHEREAS, Chapter 132 of the Texas Local Government Code authorizes the governing body of a municipality to authorize a municipal official who collects, fees, fines, court costs and other charges to accept payment by credit card; and

WHEREAS, Chapter 132 of the Local Government Code authorizes the collection of a *processing fee* for use of a credit card and the collection of a *service charge* if a credit card is not honored by the credit card company; and

WHEREAS, 132.002(b) and (c) of the Texas Local Government Code authorizes the governing body of a municipality to authorize a municipal official who collects fees, fines, court costs or other charges to accept payment by credit card and to collect a fee for processing the payment by credit card. The governing body may also authorize the acceptance of payment by credit card without requiring collection of a fee; and

WHEREAS, Section 132.003(b) of the Texas Local Government Code authorizes a municipality to set a processing fee in an amount that is reasonably related to the expense incurred by the municipality in processing the payment by credit card, not in an amount that exceeds five percent (5%) of the amount of the fee, fine, court cost, or other charge being paid; and

WHEREAS, Section 132.004 of the Texas Local Government Code states that if, for any reason, a credit card payment is not honored by the credit card company on which the funds are drawn, the municipality may collect a service charge from the person who owes the fee, fine, court cost, or other charge in addition to the original fee, fine, court cost or other charge for the collection of the original amount; and

WHEREAS, the service charge fee is the same amount as a fee charged for the collection of a check drawn on an account with insufficient funds; and

WHEREAS, Section 132.006 of the Texas Local Government Code requires the municipal official collecting a fee or charge to deposit it in the general fund of the municipality; and

WHEREAS, the Bastrop City Council has determined that acceptance of credit cards is beneficial to the City and its citizens' public convenience and should be authorized without all citizens incurring the costs for it; and

WHEREAS, the Bastrop City Council recognizes that the City incurs additional expenses to accept credit card payments and shall set the processing fee in an amount that is reasonably related to the expenses incurred; and

WHEREAS, the Bastrop City Council authorizes a credit card processing fee or service charge, as applicable, for all fees, fines, costs, or other charges for municipal purposes; and

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

<u>Section 1:</u> FINDINGS OF FACT The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

Section 2: ENACTMENT Chapter 1, Article 1.21 of the Bastrop Code of Ordinances is hereby created, and shall read in accordance with Exhibit A, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

<u>Section 3:</u> 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.

<u>Section 4:</u> 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.

<u>Section 5:</u> 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.

Section 6: PROPER NOTICE & MEETING It is hereby officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

Section 7: EFFECTIVE DATE This ordinance shall take effect October 1, 2023, if all applicable publication requirements are satisfied in accordance with the City's Charter, Code of Ordinances, and the laws of the State of Texas.

READ and APPROVED on First Reading on the 22nd day of August, 2023.

READ and ADOPTED on Second Reading on the 12th day of September, 2023.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

City of Bastrop

Code of Ordinances

Chapter 1: Administration

ARTICLE 1.21 Payments by Credit Card or Other Electronic Means

The Code of Ordinances is amended by creating Article 1.21 and inserting the following language:

ARTICLE 1.21 – Payment by Credit Cards or Other Electronic Means

- 1. Credit Card use authorized. Each official employed by the City of Bastrop who, as part of that employment, collects fees, fines, court costs, or other charges from members of the public that are due to the city is authorized to accept credit cards as payment for such fees, fines, court costs, and other charges.
- 2. Amount of Processing Fee. For each fee, fine, court cost, or other charge that is paid by credit card, the official collecting the same shall pass on a processing fee in an amount not to exceed three percent (3%) of the amount of the fee, fine, court cost, other charge to be paid, as authorized by Section 132.003(b), Texas Local Government Code.

The following services and form of payment are exempt from the processing fee:

- (a) Library fees.
- (b) Recreation fees.
- (c) Payments processed through bank draft (ACH) or check.
- 3. Service Charge. If for any reason a payment by credit card is not honored by the company on which the funds are drawn, the officer may collect from the member of the public who attempted to pay by credit card an additional service charge in an amount equal to the fee then being charged for the collection of a check drawn on an account with insufficient funds, as authorized by Section 132.004, Texas Local Government Code.
- 4. Deposit of Processing Fees and Service Charges. Processing fees and service charges collected pursuant to this Ordinance shall be deposited in the general fund of the City, as provided by Section 132.006, Texas Local Government Code.

SECTION A1.21 Payments by Credit Card or Other Electronic Means

Credit Card Processing Fee

3% of total amount paid



MEETING DATE: August 22, 2023

TITLE:

Consider action to approve Resolution No. R-2023-132 of the City Council, of the City of Bastrop, Texas, calling for review of Chapter 3 of the Bastrop Code of Ordinances and the Standard and International Building And Construction Codes, and requesting the City Manager identify potential modifications to the Codes, and the City Attorney to prepare potential code amendments for Council consideration and action.

AGENDA ITEM SUBMITTED BY:

Councilmembers Crouch and Plunkett

BACKGROUND/HISTORY:

The city has struggled under the weight of the B3 codes since its adoption. This agenda item is meant to give the City Manager specific direction to begin a comprehensive code rewrite instead of a piecemeal approach, which will end up in conflicts and create other unexpected problems.

FISCAL IMPACT:

None

RECOMMENDATION:

Direct the City Manager to begin a comprehensive code rewrite.

ATTACHMENTS:

1. Resolution

A **RESOLUTION** OF THE CITY OF BASTROP. TEXAS. CALLING REVIEW OF CHAPTER FOR 3 OF THE BASTROP CODE OF ORDINANCES AND THE STANDARD AND INTERNATIONAL BUILDING AND CONSTRUCTION CODES. AND REQUESTING THE CITY MANAGER **IDENTIFY** POTENTIAL MODIFICATIONS TO THE CODES, AND ATTORNEY TO PREPARE THE CITY POTENTIAL CODE AMENDMENTS FOR COUNCIL **CONSIDERATION AND ACTION**

- WHEREAS, the City Council of the City of Bastrop ("City Council") finds it to be in the public interest and necessary to update its Code of Ordinances from time to time; and
- WHEREAS, Texas Local Government Code Section 51.001 provides the City general authority to adopt an ordinance, rule, 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, pursuant to Section 55.001 of the Texas Local Government Code and Section 3.01(6) of the City's Charter, the City Council has the authority to modify and adopt the building code of the City, and the authority to modify Article 3.04 of the City's Code of Ordinances and related building code; and
- WHEREAS, pursuant to Chapter 214 of the Texas Local Government Code, the City Council has the authority to adopt and modify certain codes, and adopt related procedures; and
- WHEREAS, [the City Council has determined that modification and updating of the City's building regulations and standards is necessary to facilitate proper inspection activities by the City and protecting the public safety, health, and general welfare; and
- WHEREAS, the City Council finds it to be in the public interest that the City modify and adopt a modified building code to promote the safety and welfare of the community.

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

- **Section 1:** The City Council hereby requests that the City Manager review the codes and identify possible modifications.
- **Section 2:** The City Council hereby requests that the City Attorney work with the City Manager to draft possible code amendments for future City Council consideration and action.
- **Section 3:** The meeting at which this Resolution 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 Texas Open Meetings Act.

DULY RESOLVED & ADOPTED by the City Council of the City of Bastrop, Texas, on this, the 22nd day of August 2023.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney



MEETING DATE: August 22, 2023

TITLE:

Consider action to approve the first reading of Ordinance No. 2023-28 of the City Council, of the City of Bastrop, Texas, amending the Visit Bastrop Corporation budget, and creating a 4th amendment to the Visit Bastrop agreement; and move to include on the September 12, 2023, Council agenda for second reading.

AGENDA ITEM SUBMITTED BY:

Submitted by: Sylvia Carrillo, ICMA-CM, CPM, City Manager

BACKGROUND/HISTORY:

Visit Bastrop was created in 2017, with its first agreement with the city commencing on October 1, 2017. It is a Destination Marketing Organization, an independent entity from the City. The original contract has received three amendments, with this agenda item potentially creating a fourth.

Compensation to Visit Bastrop, as shown in attached Exhibit A (Original Contract and subsequent amendments), is a formula based on total hotel occupancy tax (HOT) funds received. That formula is 50% of NET HOT after the City has satisfied its debt obligations against the HOT fund. The amount allocated to Visit Bastrop "should not be less than 45% of the total HOT revenue".

"The targeted annual percentage may be adjusted by the City during the City's annual budget process..." (Original Contract - III. Compensation to Visit Bastrop, B)

Due to the annual budget being a forecasted tool, a "true up" of the annual appropriation was incorporated into the annual contract. "Any surplus or deficit may be considered for an additional adjustment to Visit Bastrop at the City's discretion as part of a mid-year adjustment to the current fiscal year appropriation." (Original Contract - III. Compensation to Visit Bastrop, C)

"Visit Bastrop must also provide an amended Business Plan detailing how the surplus or reduction of funds will be utilized." (Original Contract - III. Compensation to Visit Bastrop, C).

The Visit Bastrop budget has always been intended to be diversified with the additional of funds outside of the HOT allocation since the inception of the contract however, there has been little movement in that direction. (Original Contract – II. Scope of Services, 2.3 Business Plan, B.)

"(B) Business Plan Performance Targets. As part of the development of each annual Business Plan, Visit Bastrop shall establish "Performance Targets" against which Visit Bastrop's execution of the Business Plan, to include its revenue enhancement efforts and goals, is evaluated. The Revenue Enhancement Plan will be updated as part of the annual Business Plan and will identify targets for potential funding sources of additional non-HOT revenues."

Item 9F.

Changes in market conditions, specifically the request from many other organizations for utilization of HOT funds, as well as additional resource requirements to the Convention Center necessitate the removal of the mid-year adjustment, also known as the "true-up". Instead, the contract must be amended to create a baseline budget that is also not entirely dependent on HOT funds. Given that revenue diversification does not come "overnight", the proposed agenda item seeks to remove any mid-year adjustment as a starting point moving forward

In FY 2020, due to COVID, the budget was reduced by \$132,000. In FY 2021, the original budget was adjusted by an additional \$172,668. In FY 2022, the adjusted amount is \$453,225. If revenue projections for the fund are on target, Visit Bastrop would be due an additional \$167,000 at the end of the fiscal year. Revenue projections for the HOT fund are on target. (Table 1)

Visit Destaur									
Visit Bastrop									
HOT Revenue Actual	\$ 1,673,608	\$	2,029,978	\$	3,233,135	\$	2,830,000	Tracy W Estimated	
	FY2020		FY2021		FY2022		FY2023		
Original Budget	\$ 1,233,042	\$	934,356	\$	792,824	\$	1,228,500		
Amendment - Sp Events	\$ -	\$	-	\$	-	\$	50,000		
Amendment - Rev proj	\$ -	\$	(132,000)	\$	172,668	\$	201,500		
Amendment - True-up	\$ 45,150					\$	453,225		
Final Budget	\$ 1,278,192	\$	802,356	\$	965,492	\$	1,933,225		
Qtrly Payments	\$ 868,532	\$	727,356	\$	890,492	\$	1,355,000		
Special Event Funds	\$ 56,250	\$	75,000	\$	75,000	\$	125,000		
True-up prior year	\$ 44,525					\$	453,225		
Total Paid	\$ 969,306	\$	802,356	\$	965,492	\$	1,933,225		
Notes:	paid 3Qs out O waived 4Q	bud	uncil reduced get due to rev projections	due		due	uncil increased to positive rev projections		

Table	1
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FISCAL IMPACT:

Varies; varies for the final quarter of the fiscal year, \$167,000 net savings to the HOT fund.

RECOMMENDATION:

Amend the Visit Bastrop contract removing the mid-year adjustment. Additionally, work jointly with the Visit Bastrop Board AND the community assets (who are supposed to be the primary benefactor to Visit Bastrop, Original agreement, 9th "whereas"), to establish improved business plan metrics and continue to require Visit Bastrop seek alternate revenue sources.

ATTACHMENTS:

- Original Agreement
 First Amendment
- 3. Second Amendment
- 4. Third Amendment
- 5. Proposed Amendment
- 6. FY 2024 Proposed Budget and Comparative Analysis
- 7. TML Publication, "What Cities Need to Know About Administering the Hotel Occupancy Tax"

DESTINATION AND MARKETING SERVICES AGREEMENT BETWEEN THE CITY OF BASTROP, TEXAS AND VISIT BASTROP

The City Council (the *City Council*) of the City of Bastrop, Texas (the *City*), a home-rule municipality operating under the City's Home Rule Charter, has approved the City's engagement of Bastrop Destination Marketing Organization (*Visit Bastrop*, and together with the *City*, the *Parties*), a Texas non-profit corporation organized under Chapter 22, Texas Business Organizations Code, as amended (*Chapter 22*), to provide certain Services (defined below) as set forth in this Destination and Marketing Services Agreement (the *Agreement*), entered into by the Parties pursuant to Section 351.101(c), Texas Tax Code, as amended (the *Tax Code*).

RECITALS

WHEREAS, the City and Visit Bastrop recognize the visitor industry as a key economic generator for the growing City; and

WHEREAS, the City desires to engage Visit Bastrop to perform the *Services* (as defined below) in consideration of the compensation provided in this Agreement whose initial role the City expects and acknowledges will mirror or exceed that of the City's previous Bastrop Marketing Corporation (*BMC*); and

WHEREAS, Visit Bastrop's provision of the Services is expected to contribute to the achievement of the goals stated above; and

WHEREAS, the City and Visit Bastrop hereby find and determine that entering into this Agreement is in the best interests of the residents of the City and surrounding areas, the industries served by Visit Bastrop, and the City's tourism market; and

WHEREAS, the Bastrop City Council had a joint workshop with the Destination Marketing Organization Start-Up Organization (DMO) on April 4, 2017; and

WHEREAS, the Bastrop City Council determined that the purpose of the Visit Bastrop was to provide "brand" marketing for Bastrop as a destination, to serve as the primary brand advocate, and to better utilize existing facilities; and

WHEREAS, the Bastrop City Council recognizes that tourism represents the purist form of economic development and is instrumental to stabilizing and growing the City's sales tax base; and

WHEREAS, Visit Bastrop will provide "global" oversight of Bastrop's visitor assets and activities to provide a level of unity and representation to maximize Bastrop's brand potential; and

WHEREAS, Visit Bastrop must ensure each "community asset" is represented in a way that there is equal representation and seek input from each "community asset" group; and

WHEREAS, the Bastrop City Council defines the broad representation of "community assets" as Arts, History, Hotels, Restaurants, Retail, Sports, Outdoors, Recreation, Hyatt, Nightlife, Entertainment, and Film; and

WHEREAS, the "community assets" must be a "driver" with strong ties to the hospitality industry given the legal requirements of how Hotel Occupancy Tax funds are spent; and

WHEREAS, the Bastrop City Council recognizes that "community assets" may change with time and expects Visit Bastrop to adapt by having the ability to add or remove another category of community assets as times and circumstances change; and

WHEREAS, the Bastrop City Council recognizes the success and importance of industry knowledge of the specific "community asset" groups available in Bastrop and believes that they, collectively, have a vested interest in ensuring the success of Visit Bastrop and are best suited to serve as Board Members of Visit Bastrop; and

WHEREAS, the City will not have any elected or appointed representatives on the VISIT BASTROP Board of Directors.

NOW THEREFORE, In consideration of the mutual promises and covenants contained herein, the City and Visit Bastrop agree as follows:

I. TERM

1.1 <u>Term</u>. The term of this Agreement shall commence on October 1, 2017, and will remain in full force and effect through September 30, 2022 (the *Term*), with an extension option of up to 5 years from the end of the Term, unless such Agreement is terminated, pursuant to Article VII herein.

1.2 <u>Appropriations</u>. The City agrees, as a part of its budget process and in connection with the City's collection of Hotel Occupancy Tax (HOT) under the Tax Code, to appropriate an amount to Visit Bastrop as described in Article III below. Visit Bastrop agrees and understands that City is a governmental entity and it has projected costs for this Agreement and City expects to pay all obligations of this Agreement from projected revenue sources, but all obligations of City are subject to annual appropriation by the City Council in future years.

II. SCOPE OF SERVICES

2.1 <u>Services for Compensation</u>. Visit Bastrop agrees to provide the services described in Section 2.2 below (the *Services*) in exchange for the compensation described in Article III of this Agreement. The City acknowledges that Visit Bastrop, as permitted by the Tax Code, may contract with various entities and organizations unaffiliated with the City, and that under those agreements and funds derived from those agreements, Visit Bastrop may perform other services and activities in accordance with Visit Bastrop's Articles and Bylaws. The Parties understand that funds provided by the City through this Agreement must be expended in accordance with the Tax Code particularly §351.101.

2.2 <u>Scope of Services</u>. Visit Bastrop shall work to: (1) attract leisure visitors to the City and its vicinity; (2) attract and secure meetings, events, retreats, and conventions to the City and its vicinity and 3) serve as a liaison to local businesses (including hoteliers, restaurateurs, and other similar entities) and City departments to attract leisure and business visitors, meetings, events,

retreats, and conventions to the City and its vicinity. Visit Bastrop, subject to being supplied the appropriate funding pursuant to this Agreement, shall:

(A) carry out the actions defined in the applicable annual Business Plan (defined below) related to attracting leisure visitors, meetings, events, retreats, and conventions to the City and its vicinity and as outlined in Visit Bastrop's Bylaws and expanding the City's approach to recruiting, retaining and expanding meetings, conventions, retreats, and events as identified by that applicable annual Business Plan increasing the visibility of the City through media and public relations efforts, and, where appropriate, coordinate and work with public and private partners and organizations involved in local efforts to attract and retain meetings and events;

(B) utilize research reports on economic trends, growth sectors, and regional competitive strengths and weaknesses, as is customary in the destination and marketing organization industry, as specified in the applicable annual Business Plan, in order to assist the City in making strategic decisions in its efforts to attract leisure visitors, meetings, events, retreats, and conventions to the City and its vicinity and in accordance with Visit Bastrop's Bylaws;

(C) provide marketing and imaging campaigns for the City's tourism and convention industry, as specified in the annual applicable Business Plan and in accordance with the covenants regarding intellectual property as described in Article XII;

(D) inform and partner with the City regarding high-profile or significant recruitment/attraction efforts; and

(E) provide, in appropriate detail in accordance with the Tax Code, reports listing the Visit Bastrop's expenditures made with HOT, and Visit Bastrop's progress in performing the Services in conformance with implementation of the annual Business Plan.

(F) Provide expertise in destination management in conjunction with the City of Bastrop to leverage available resources such as community assets and activities to maximize opportunities to attract visitors to Bastrop, both leisure and business, recognizing the critical role tourism plays in Bastrop's economy, both in HOT and sales tax revenue.

2.3 Business Plan.

(A) Development. During FY 2018, which is the initial start-up year, Visit Bastrop shall prepare a draft Business Plan and present it publicly no later than the second Council meeting in November 2017, outlining how it proposes to deliver the *Services* within the fiscal year that is the subject of that draft Business Plan. In Year 1 of the Agreement, the draft Business Plan shall include the initial efforts of Visit Bastrop for the beginning of Fiscal Year 2018 (which is the period ending September 30, 2018). The draft Business Plan shall describe the methodology and steps then expected to be followed by Visit Bastrop to deliver the Services within the specified fiscal year, and shall include a budget that indicates in appropriate detail how the funding provided by the City for that fiscal year will be expended. Visit Bastrop shall work to finalize the draft Business Plan, and shall submit the draft Business Plan to its Board of Directors (the *Board*) for approval.

In Years 2-5 of the contract, on or before September 1 of each year, Visit Bastrop shall prepare a business plan and include a proposed budget that indicates in appropriate detail how the funding to be provided by the City for that fiscal year will be expended. This business plan and proposed budget will be presented publicly at the second Council meeting in September for fiscal year 2018

After approval by the Board, the approved Business Plan shall become incorporated into this Agreement as Exhibit A. The Parties understand that circumstances during any period of time may differ from those contemplated when the Business Plan was approved; therefore, amendments to the Business Plan may be made by the Board within any fiscal year. However, any material changes to the approved Business Plan affecting the expenditure of HOT must be approved in writing by Visit Bastrop prior to the implementation of such material changes.

(B) Business Plan Performance Targets. As part of the development of each annual Business Plan, Visit Bastrop shall establish "Performance Targets" against which Visit Bastrop's execution of the Business Plan, to include its revenue enhancement efforts and goals, is evaluated. The Revenue Enhancement Plan will be updated as part of the annual Business Plan and will identify targets for potential funding sources of additional non-HOT revenues. If changing market conditions, funding availability issues, unforeseen expenses, or other circumstances beyond Visit Bastrop's reasonable control arise, the then current Performance Targets may be revised, with the prior written approval of the Board.

(C) <u>Reporting</u>. Visit Bastrop will maintain reasonable levels of communication with the City Manager, Finance Department, and any other designated departments of the City throughout the term of this Agreement to ensure coordination between the City and Visit Bastrop as to Visit Bastrop's efforts to implement the Business Plan. Visit Bastrop shall provide, as required by the Tax Code and this Agreement, various reports to the City that describe in appropriate detail (in all cases, taking into account the need to maintain a high level of confidentiality with respect to proprietary and competitive matters to the extent permissible under applicable law) its progress in implementing the Business Plan and meeting Performance Targets, as specified in this Agreement, as well as providing the City with periodic reports in accordance with the requirements as set forth in the Tax Code and on any activity that Visit Bastrop believes to be of interest to the City. Visit Bastrop agrees to report to the City as follows:

(i) Monthly and annual written status reports, like the Sample Albuquerque, NM Report, shown as Exhibit C and general accountings, and
(ii) Update presentations monthly at a regularly scheduled Council meeting that address the Services provided pursuant to this Agreement, and
(iii) Participate in an annual workshop between City Council and Visit Bastrop Board of Directors to have opportunity to dialog about performance, establish future goals and objectives, and other topics that may be relevant to the components of this contract in early June of each year.

2.4 <u>Utilization of City-Owned Facilities</u>. The City acknowledges that, to ensure Visit Bastrop's success in performing the obligations set forth herein, the City will permit Visit Bastrop

access to utilize City-owned facilities, within reason and with approval by the City Manager at no cost to Visit Bastrop, subject to date availability, for the purpose of effectuating the objectives of Visit Bastrop and the City as set forth in this Agreement and the Articles

2.5 <u>Board of Directors</u>. Visit Bastrop will at all times maintain a Board as specified in Visit Bastrop's Certificate of Formation (the *Articles*) and adopted Bylaws. The Board's primary responsibilities include fiduciary oversight and provision of strategic direction.

2.6 <u>Accreditation</u>. To ensure industry best practices are established and performed by Visit Bastrop, Visit Bastrop as an organization must include a plan in their annual Business Plan within the next four years to seek accreditation status by Destination International, to be recognized as an organization of excellence, within the following fiscal year.

III. COMPENSATION TO VISIT BASTROP

3.1 Compensation.

(A) <u>Transition Period</u>. The applicable compensation to be provided by the City to Visit Bastrop during the period from July 1, 2017 to September 30, 2017 (the *Transition*), in addition to other applicable terms governing the Parties' actions prior to the effective date of this Management Agreement, are set forth in Exhibit B hereto, of which such Transition Plan is hereby incorporated into this Management Agreement by reference.

(B) <u>FY 2018</u>. Beginning on October 1, 2017, the City shall target <u>fifty percent (50%)</u> of the net HOT revenue collected, defined as HOT revenue minus the provision of payment satisfying the City's [outstanding debt secured by HOT]. This amount should not be less than 45% of total Hotel Occupancy Tax Revenues. Each year during the City's annual budget process, the targeted percentage subject to adjustment as outlined below will result in an annual appropriation to be paid to Visit Bastrop. The targeted annual percentage may be adjusted by the City during the City's annual budget process based upon the annual update to the HOT pro forma in order to make a determination on whether or not adjustments are necessary to increase, maintain, or reduce operating expenses due to factors including changing economic conditions, requirements of Visit Bastrop, requirements of the City and funding levels of the contingency funds and lease payment as set forth in the hereafter referenced HOT financial policy. The City will actively manage operating expenses to be funded with HOT in keeping with the HOT Funds financial policy approved by City Council on May 9, 2017 through Resolution No. R-2017-26.

The annual HOT appropriation as approved by the City Council in accordance with the provisions and requirements of the Tax Code, shall be paid to the Visit Bastrop in equal quarterly installments (October, January, April, July) beginning October 1 of each Fiscal Year. The quarterly payments will be made in advance on the first day of each month.

(C) Upon the conclusion of each fiscal year and completion of the City's independent annual audit, the annual amount appropriated in support of the Visit Bastrop for the fiscal year immediately closed will be compared to the targeted percentage of the actual net HOT revenues recorded for that fiscal year. Any surplus or deficit may be considered for an additional adjustment to Visit Bastrop at the City's discretion as part of a mid-year adjustment to the current fiscal year appropriation. Visit Bastrop must also provide an amended Business Plan detailing how the surplus or reduction of funds will be utilized.

(D) Visit Bastrop shall be the primary provider of the Services delineated in Article II hereof; nevertheless, the Bastrop County Historical Society Museum & Visitor Center shall continue visitor information operations in its normal course of business. In addition, Main Street and the Bastrop Chamber of Commerce shall continue to promote visitors as a part of their organizational mission, in accordance with Visit Bastrop.

3.2 <u>Forecasting</u>. Visit Bastrop shall inform and provide input on the establishment of the five-year forecast and the adopted budget appropriation for HOT Revenues.

3.3 <u>Use of Funds</u>. The funding provided by the City under this Agreement shall be used solely in connection with Visit Bastrop providing the Services described in Article II, pursuant to the budget prepared as part of the approved Business Plan. Visit Bastrop shall segregate all funds provided under this Agreement into a separate account and shall not commingle any funds supplied by the City with the Visit Bastrop's general funds or other funds received by any other entity.

3.4 <u>Investment Policy</u>. All public funds on deposit from time to time in Visit Bastrop's account(s) with its depository shall be invested and reinvested by its depository in any investment authorized pursuant to Chapter 2256, Government Code, as amended (*Chapter 2256*). Visit Bastrop shall comply with Chapter 2256 in the purchase, sale, and investment of public funds under its control. Visit Bastrop and the City agree that the Board will subsequently develop and adopt an investment policy, based upon the City's Investment Policy, and shall invest public funds as permitted by the Investment Act, in compliance with the investment policy approved by the Board, and according to the standard of care prescribed by the Investment Act.

3.5 <u>Additional Services</u>. Should any additional services outside the scope of this Agreement be requested and authorized by the City Manager or her designee, and accepted by Visit Bastrop, Visit Bastrop shall receive additional consideration in the form of separate compensation for those services over and above the compensation discussed in this Article III, at an amount agreed to by the City Manager or her designee and Visit Bastrop.

3.6 <u>Invoices</u>. Visit Bastrop shall submit City invoices to:

City of Bastrop, Texas 1311 Chestnut Street P.O. Box 427 Bastrop, Texas 78602

IV. AUDIT

4.1 <u>City's Audit</u>. The City or its authorized representative shall annually, have the right to examine, inspect, and audit all books, papers, and bank records of Visit Bastrop directly related to the funds provided to Visit Bastrop under this Agreement, to determine the accuracy of reports made under this Agreement. The cost and expenses incurred by the City incident thereto shall be the sole responsibility of and borne by the City. Those records shall be maintained by Visit Bastrop for a period of four (4) years after the termination of the initial Term of this Agreement and any applicable extension period, and shall be made available for inspection, copying and/or audit by

the City or its agents at Visit Bastrop's place of business. Nothing in this Agreement shall be deemed to give the City authority to direct, question, review, audit, or otherwise influence the expenditure of any funds that are not directly paid to Visit Bastrop by the City. In years where Visit Bastrop collects private funds they shall obtain an independent audit, in conjunction with the City's audit.

4.2 <u>Dispute Findings</u>. Either Visit Bastrop or the City may dispute the findings of audits performed under this Agreement, by giving written notice to the other party within thirty (30) days of receiving the results of an audit. The Party electing to dispute audit results shall, within thirty (30) days following receipt of the auditor's report, submit such additional information as it believes is required to correct the auditor's report.

4.3 <u>Scope</u>. Knowledge of Visit Bastrop's financial condition is essential to the City due to its reliance on Visit Bastrop to promote tourism generating HOT. Therefore, it is necessary for the City to have access to review Visit Bastrop's audits, reports or other financial information. Upon ten (10) days' notice, Visit Bastrop shall make such information available for City's review.

V. DOCUMENTS

Documents. The parties recognize that, to be successful, Visit Bastrop depends on 5.1 its ability to keep confidential the identity of its prospects and other proprietary information, and that Visit Bastrop would not achieve the same level of results from providing the Services, or any other services to its other clients and constituents, without maintaining that confidentiality. Accordingly, the Parties acknowledge that certain writings, documents or information produced by or submitted to Visit Bastrop in the course of its execution of the Services will be the sole property of Visit Bastrop, are proprietary, and may be privileged under State law. Without waiving any available claim or privilege, Visit Bastrop will in good faith share information derived from those writings or documents with the City and, if any writings, documents, or information are deemed non-proprietary or non-privileged, provide copies of those writings or documents in an un-redacted form to the City. Visit Bastrop understands and acknowledges that the City has the right to use those non-proprietary writings, documents, and information as the City desires, without restriction. If any "open records" or equivalent request is made of the City relating to this Agreement or the Services, the City shall promptly advise Visit Bastrop, and the Parties shall work cooperatively and in good faith to preserve Visit Bastrop's trade secrets, proprietary documents, and confidential information, in accordance with current law. Visit Bastrop reserves the right to redact its documentation to protect proprietary information. In all events, the City shall not provide any information or documents that Visit Bastrop considers proprietary to any third party without Visit Bastrop's prior written consent, unless the City is legally obligated to do so and so advises Visit Bastrop in writing, of which Visit Bastrop shall have the opportunity to present its objection and legal authority for withholding requested information. In addition, any third-party requests to Visit Bastrop for records relating to this Agreement under the State's Public Information Act shall be coordinated with the City. The City shall provide Visit Bastrop, in accordance with the Public Information Act, the opportunity to submit third-party briefs to the Texas Attorney General to receive an Open Records Decision.

5.2 <u>Documents to the City</u>. Upon expiration or termination of this Agreement, Visit Bastrop shall transfer to the City true and correct copies of any writings, documents, or information in the possession of Visit Bastrop and produced pursuant to the terms and conditions of this

Agreement.

VI. RECORDSRETENTION

6.1 <u>Records</u>. Visit Bastrop shall take commercially reasonable care in their maintenance of complete and accurate documents, papers, and records, and other evidence pertaining to the Services and funding provided for in this Agreement, and shall make such documents available to the City, at all reasonable times and as often as the City may deem necessary during the Agreement period for purposes of the audit described in Article IV.

62 <u>Retention</u>. Visit Bastrop shall retain any and all documents produced as a result of services or funding provided hereunder for a period of four (4) years from the date of termination of the Agreement or for such period as specified in Visit Bastrop's compliance policy. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Visit Bastrop shall retain the records until the resolution of such litigation or other such questions.

VII. SUSPENSION/TERMINATION

7.1 <u>Termination for non-appropriation</u>. In the event that funds will not be appropriated or are not otherwise legally available to pay for the services required under this Agreement then this Agreement may be terminated by the City. The City agrees to deliver notice of termination as soon as practicable after determination is made by the City Council that funds will not be appropriated.

7.2 <u>Suspension</u>. The City may summarily suspend this Agreement with pay continuing to fund the salaries and basic operations of Visit Bastrop, if Visit Bastrop breaches its obligations hereunder and fails to cure such breach within sixty (60) days after receiving written notice of suspension. The City shall promptly apprise Visit Bastrop of the basis for suspension. Any such suspension shall remain in effect until the City determines that appropriate measures have been taken to ensure Visit Bastrop's future compliance. Grounds for such suspension include, but are not limited to the following:

a.) Failure to abide by any terms or conditions of this Agreement;

b.) Failure to keep and maintain adequate proof of insurance as required by this Agreement.

7.3 <u>Termination Defined</u>. For purposes of this Agréement, "termination" shall mean termination by expiration of the Agreement or earlier termination pursuant to any of the provisions hereof.

7.4 <u>Termination for Cause</u>. Upon written notice, which notice shall be provided in accordance with Article VIII, the City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events:

a). the sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XI;

- b). ceasing operations for a period exceeding twenty (20) days;
- c). Failure to spend funds in accordance with this Agreement or in violation of Texas Tax Code Chapter 351.
- d). failure to cure cause of suspension.

7.5 <u>Defaults with Opportunity for Cure.</u> Should Visit Bastrop default in the performance of this Agreement in a manner stated in this section, same shall be considered an Event of Default. The City shall deliver written notice of the default, specifying in detail the matter(s) in default. Visit Bastrop shall have sixty (60) calendar days after receipt of the written notice, in accordance with Article VIII hereof. If Visit Bastrop fails to cure the default within such sixty (60) day cure period, the City shall have the right, without further notice or adoption of a City ordinance, to terminate this Agreement in whole or in part as the City deems appropriate. The following actions are defaults that may be cured by Visit Bastrop:

- a). performing unsatisfactorily, as evidenced by failure to make adequate progress to meet Visit Bastrop's pre-determined benchmarks for success, as outlined in the jointly approved Business Plan;
- b). failing to perform or failing to comply with any material term or covenant herein required as determined by the City; and
- c). bankruptcy or selling substantially all of Visit Bastrop's assets.

7.6 <u>Termination by Law</u>. If any State or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.7 <u>Ceasing City Activity</u>. Upon the effective date of expiration or termination of this Agreement, Visit Bastrop shall cease all work being performed by Visit Bastrop or any of its subcontractors on behalf of the City.

a) Provisional Period. Regardless of the method by which this Agreement is terminated, Visit Bastrop agrees to provide a provisional period of termination for a period not to exceed two (2) months upon the City's request. During such provisional period, Visit Bastrop will receive adequate percentage payments of HOT, to be distributed in accordance with Article III hereof, to continue to provide services as provided for, and for which it will be compensated, under this Agreement.

7.8 <u>Expiration and Termination</u>. If this Agreement shall expire, without reasonable expectation of renewal thereof, or otherwise terminate pursuant to the above provisions, any interest in any funds or property of any kind (real, personal, intellectual or mixed), each of the foregoing deriving funding from HOT forwarded to Visit Bastrop under this Agreement, shall not be transferred to private ownership, but shall be transferred and delivered to City, which shall utilize such funds and property pursuant to and in accordance with the Tax Code, being those activities

substantially similar to Visit Bastrop's purpose and mission. Such transfer shall only occur after satisfaction of outstanding debts, claims, and any other obligations. For the avoidance of doubt, any remaining interests in any funds or property of any kind (real, personal, or mixed) deriving funding from private interests shall remain the sole property of Visit Bastrop.

VIII. NOTICE

8.1 <u>Written Notice</u>. Any notice, consent or other communication required or permitted under this Agreement shall be in writing and shall be deemed received at the time it is personally delivered, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or, if mailed, three (3) days after the notice is deposited in the United States mail addressed as follows:

CITY:	VISIT BASTROP:
City of Bastrop, Texas	Visit Bastrop
Attn: City Manager	Attn: Chief Executive Officer
1311 Chestnut Street	P.O. Box 1200
P.O. Box 427	Bastrop, Texas 78602
Bastrop, Texas 78602	

82 <u>Time</u>. Any time period stated in a notice shall be computed from the time the notice is deemed received. Either party may change its mailing address or the person to receive notice by notifying the other party as provided in this paragraph.

IX. INSURANCE

9.1 <u>Certificate of Insurance</u>. Prior to the commencement of any work under this Agreement, Visit Bastrop shall furnish an original completed certificate(s) of insurance to the City, and which shall be clearly labeled "Visit Bastrop Professional Services" in the Description of Operations block of the Certificate. The original certificate(s) shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to Visit Bastrop and the City. The City shall have no duty to pay or perform under this Agreement until such certificate shall have been delivered to the City, and no officer or employee, other than the City Manager, shall have authority to waive this requirement.

9.2 <u>Right to Review</u>. The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and to modify insurance coverages and their limits when deemed necessary and prudent by the City Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement, but in no instance, will the City allow modification whereupon the City may incur increased risk.

9.3 <u>Financial Integrity</u>. Visit Bastrop's financial integrity is of interest to the City; therefore, subject to Visit Bastrop's right to maintain reasonable deductibles in such amounts as are approved by this Agreement, Visit Bastrop shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Visit Bastrop's sole expense, insurance

coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise acceptable to the City, in the following types and amounts:

ТҮРЕ	AMOUNTS		
1. Workers' Compensation	Statutory		
2. Employers' Liability	\$500,000/\$500,000/\$500,000		
 3. Commercial General Liability Insurance to include coverage for the following: a. Premises operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual Liability 	For Bodily Injury and Property Damage of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage		
4. Any employee or Board Member with financial responsibilities that include access to HOT funds shall be bonded in a minimum amount of \$100,000 each.			
5. Business Automobile Liability			

a. Owned/leased vehicles

b. Non-owned vehicles

c. Hired Vehicles

Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence

9.4 <u>Copies</u>. The City shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). So long as this Agreement is in effect, Visit Bastrop shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to the City at the address provided in Section 9.6 herein within 10 days of the requested change. Visit Bastrop shall pay any costs incurred resulting from said changes.

9.5 <u>Required Provisions</u>. Visit Bastrop agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain the following required provisions:

A. name the City and its officers, employees, volunteers, and elected representatives as additional insureds as respects to operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;

B. provide for an endorsement that the "other insurance" clause shall not apply to the City where the City is an additional insured shown on the policy;

C. workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.

9.6 <u>Cancellation/Non-Renewal</u>. When there is a cancellation, non-renewal or material change in coverage which is not made pursuant to a request by the City, Visit Bastrop shall notify the City of such and shall give such notices not less than thirty (30) days prior to the change, if Visit Bastrop knows of said change in advance, or ten (10) days after the change, if Visit Bastrop did not have actual knowledge of the change in advance. Such notice must be accompanied by a replacement certificate of insurance. All notices shall be given to the City at the following address:

City of Bastrop, Texas 1311 Chestnut Street P.O. Box 427 Bastrop, Texas 78602

9.7 <u>Failure to Maintain</u>. In addition to any other remedies the City may have upon Visit Bastrop's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Visit Bastrop to stop work hereunder, and/or withhold any payment(s) which become due to Visit Bastrop hereunder until Visit Bastrop demonstrates compliance with the requirements hereof.

9.8 <u>Responsibility of Visit Bastrop</u>. Nothing herein contained shall be construed as limiting in any way the extent to which Visit Bastrop may be held responsible for payments of damages to persons or property resulting from Visit Bastrop's or its subcontractors' performance of the work covered under this Agreement.

9.9 <u>Primary Insurance</u>. It is agreed that Visit Bastrop's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City for liability arising out of operations under this Agreement.

X. INDEMNIFICATION

10.1 VISIT BASTROP covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY arising out of or resulting from VISIT BASTROP activities under this AGREEMENT, including any acts or omissions of VISIT BASTROP, any agent, officer, director, representative, employee, VISIT BASTROP or subcontractor of VISIT BASTROP, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this AGREEMENT. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of the City, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT VISIT BASTROP AND THE CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE

APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

102 The provisions of the foregoing indemnity are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Visit Bastrop shall advise the City in writing within three business days of any claim or demand against the City or Visit Bastrop known to Visit Bastrop related to or arising out of Visit Bastrop's activities under this Agreement and shall see to the investigation and defense of such claim or demand at Visit Bastrop's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving Visit Bastrop of any of its obligations under this paragraph.

XI. SUBCONTRACTING

Any work or services subcontracted by Visit Bastrop hereunder shall be by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Visit Bastrop. The City shall in no event be obligated to any third party, including any subcontractor of Visit Bastrop, for performance of services or payment of fees.

XII. INTELLECTUAL PROPERTY RIGHTS

12.1 Intellectual Property Rights. Visit Bastrop recognizes the City is the owner of certain intellectual property, including images, trademarks, slogans, recordings, etc. So long as Visit Bastrop utilizes such intellectual property to perform the Services described in this Agreement, Visit Bastrop shall receive a royalty-free, worldwide license to use such intellectual property during the Term of this Agreement. To the extent, Visit Bastrop prospectively utilizes previously registered intellectual property of the City, the City shall waive any infringement claims. Visit Bastrop acknowledges that it is not the intent of this provision to divest the City of any ownership rights in its intellectual property.

<u>Other Intellectual Property Agreements</u>. The City recognizes Visit Bastrop may enter into various licensing agreements with BMC (or its parent company), the Bastrop County Historical Society, or related entities now holding the rights for the prospective use of marketing assets (previously produced by BMC) to promote the City to visitors and tourists. The City agrees to assist Visit Bastrop in its efforts to obtain permission and acquire use of various Intellectual Property from any source to support Visit Bastrop achieve the purposes for which it was created.

XIII. INDEPENDENT CONTRACTOR

Visit Bastrop and the City covenant and agree that: 1) Visit Bastrop is an independent contractor and not an officer, agent, servant or employee of the City; 2) Visit Bastrop shall have control of and right to control, in its sole discretion, the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers,

agents, employees, contractors, subcontractors and Visit Bastrop; 3) the doctrine of respondent superior shall not apply as between the City and Visit Bastrop, its officers, agents, employees, contractors, subcontractors and Visit Bastrop; and 4) nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint ventures between the City and Visit Bastrop. The Parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the Services to be performed by Visit Bastrop under this Agreement and that the City's authority to bind Visit Bastrop is limited to the provisions of this Agreement.

XIV. CONFLICT OF INTEREST

14.1 <u>City's Ethics Code</u>. Visit Bastrop acknowledges that it will follow the City's Ethics Code which prohibits City officials and employees from, either during their service with the City or within twelve (12) months of the termination of the official duties, having an economic interest, directly or indirectly, in any contract with the City, and City officials and employees shall not be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or service.

XV. LEGAL/LITIGATION EXPENSES

15.1 <u>Litigation Against the City</u>. Under no circumstances will the funds received under this Agreement or any other City funds, be used, either directly or indirectly, to pay the costs associated with attorney fees incurred in any adversarial proceeding against the City or any other governmental or public entity constituting a part of the City.

15.2 <u>Termination</u>. During the term of this Agreement, if Visit Bastrop files and/or pursues an adversarial proceeding against the City, the City, at its option, may terminate this Agreement and all access to the funding provided for hereunder if it is found that Visit Bastrop has violated this Article.

XVI. AMENDMENTS

Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both the City and Visit Bastrop, and subject to approval by the City Council and the Board, as evidenced by passage of a resolution, or ordinance, as applicable, to that effect.

XVII. SEVERABILITY

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, State or local laws, including but not limited to the City Charter, the City's Code, City ordinances, Visit Bastrop's Articles and Bylaws, then and in that event it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as shall be permissible, legal, valid and enforceable.

XVIII. LICENSES/CERTIFICATIONS

Visit Bastrop warrants and certifies that, to its knowledge, Visit Bastrop and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XIX. COMPLIANCE WITH LAWS

Visit Bastrop shall provide and perform all services required under this Agreement in compliance with all applicable federal, State and local laws, rules and regulations.

XX. NON-WAIVER OF PERFORMANCE

Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option.

XXI. LAW APPLICABLE

21.1 THIS AGREEMENT 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.

21.2 Venue for any legal action or proceeding brought or maintained, directly or indirectly, because of this Agreement shall be in Bastrop County, Texas.

XXII. LEGAL AUTHORITY

22.1 <u>Visit Bastrop</u>. The signor of this Agreement on behalf of Visit Bastrop represents, warrants, assures and guarantees that he has full legal authority, pursuant to Chapter 22, the Texas Non-Profit Corporation Act, the Tax Code by adoption of resolution of the Visit Bastrop Board of Directors to bind Visit Bastrop to all terms conditions, provisions and obligations herein contained.

22.2 <u>City of Bastrop</u>. The signor of this Agreement on behalf of the City represents, warrants, assures and guarantees that she/he has full legal authority, pursuant to Article XI, Section 5 of the Texas Constitution, the City's Home Rule Charter, the Tax Code, and an resolution adopted by the City Council on September 12, 2017 to execute this Agreement on behalf of the City and to

bind the City to all of the terms, conditions, provisions and obligations herein contained.

XXIII. PARTIES BOUND

This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

XXIV. CAPTIONS

The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

XXV. INCORPORATION OF EXHIBITS

Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the parties, and shall be interpreted in the order of priority as appears below:

EXHIBIT A: Business Plan (to Be delivered at the second Council Meeting in November, 2017.)

EXHIBIT B: Transition Plan

EXHIBIT C: Sample Albuquerque, NM Monthly Report of Performance Measures

XXVI. ENTIRE AGREEMENT

This Agreement, together with its authorizing ordinance and its exhibits constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same is in writing, dated subsequent to the date hereto, and duly executed by the Parties.

The Parties recognize that certain agreements and policies referenced herein and necessary to effectuate this Agreement, including but not limited to, Visit Bastrop's Investment Policy, insurance policies, and contracts and agreements delineating shared intellectual property between the Parties and third parties are currently in the process of formulation and will be finalized after the execution of this Agreement.

SIGNATURES APPEAR ON NEXT PAGE

WITNESS OUR HANDS, EFFECTIVE as of September 2017 (the "Effective Date"):

Accepted and executed in two duplicate originals on behalf of the City of Bastrop pursuant to Resolution R-2017-74 dated September 12th, 2017, and Visit Bastrop, pursuant to the authority of its Board of Directors.

CITY OF BASTROP:

Lynda Hunable City Manager

1

ATTEST:

Ann Franklin

City Secretary

APPROVED AS TO FORM:

4-12- 4-21-13 V

Joe Gorfida, Interim City Attorney

VISIT BASTROP:

-Jost

Dale Lockett Interim Chief Executive Officer

<u>EXHIBIT A</u>

EMPLOYMENT POSITIONS

Director of Marketing or Manager of Marketing

Director of Sales

Senior Administrative Assistant

Manager of Digital Marketing

EXHIBIT B

TRANSITION PLAN

I. <u>TERM</u>

This Transition Plan (the *Plan*) between the City of Bastrop, Texas (the *City*) and Bastrop Destination Marketing Organization (*Visit Bastrop*, and collectively with the City, the *Parties*) shall commence on September 13, 2017, and will remain in full force and effect through September 30, 2017 (the *Term*).

II. SCOPE OF TRANSITION SERVICES

A. SUPPORT SERVICES

i. *City Services and Employment Needs*. In accordance with Article III of the Management Agreement (entered into by the Parties concurrently with this Plan) the City may provide Visit Bastrop with support services for the Term consistent with its internal departments, as determined necessary by Visit Bastrop and agreed to by both Parties in writing (collectively, the *Transition Services*). These Transition Services include, but are not limited to, accounting and finance, human resources support, instructional technology services, and planning and development. The provision of Transition Services may be extended by the City, upon consultation with Visit Bastrop, beyond the Term. Specifically, the City shall facilitate the human resources component, not limited to the hiring process, for Visit Bastrop employees, if any, as set forth in Exhibit A hereto. The compensation of these hires is to be determined by and is within the purview of Visit Bastrop.

B. BUSINESS REQUIREMENTS

i. Compensation. Effective September 13, 2017, in consideration of Visit Bastrop's performance of the services described in Article II of the Management Agreement, the City agrees to provide Visit Bastrop a minimum compensation of $\frac{520,000000}{100000000}$ for the remainder of the Term, to be paid in full on that date or within a reasonable time of that date. 487, 371.49

ii. *Office Space*. The City and Visit Bastrop each recognize that during the Term, Visit Bastrop will co-locate in the existing Bastrop Main Street Program's (*Main Street*) current offices, where Visit Bastrop will be afforded basic office amenities to conduct business. Visit Bastrop may extend this arrangement after completion of the Term if agreed to in writing by Visit Bastrop and Main Street.

iii. *Intellectual Property*. The City and Visit Bastrop will initiate actions and prepare a schedule to share Intellectual Property (as defined and described in the Management Agreement) as of July 1, 2017, in an effort to promote Visit Bastrop's marketing and advertising efforts. The City acknowledges Visit Bastrop may commence actions to register various Intellectual Property in the United States Patent and Trademark Office.



VI. MISCELLANEOUS

This Plan shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

If any provision of this Plan or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Plan and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council and the Board hereby declare that this Plan would have been enacted without such invalid provision.

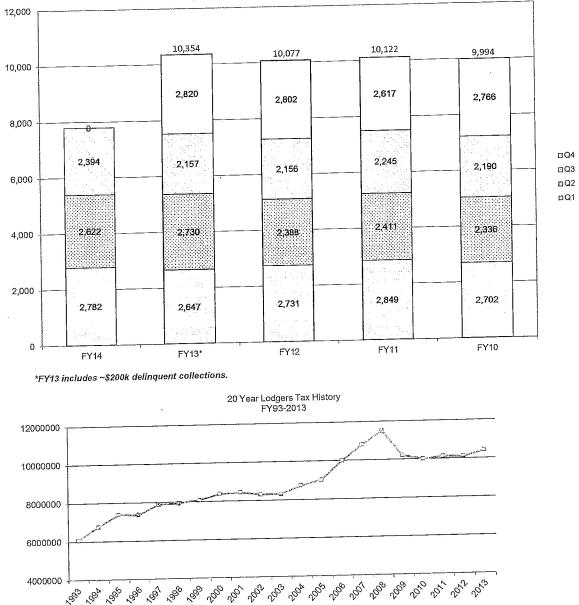
It is officially found, determined, and declared that the meeting at which this Plan is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Plan, was given, all as required by Chapter 551, Texas Government Code, as amended.

* * *

EXHIBIT C ALBUQUE ROUE

ALBUQUERQUE CONVENTION & VISITORS BUREAU PRESIDENT'S REPORT JULY 10, 2014

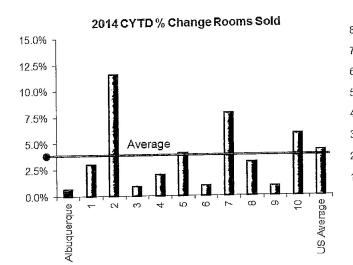
	5	% Hotel Occupat	ncy Tax Collections	<u>S</u>	
Apr '14	Apr '13	% Ch from Apr '13	FYTD14	FYTD13	FYTD % Ch
\$918,163.27	\$847,620.00	8.3%	\$8,717,226.30	\$8,145,603.46	7.0%

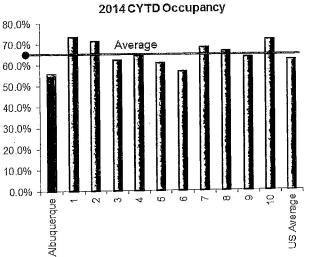


Albuquerque Lodgers Tax Cumulative by Quarter (In 000's) Item 9F.

					Lod	ging Indu	stry Re	port				<u></u>
an an an an a		-	Mav	2014			Calendar Year to date					
	Occ	% Ch Occ	ADR	% Ch ADR	% Ch RevPAR	% Ch Rooms Sold	Осс	% Ch Occ	ADR	% Ch ADR	% Ch RevPAR	% Ch Rooms Sold
Albuquerque	61.7%	0.5%	\$76.16	7.1%	7.6%	-0.3%	55.9%	1.3%	\$73.39	4.5%	5.9%	0.7%
Markets			2400 54	E (20/	5.2%	1.7%	73.4%	0.6%	\$130.87	6.1%	6.8%	3.0%
1	74.8% 76.0%	<u>-0.4%</u> 4.3%	\$126.54 \$107.93	<u>5.6%</u> 2.8%	7.3%	7.0%	71.4%	9.8%	\$106.26	6.6%	17.0%	11.6%
3	55.5%	2.3%	\$93.39	2.3%	4.7%	3.6%	62.4%	-0.7%	\$103.48	2.7%	<u>1.9%</u> 3.2%	0.9% 2.0%
4	65.7%	5.6%	\$90.32	3.4%	9.2%	7.2%	64.2% 60.9%	0.4%	\$96.37 \$81.22	<u>2.7%</u> 5.3%	9.6%	4.1%
5	63.9% 66.5%	-1.0% 6.5%	\$80.60 \$78.75	<u>-1.1%</u> 3.6%	<u>-2.1%</u> 10.3%	8.3%	56.7%	-0.6%	\$78.21	3.3%	2.6%	1.0%
7	72.4%	8.7%	\$93.93	2.8%	11.7%	10.4%	68.2%	6.5%	\$93.06	3.2%	10.0%	7.9%
8	72.9%	0.5%	\$111.70	5.2%	5.7%	1.4%	66.4%	2.8%	\$105.64 \$83.45	<u>5.7%</u> 7.6%	<u>8.7%</u> 6.3%	0.9%
9	68.1%	-9.0%	\$86.33	7.1% 2.5%	<u>-2.6%</u> 8.9%	<u>-6.1%</u> 6.7%	63.4% 71.7%	<u>-1.3%</u> 5.7%	\$131.59	4.5%	10.5%	5.9%
10	61.3% 67.2%	<u>6.2%</u> 2.2%	\$106.31 \$95.63	<u>2.5%</u> 3.8%	6.0%	3.5%	65.0%	2.6%	\$98.50	4.7%	7.5%	3.7%
Average US Average	67.0%	4.9%	\$115.35	4.8%	10.0%	5.9%	62.1%	3.4%	\$113.58	4.1%	7.6%	4.3%

				Meeting P	roperties by	Corridor (Top 5 for		едогу)			
	Occ	% Ch Occ	ADR	% Ch ADR	% Ch RevPAR	% Ch Rooms Sold	Осс	% Ch Occ	ADR	% Ch ADR	% Ch RevPAR	% Ch Rooms Sold
			\$112.71	10.8%	16.4%	5.1%	63.4%	-1.1%	\$108.58	4.0%	2.9%	-1.1%
Downtown	69.2%	5.1%	+	4.5%	12.2%	7.4%	47.9%	7.1%	\$89.21	4.1%	11.4%	7.1%
Uptown	50.6%	7.4%	\$90.81				68.0%	-2.9%	\$86.71	8.2%	5.1%	-2.9%
Airport	74.0%	-9.9%	\$87.74	12.4%	1.3%	-9.9%				-0.7%	-4.0%	-3.4%
N Corridor	61.1%	1.4%	\$85.83	-0.6%	0.8%	1.4%	52.6%	-3.4%	\$85.61	-0.7%	-4.0 %	-0.470



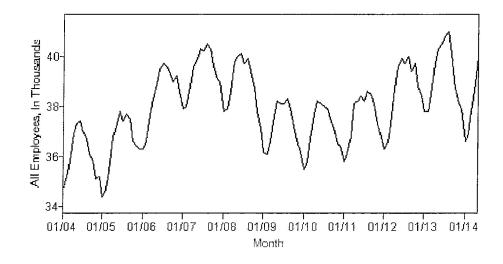


Source: Smith Travel Research Inc – Republication or other re-use of this data without the express written permission of STR is strictly prohibited. Comp Set Includes: Salt Lake City, Tucson, Austin, Charlotte, Little Rock, Denver, Phoenix, Portland, Oklahoma City and Arlington

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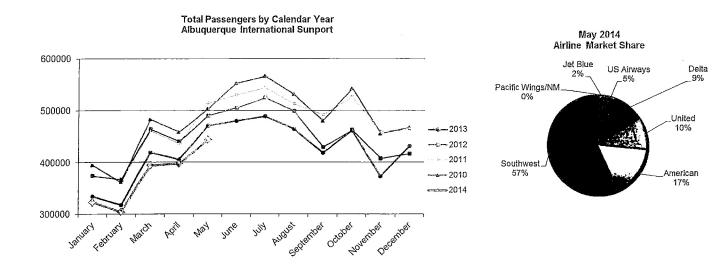
Item 9F.

Albuquerque Leisure and Hospitality Employment



Source: Bureau of Labor Statistics

	ŀ	Aviation Pas	sengers	-		
	May '14	May '13	% Ch from May '13	CYTD 2014	CYTD 2013	CY % Ch from '13
Total Enplaned Passengers	226,859	241,472	-6.1%	939,825	982,843	-4.4%
Total Deplaned Passengers	216,716	229,934	-5.7%	922,538	965,525	-4.5%
Total All Passengers	443,575	471,406	-5.9%	1,862,363	1,948,368	-4.4%



Source: Albuquerque International Sunport

	FISC	AL YEAR ROOM N	IGHTS BOOKED		·							
As of June 30, 2014												
	Total Goal	FY14	% of Goal	FY13	% Change							
Center	41,500	57,702	139.0%	36,219	59.3%							
Non-Center	70,500	67,423	95.6%	65,610	2.8%							
Sports	41,500	84,878	204.5%	49,257	<u>72.3%</u>							
Total	153,500	210,003	136.8%	151,086	<u>39.0%</u>							

CONVENTION SALES & SPORTS

Convention Sales & Sports Initiatives

Tradeshows/Industry Meetings:

June 8-9 - Grand Circle Association meeting in Durango, CO - Allison Olguin June 10-12 - AIBTM in Orlando, FL, Appointment Based Tradeshow; Met with 58 of 60 scheduled appointments and an additional 12 meeting planners- Abigail Goodin, Jacob Quintana June 11-15 - Collaborate Marketplace in Portland, OR - Whitney Cordell

Site Inspections:

June 1-4 - Association for Driver Rehab Specialists 2017 with Elizabeth Green, 670 total room nights - Jacob Quintana June 4-6 - Society for Applied and Industrial Mathematics, 519 total room nights - Larry Atchison

June 5-6 - SW Association of Student Assistance Programs with Jeff Kahlden, 750 total room nights - Whitney Cordell

June 9-11 - USA Ultimate with Byron Hicks, varies total room nights - Angie Jepsen, Dan Ballou

June 9-11 - USA Archery with Sheri Rhodes, varies total room nights - Angie Jepsen, Dan Ballou

June 16-17 - American Honey Producers Association with Cassie Cox, 788 total room nights - Whitney Cordell

June 17-19 - American Veterinary Chiropractic Association 2015/2016 with Alisha Raines, Executive Secretary; James Israelsen, DVM, President, AVCA; Leslie Means, Executive Director; Debora Renken, HelmsBriscoe; Dr. Mark Meddleton, Local Veterinarian, 345 total room nights - Jacob Quintana

June 18 - American Veterinary Chiropractic Association (for Jacob) with Debora Renken, 345 total room nights - Melanie June 26-28 - Oldsmobile Club of America 2017 with Jerry Wilson, President, OCA; Ed Konsmo, OCA Chief Judge; Everett Horton, OCA Swap Meet Chair; Joe Donnelly, Chair, Racing Committee; Christopher Giblin, HelmsBriscoe; Kristi Hetland, HelmsBriscoe, 1,220 total room nights - Jacob Quintana

Local Industry Events:

June 10 - ACVB Annual Luncheon - Larry Atchison, Rob Enriquez, Whitney Cordell

Presentations:

June 23-25 - Chicago Sales Mission - Whitney Cordell, Allison Olguin

Other Meetings:

- June 2 Face the Futures, Cliffdwellers Digital Whitney Cordell
- June 3 New Mexico American Marketing Association meeting with Zulema Santacruz Allison Olguin
- June 9 FBI National Academy Associates meeting with Steve Shaw Larry Atchison
- June 10 Ancient Egyptian Arabic Order Nobles Mystic Shrine meeting with Harold Bendaw Larry Atchison
- June 16 7 on 7 Tournament Pre-con at Balloon Fiesta Park with Susan Rice Angie Jepsen, Dan Ballou
- June 19 USA Track & Field meeting Angie Jepsen, Dan Ballou

June 17 - SW Border Food Safety & Defense Center Emergency Preparedness meeting with Cynthia Beiser, 60 total room nights -Allison Olguin

- June 17 NM Activities Association meeting with Dusty Young Dan Ballou
- June 18 Society of Petroleum Engineers dinner with Amy Chao Whitney Cordell

June 20 - Far West Regionals Youth Soccer meeting with Jim Tiley - Angie Jepsen, Dan Ballou

Upcoming Sales & Sports Activities:

- July Site Inspection, NM Swimming Angie Jepsen, Dan Ballou
- July Site Inspection, NM Youth Soccer Dan Ballou

July - Site Inspection, National Brokerage Agencies with Paul Horos, 411 total room nights - Melanie Martinez

July 3 & 15 - SW Border Food Safety & Defense Center Emergency Preparedness meeting (3rd) with Cynthia Beiser and site inspection (15th), 60 total room nights - Allison Olguin

July 9-11 - Site Inspection, Call to Action with Ginny Nyhuis, 1,425 total room nights - Abigail Goodin July 9-11 - Site Inspection, Centers for Spiritual Living with Joe Martin, 790 total room nights - Allison Olguin

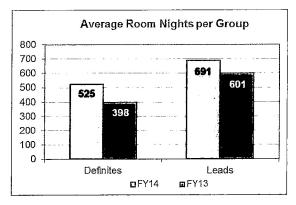
CONVENTION SALES & SPORTS	
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CVB Definite Fut	ure Room Night Bookings -	Monthly	
	Jun '14	Jun '13	% Ch
Number of Definite Bookings	44	36	22.2%
Total Room Night Production	22,328	11,889	87.8%
Total Attendance	17,421	9,607	81.3%
Direct Spending*	\$9,213,373	\$5,381,873	71.2%

CVB Definite Future Room Night Bookings – FY										
	FY14	FY13	% Ch							
Number of Definite Bookings	400	380	5.3%							
Total Room Night Production	210,003	151,086	39.0%							
Total Attendance	287,640	234,029	22.9%							
Direct Spending*	\$80,115,526	\$63,851,882	25.5%							

*Per city contract, Direct Spending is calculated using the DMAI Event Impact Calculator.

	Meetings	Lead Proc	luction						
Jun '14 Jun '13 % Ch FY14 FY13 % C									
Number of Leads	44	54	-18.5%	702	710	-1.1%			
Total Potential Room Nights	24,240	29,216	-17.0%	484,758	426,947	13.5%			
Total Attendance	16,181	30,980	-47.8%	480,789	494,615	-2.8%			



	C	urrent Tentativ	es						
		We are projecting to turn the following room nights							
	Room Nights	Jul	Aug	Sep	% of Total				
Center	73,428	3,828	830	853	7.5%				
Non-Center	35,099	2,884	3,431	1,211	21.4%				
Sports	26,074	995	1,757	4,255	26.9%				
Total	134,601	7,707	6,018	6,319	14.9%				

		Lea	ad Incentive	s Offered	d				
		F	Y14			FY13			
	# Grps	TRN	\$\$	\$\$/RN		# Grps	TRN	\$\$	\$\$/RN
Definite	65	60,741	\$321,389	\$5		78	61,350	\$417,370	\$7
Lost Business	13	27,467	\$73,517	\$3		27	61,867	\$308,455	\$5
Cancelled	1	243	\$525	\$2		3	5,764	\$45,176	\$8
Tentative	9	9,915	\$36,553	\$4		1	4,418	\$22,090	\$5
Total offered within FY	88	98,366	\$431,984	\$4		109	133,399	\$793,091	\$6

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			LOS		IESS BY CITY				
		•		F۱	/14			Non C	ntor
	Cen	ter	Non-C	enter		Ce	nter	Non-Co	enter
	# Groups	1	# Groups	TRN		# Groups	TRN	# Groups	TRN
Addison, TX			. 1	880					
Anaheim	2	11635	1	1100				140 A 1	а в
Atlanta	2	2378	2	713					
Austin	1	1545	1	100	11 m				
Baltimore	1	1576							
Bend, OR			2	5494					
Birmingham	1	3606	2	1434					
Boise		-	1	600			- ·		• •
Branson, MO			3	565					τ.
Bristol, TN			1	1220				·	
Buffalo Thunder	1	350							÷ 1
Chapel Hill, NC			1	117					1295
Charlotte, NC			1.		Orlando	4			
Chicago	1	1705	2	790	Overland Park	1			220
Clovis			1	30	Palm Springs	1			
College Sta, TX	2	7212			Pasadena	1	1		
Colorado Springs					Phoenix	5	10445		5163
Dallas	2	2345	2	819	Pigeon Forge, TN			1	201
	2	4082		2145	Portland	3	2595		3950
Denver		1002	1	120	Providence, RI			1	11
Detroit	1	3606			Pueblo, CO			1	- 41
Fayetteville, AR	1	0000	3	292	Rapid City, SD	1			
Fresno			1		Reno	1			117
Ft Lauderdale	1	1245			Rio Rancho		1051	1	
Ft Worth	1	1240	1	40	Riverside, CA			1	47
Grand Canyon			1		Sacramento			2	189
Harrisburgh, PA			1) Saga, Japan			1	
Hawaii			1		Salt Lake City		1 776		
Houston	1	1263			San Antonio	1	2 420	3 6	
Indianapolis	1				San Diego		1 1302	2 4	163
Irving		. 520	1	184	San Juan, PR	_		1	94
Isleta Casino	<u> </u>	<u> </u>	3		Sandia Casino		1 10	0 1	37
Jacksonville, FL					Santa Fe			8	265
Kansas City	4	5749	1) Savannah, GA			1	14
Lake Charles, VA	<u> </u>		1		7 Seattle	+	2 368	4 4	67
Lake Tahoe					Springfield, MO		1	1	41
Las Cruces			2		9 St Louis	-	2 335	7 1	24
Las Vegas	3				2 Stanford, CT			1	
Long Beach	1			202				5	
Los Angeles		1 195			Tamaya		_	3	
Louisville, KY			1	55	5 Tucson		1 160		
Loveland, CO	2	2 166			Washington, DC	2	Name of Column 2 is not the owner.	the second s	3 2483
Mesa, AZ			-		3 TBD/Unknown	4		.9 30	00
Milwaukee		1 158			4 No Hotel Utilized		1 2		3 17
Minneapolis				·	0 Met in ABQ - No		0 4000		
New Orleans		1 116	0 2		0 Meeting CXL	1	0 1082		
Nashville				1 14	The set of		-		44000
Omaha				1 42	1 Tot	al 9	9 18655	59 19	5 1106

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CONVENTION SALES & SPORTS

Center Lost Business FY14 100% of Lost Business Shown - Total 186,559

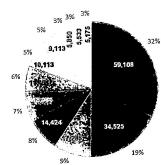
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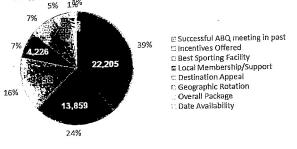
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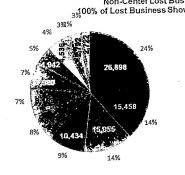


9% Downtown Hatel Package includes Too many hotels in package; More alseping rooms close to Center; Meeting Space/Steeping Rooms under one roof.

Dow	ntown Hotel Package		
Othe	r		
Dest	nation Desirability		
Rid T	îming - Unable to view Tra	ck pric	г
	Support/Membership	·	
	bership Vote		
Geog	raphic Preference		
Mee	ting Cancelled		
	- Overall City Package		
	esponse from Planner		
	d Preference		
	Convention Center Other 1	9% Expa	nded
	Hotel-Guest Room Rates too High	4023	2.25
	Old not make 1st/Final Cut	3731	2.0%
	ABQ- Safety Concerns	3562	1.9%
	ACC - Dates/Space Unavailable	3445	1.8%
	ACC - Induor Track	3350	1.8%
	Preferred Location Available	3200	1.7%
	Client will not sign hotel contracts	3160	1.7%
	CC space not adequate for Planner	2000	1.1%
	ACC - Will not use at this time	1705	0.9%
	Near Training/Hdqt Office	1605	D.955
	ACC - Rateston high	1358	0.7%
	Transportation/Accessibility issues	1195	0.6%
	NoLonger using 3rd Party	\$50	0.5%
	ACC- Condition Concerns	615	0.3%
	PreferaResort	350	0.254
	Change in Program	305	0.255
	No Longer Using Hotel	20	0.0%

Center Win Reasons FY14 100% of Definite Business Shown - Total 57,702 5% 1%





wn-Total 110,6	97
E Preferred Locat	ion Available
Other	
a Local Support/N	Aembership
E Destination Des	irability
D Meeting Cancel	led
C Membership Vo	ite
C No Response fro	
E Did not make Fi	rst/Final Cut
U: Hotels - Dates/S	

Non-Center Lost Business FY14

Coverall Rates/Cost too High
ABQ - Overall City Package
Board Preference
Non Center Other 14% Excanded

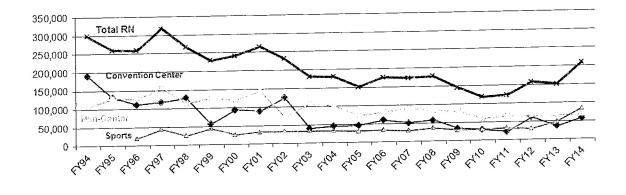
Chose Hyatt Tamaya	2035	1.8%
Transportation/Accessibility Issues	1919	1.7%
Climate/Weather Concerns	1908	1.7%
Near Training/Headquarter Office	1784	1.6%
Geographic Preference	1556	1.4%
Hil -Guest Room Rates too High	1100	1.2%
No Longer Using Hotel	1074	1.0%
Combinded with another meeting	764	0.7%
Lead turned over to AHCC	641	0.6%
Chose Isleta Casino	485	0.4%
Chose Sandia Casino	370	0.3%
Multiple year bid - single yr bonked	240	0.25
Hotel Concessions Required	152	0.15
Will hold trainings/Annual Only	130	0.15
Multi Yr Bid - 1 yr ehminated	88	0.15
Prefer Larger City	68	0.19
Economy	24	0.05

Non-Center Win Reasons FY14 100% of Definite Business Shown - Total 152,301

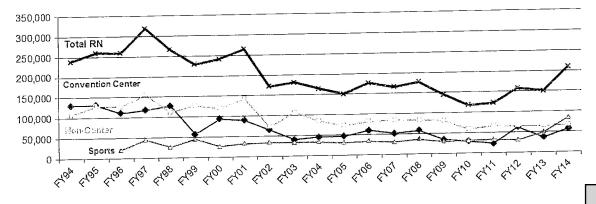


			His	torical Defin	nite Produc	ction			
	w/USBC (94	& 02) or FMC	CA (04 & 07)			w/o USBC (9			<u>')</u>
Fiscal		Non Center	Sports	Total	Fiscal	Center	Non Center	Sports	Total
FY94	190,856		· · ·	298,821	FY94	130,856	107,965		238,821
FY95	131,504			260,143	FY95	131,504	128,639		260,143
FY96	111,408		20,128	259,453	FY96	111,408	127,917	20,128	259,453
FY97	118,218			318,968	FY97	118,218	156,168	44,582	318,968
FY98	128,062		25,823	266,826	FY98	128,062	112,941	25,823	266,826
FY99	57,392			229,557	FY99	57,392	127,544	44,621	229,557
FY00	94,098		26,021	241,390	FY00	94,098	121,271	26,021	241,390
FY01	89,817	143,247	32,290	265,354	FY01	89,817	143,247	32,290	265,354
	125,465		33,524	231,374	FY02	65,465	72,385	33,524	171,374
FY02	40,481	107,484		181,065	FY03	40,481	107,484	33,100	181,065
FY03 FY04	46,066		33,547	180,575	FY04	46,066	85,302	33,547	164,915
	46,420			150,878	FY05	46,420	73,805	30,653	150,878
FY05	60,598			176,620	FY06	60,598	82,486	33,536	176,620
FY06	51,598			173,217	FY07	51,598	84,411	30,086	166,095
FY07	57,837			177,440	FY08	57,837		36,591	177,440
FY08	34,174			144,964	FY09	34,174		29,693	144,964
FY09				118,731	FY10	29,505		29,967	118,731
FY10	29,505 22,942			122,597	FY11	22,942		33,138	122,597
FY11				157,845	FY12	62,180		30,519	157,845
FY12	62,180			151,086	FY13	36,219			151,086
FY13 FY14	36,219			210,003	FY14	57,702			210,003

Fiscal Year Room Nights Booked For Future Years including USBC/FMCA



Fiscal Year Room Nights Booked For Future Years without USBC/FMCA



CONVENTION SERVICES

Actual Meetings Hosted - CVB Booked											
	Jun '14	Jun '13	% Ch	FY14	FY13	% Ch					
Number of Meetings	46	33	39.4%	356	367	-3.0%					
Room Nights	26.270	10,589	148.1%	214,541	116,958	83.4%					
Attendance	51.527	28,485	80.9%	295,656	207,675	42.4%					
Direct Spending*	\$11,215,888	\$8,757,680	28.1%	\$83,622,138	\$50,555,017	65.4%					

Higher Room Nights, Attendance and Direct Spend FY14 due in large part to USA Roller Sports.

*Per city contract, Direct Spending is calculated using the DMAI Event Impact Calculator.

Visitor Information Centers										
	Jun '14	Jun '13	% Ch	FY14	FY13	% Ch				
Visitors										
Airport	5,210	5,854	-11%	60,814	64,839	-6%				
Old Town	2.640	3,022	-13%	28,860	29,785	-3%				
ACVB Office	15	21	-29%	280	444	-37%				
Total	7.865	8.897	-12%	89,954	95,068	-5%				
Volunteer Hours	838.5	850.5	-1%	9,833.5	10,005	-2%				

Services Report

- June 1 Daughters of the Nile--promotional trip to Omaha for the 2015 convention Denise Suttle
- June 3 Met with potential new partner for ACVB, in speaker/trainer category Denise Suttle
- June 3 Site with Bette Worley, National Student Exchange Cecilia Padilla-Quillen
- June 5 Attended Virgin Galactic Customer Service Training Roxane Cisneros
- June 5 Event Service Professionals Association, annual convention program committee meeting Denise Suttle
- June 5 Attended Address given by APD Chef Eden at Embassy Hotel & Suites Cecilia Padilla-Quillen
- June 9-13 Volunteers provided for Far West Regional USYSA Soccer championships Denise Suttle
- June 10 3 volunteers provided for NM Youth Soccer Association Far West Regionals (bag stuffers) Roxane Cisneros
- June 10 ACVB Annual Luncheon Andrew Lee
- June 11 June Volunteer Meeting Vernon's Hidden Valley Steakhouse Roxane Cisneros
- June 13 Judge at annual Hospitality Games Denise Suttle
- June 18 Volunteer Outing/Education Dynamax screening of "Jerusalem" Roxane Cisneros
- June 19 Meet with local host committee, NM Institute of Transportation Engineers Denise Suttle
- June 19 ESPA executive committee meeting Denise Suttle
- June 20 Meet with director of Sun Country Regional Volleyball Tournament Denise Suttle
- June 20 Adventist Risk Management Andrew Lee
- June 25 New volunteer interview Charles Rapson for Old Town Visitor Information Center Roxane Cisneros

PARTNER DEVELOPMENT

Partners Represented											
	Jun '14	Jun '13	% Ch from Jun '13	FY14	FY13	% Ch from FY13					
Total Partners				757	797	-5%					
New Partners	4	13	-69%	62	80	-23%					
Renewal Partners	64	55	16%	543	543	0%					
Non-Partners				304	NA	NA					
Total Represented				1061	797	33%					

		Developme	nt and Oth	er Private Rev	venue			
	Jun '14	Jun '13	% Ch from Jun '13	FY14	FY13	% Ch from FY13	FY Goal	% of Goal
DUES								
New Partners	\$1,510	\$4,974	-69.6%	\$27,697	\$43,139	-36%	\$34,000	81%
Renewals	\$43,997	\$41,869	5.1%	\$305,381	\$328,991	-7%	\$259,000	118%
Total Partner Dues	\$45,507	\$46,843	-2.9%	\$333,079	\$372,130	-10%	\$293,000	114%
ADVERTISING								
Visitors Guide/Map	\$9,787	\$8,999	8.8%	\$151,106	\$153,101	-1%	\$140,000	108%
Website/Mobile/Email	\$6,130	\$0	NA	\$25,085	NA	NA	\$31,000	81%
Co-Op Advertising	\$10,173	\$1,475	589.9%	\$19,649	\$9,399	109%	\$9,000	218%
Total Ad Revenue	\$26,090	\$10,473	149.1%	\$195,839	\$162,500	21%	\$180,000	109%
Sponsorships	\$0	\$800	-100.0%	\$750	\$2,300	-67%	\$3,000	25%
Other Revenue	\$15,077	\$28,017	-46.2%	\$21,750	\$33,145	-34%	\$30,000	73%
and the second	····		وي المحمد ال					
TOTAL REVENUE	\$86,674	\$85,884	0.9%	\$551,418	\$570,075	-3%	\$506,000	109%

In August 2013, we began breaking out Partner Dues, Advertising. Sponsorships and Other Revenue. We did not begin tracking Advertising Revenue until October 2012.

Partner Development Report

- Total YTD partnership collections (dues, sponsorships, merchandise, auction, advertising and miscellaneous) equals \$551,418, 109% of annual goal
- Enrolled 4 new partners
- Renewed 64 partners
- Partnering with MCT, hosted a very successful Annual Luncheon at the Albuquerque Convention Center
- Restructured Development staff responsibilities
- Hosted a Special Conversation for our partners with Chief Eden
- Hosted a successful Partner Orientation
- Hosted a successful ACE at the National Museum of Nuclear Science and History
- Participated in successful Hospitality Games Implementation
- Continued work with APD and GAIA
- Continued work with Alliances and Advocacy Directors Council
- Continued work with Balloon Fiesta Park Commission

MARKETING,	COMMUNICATIONS	&	TOURISM	
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		Media			·	
	FY14 4th Quarter	FY13 4th Quarter	% Ch from FY13	FY14	FY13	% Ch from FY13
Domestic Coverage					000	116.6%
# of Print Articles	46	45	2.2%	483	223	
Circulation	7,965,870	5,905,281	34.9%	104,735,785	50,805,148	106.2%
Publicity Value	\$125,566	\$52,139	140.8%	\$748,481	\$414,711	80.5%
# of Online Articles	143	405	-64.7%	1,551	1,837	-15.6%
Publicity Value	\$241,028	\$345,957	-30.3%	\$1,900,249	\$1,272,648	49.3%
Turnony fund	T	otal Number	of Articles	2,034	2,060	-1.3%
		Total Publi		\$2,648,730	\$1,687,359	57.0%
Broadcast Coverage*	an na an a					
# of National Broadcast stories	3	46	-93.5%	1,575	1566	0.6%
Publicity Value	\$1,085	\$304,790	-99.6%	\$7,820,096	\$7,627,353	2.5%

Media Numbers Reported Quarterly – 4th Quarter Reported

			Tourism					
	Jun '14	Jun '13	% Ch	FY14	FY13	% Ch from FY13	FY Goal	% of Goal
Consumer (Visitor Guide Requests)	7,407	10,444	-29.1%	68,790	83,695	-17.8%	77,219	89.1%
Group Tour Business	1,002	1,643	-39.0%	10,543	11,727	-10.1%	10,000	105.4%

Group Tour Numbers Reported Quarterly – 4th Quarter Reported

		Website				
	Jun '14	Jun '13	% Ch from Jun '13	FY14	FY13	% Ch from FY13
User Sessions			1	1 00 (00 (4 400 242	14%
Google Analytics	161,571	166,703	-3%	1,634,621	1,430,342	1470
Unique Visitors					1 0 17 0 50	13%
Google Analytics	131,918	142,748	-8%	1,375,704	1,217,953	1370
Search Engines (Google Analytics)					000 477	040/
Search Engine Traffic	107,570	73,084	47%	1,016,942	838,477	21%
Google Traffic	96,914	57,737	68%	871,003	688,215	27%

Item 9F.

MARKETING, COMMUNICATIONS & TOURISM

June Social Media Highlights:

Social Media

- The Albuquerque frame appeared at the Albuquerque Comic Expo (ACE) June 25-27th
 - ACE provided our frame volunteers with day passes for the event
- Highlights
 - We had a great social media graphic created by our in-house team for USA soccer which got a lot of engagement (3,263 likes/comments/shares)
 - Our annual luncheon video was recognized in a tweet by Albuquerque Mayor Richard Berry
 - ABQ365 was featured in this month's Yelp newsletter as the featured sponsor
 - Our @VisitABQ Twitter handle was recognized as one of June 2014's Must Follow DMOs by BAD Consulting LLC.

ABQ365

- Blog
 - 6/27 Bolo Tie Exhibit early access to exhibit courtesy of the Albuquerque Museum
- Blog Posts
 - There were 14 blog posts added to ABQ365 this month
 - The most popular post of the month was the Albuquerque Comic Expo ("Five reasons to go to ACE this weekend" followed by the free day at the ABQ BioPark Zoo and the pickup of Better Call Saul for a second season
 - This is the highest trafficked month for the blog thus far

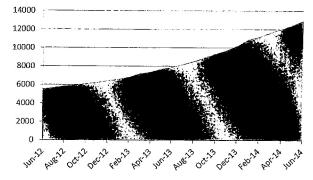
Facebook Activity - We had 22 posts to *Visit ABQ's* FB in the month of June. There were 3,601 referrals to VisitAlbuquerque.org from social networks; 2,934 of those referrals were from Facebook (Google Analytics-does not include advertising)

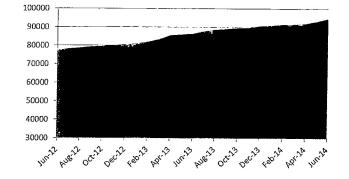


Facebook Fans



Twitter Followers







176 Active Subscribers – 172,649 Video Views

Social Media continued

Facebook – 12 Links to Internal Pages

6/30 - (Event) Post to the US Soccer watch party <u>http://www.visitalbuquerque.org/abq365/events/detail/World-Cup-Watch-Party-USA-Soccer-vs-Belgium/22052/</u>

6/30 - (ABQ365 Blog) Free day at the BioPark Zoo http://www.visitalbuquerque.org/abq365/blog/post/2014/19/We-re-not-monkeying-around-ABQ-BioPark-zoo-offers-free-admission-on-Monday-June-30th/68/

6/25 - Fly to Sunshine sweepstakes post

6/25 - (ABQ365 Blog) The Yards Craft Beer Premiere (photo diary)

http://www.visitalbuquergue.org/abq365/blog/post/2014/23/The-Yards-Craft-Beer-Premier-a-photo-journey-of-the-longestday-of-the-year-for-craft-beer/71/

6/19 - (ABQ365 Blog) Better Call Saul gets picked up for second season

http://www.visitalbuquerque.org/abq365/blog/post/2014/19/-Breaking-Bad-prequel-Better-Call-Saul-picked-up-by-AMC-fora-second-season/69/

6/19 - Fly to Sunshine sweepstakes post

6/15 - (Event) Father's Day at the BioPark <u>http://www.visitalbuquerque.org/abq365/events/detail/Old-Town-Father-s-Day-</u>Celebration/21844/

6/13 - (Event) Cherry Poppin' Daddies/Heights Summerfest <u>http://www.visitalbuquerque.org/abq365/events/detail/Heights-</u> Summerfest/20505/

6/12 - (Event) Summer Nights Concert Series http://www.visitalbuquerque.org/abq365/events/detail/Summer-Nights-Concert-Series/21138/

6/9 - (ABQ365 Blog) New sharks at the aquarium <u>http://www.visitalbuquerque.org</u> abq365/blog/post/2014/2/ABQ-BioPark-Aquarium-welcomes-two-new-sharks-to-the-shark-tank/61/

6/6 - (Event) ABQ Folk Festival <u>http://www.visitalbuquerque.org/abq365/events/detail/Albuquerque-Folk-Festival/20708/</u> 6/3 - (Event) AFME

http://www.visitalbuquerque.org/abq365/events/results/?e_ViewBy=search&e_submit=1&e_sortBy=eventDate&e_pagesize= 10&e_sDate=&e_eDate=&e_keyword=&e_catID=79&e_submitBtn=SEARCH

Marketing, Communications & Tourism Report

Site Visits:

Media

June 5-9 - Rachael Dickhute, EverythingHauler.com/Ford Motor Company June 18 - Bernadette Conrad (Germany): Die Zeit & Greyhound blog June 19-22 - Carrie Cecil, The Glamper Girls **Travel Trade/Travel Agents/FIT** William and Christine Forti, Travel Agents

Shows/Conferences:

June 23-25 - California Travel Summit - Tania was a guest speaker on film tourism and the success of Breaking Bad tourism

Advertising/Placement:

Leisure Outdoor:

- Four Fly to Sunshine outdoor boards ran in Kansas City June 1-30
- Five Fly to Sunshine outdoor boards ran in Chicago June 1-30
- \circ ~ Four Fly to Sunshine outdoor boards ran in Portland June 1-30 ~

Leisure Online:

Specific Media (ad network)

- Fly to Sunshine banner ads, pre-roll ads and retargeting banner ads ran June 1-30 (geo and behavior targeted)
- retargeting visitors guide and brand banner ads ran June 1-30

Southwest

- visitors guide banner ad ran June 1-30
- hotel ads ran within confirmation emails sent to everyone who booked a flight into Albuquerque during the month of June – Hotel Cascada, June 1-15 and Albuquerque Hyatt Regency, June 16-30

Sojern

• Fly to Sunshine banner ads and pre-roll ads ran June 1-30 (geo and behavior targeted)

Weather.com

• Fly to Sunshine banner ads ran June 1-30 (geo targeted with a cold and/or cloudy weather trigger)

Sunset and Time Inc. Lifestyle Network

• Fly to Sunshine banner ads and pre-roll ads ran June 1-30 (geo targeted)

TripAdvisor

- Fly to sunshine banner ads ran June 1-30 (content and geo targeted)
- Visitors guide and brand banner ads ran June 1-30 on the Albuquerque page and run of site
- Cultural Services Department banner ads ran June 1-30 (content targeted)

National Geographic

• Fly to sunshine banner ads and pre-roll ads ran June 1-30 (geo targeted)

USA Today

• Fly to sunshine banner ads and pre-roll ads ran June 13-30 (geo and behaviorally targeted)

King Email Marketing

- Cultural Services Department sweepstakes email with win a trip, Freedom 4th, Route 66 Summerfest and Salsa Fiesta messaging was sent on June 3rd to 26,366 emails in Denver, Dallas and Lubbock
- Fly to sunshine email with fly to sunshine, request a vg and win, JetBlue and summer messaging was sent on June 3rd to 75,000 emails in New York City (behaviorally targeted)
- Fly to sunshine email with win a trip, request a vg, JetBlue and summer packages messaging was sent on June 26th to 75,000 emails in New York City (behaviorally targeted)

Marketing, Communications & Tourism Report continued

Advertising/Placement continued

Leisure Local:

- Albuquerque the Magazine (85,678 circ.) ABQ365 1/3 page ad ran in the June issue
- edible Santa Fe, Albuquerque and Taos (20,000 circ.)
 ABQ365 ¼ page ad ran in the June/July issue
- Albuquerque Little Theatre ABQ365 ½ page ad ran in the Les Miserables program May 23-June 15
- Albuquerque Journal website ABQJournal.com ABQ365 banner ads ran June 1-30

Convention Online/Email:

- Specific Media
 - Meet the New Albuquerque banner ads ran June 1-30 (geo and behavior targeted) Meetings pre-roll ads ran June 1-30 (geo and behavior targeted)
- Retargeted Meet the New Albuquerque banner ads ran June 1-30
- o Smart Meetings

Meet the New Albuquerque banners ran June 1-30 on the New Mexico landing page Sponsored Albuquerque content on the New Mexico landing page Featured Venue in the June 24th eNewsletter sent to 44,000 emails

0 ePro Direct

Email blast with Convention Center improvements, Albuquerque: Your Recipe for Success incentive and top 10 reasons to hold your meeting in Albuquerque messaging was sent to 15,080 association, education, religious, fraternity, government and military meeting planners on June 11th.

Albuquerque: Your Recipe for Success incentive was included in the Opportunity Knocks eNewsletter sent to 83,716 emails on June 30th.

Convention Local:

• Albuquerque Journal Business Outlook (Monday circ. 91,579)

Bring Your Meeting Home ad along with the June Convention Calendar ran in the June 2nd Business Outlook section

Bring Your Meeting Home ad along with the July Convention Calendar ran in the June 23rd Business Outlook section

Facebook Advertising:

- Recipe for Success (meeting planner focused ad): Ran June 30 107 website clicks (\$1.57 CPC), 67 post likes, 10 page likes Number of people ad was served to (reach): 31,502
- ABQ365 Page Likes Ad: Ran June 27-30
 1987 page likes gained
 Number of people ad was served to (reach): 103,139
- Promoted Post: #GoUSA #WorldCup: Ran June 26-27
 3,263 post engagements (likes, comments, shares)
 Number of people ad was served to (reach): 76,444

Marketing, Communications & Tourism Report continued

Media:

Local Media:

June 4 - Media Alert regarding Rachael Dickhute's visit

June 9 - Annual Luncheon media alert

June 10 - Annual Luncheon press release June 12 - PRSA Bronze Anvil press release

June 26 - July Convention Calendar

National/International Media:

June 26 - Fly to Sunshine Sweepstakes press release

M&C Trade Media:

June 19 - Your Recipe for Success press release

Media Pitches:

June 5 - Cooking Light: New or unusual food-based spa treatments (pitched treatments at Hyatt Tamaya & Great Face and Body) Status: publication likes it (specifically they are interested in Hyatt Tamaya's Ancient Drumming Treatment featuring a red chile wrap), journalist will be in market in August to stay at the property and try the treatment. Publication date TBD. June 6 - MountainHikingSite.com: Popular hiking destinations in the U.S. (La Luz Trail) Status: They'd like us to write a blog post about the La Luz Trail for their site.

June 11 - Unknown Publication: Independently owned boutique hotels (Hotel Parq Central & Hotel Andaluz) Status: pending June 13 - Wendy Pramik, Albuquerque's up-and-coming beer scene

June 25 - Patriotic Hotels (Hyatt Regency Tamaya) Status: Not Selected

Travel Trade Activity:

Worked with St. Francis group on Balloon Fiesta itinerary

E-Marketing:

June 12 - "Enter to win a getaway for two - last chance!" email sent to 125,080 consumer contacts with a 17% open rate and 47% click to open rate

June 26 - "Win a Trip for Two to Sunny Albuquerque" email sent to 987 consumer contacts in the Portland DMA (currently unable to retrieve results due to an error in the email system)

June 26 - "Win a Trip for Two to Sunny Albuquerque" email sent to 1,058 consumer contacts in the Kansas City DMA (currently unable to retrieve results due to an error in the email system)

June 26 - "Win a Trip for Two to Sunny Albuquerque" email sent to 1,638 consumer contacts in the Seattle DMA (currently unable to retrieve results due to an error in the email system)

June 26 - "Win a Trip for Two to Sunny Albuquerque" email sent to 2,955 consumer contacts in the Chicago DMA (currently unable to retrieve results due to an error in the email system)

June 26 - "Thank you for your interest in Albuquerque!" email sent to 3,353 NMTD Central New Mexico Sweeps entrants (currently unable to retrieve results due to an error in the email system)

Pay-per-click Advertising:

Main campaign: 8,421 clicks

Website:

Updated FAM Registration and FAM confirmation pages and made the FAM Registration and FAM Updates pages live in the navigation in the meetings section

Updated the meetings homepage

Placed Albuquerque: Your Recipe for Success incentive promos on the meetings homepage and a number of other pages throughout the meetings section

Fly to Sunshine sweepstakes went live on the landing page on June 18th

ltem 9F.

MARKETING, COMMUNICATIONS & TOURISM

Marketing, Communications & Tourism Report continued

- Photo Requests: 8
- Videos: Advancing the Destination Year in Review
- Projects:

Gathered and trafficked Smart Meetings eNewsletter materials Updated information and added Albuquerque: Your Recipe for Success incentive to EmpowerMINT

• Collateral/Ad Production:

Albuquerque: Your Recipe for Success incentive ½ page ad Albuquerque: Your Recipe for Success incentive website promos ePro Direct meetings email USA Roller Sports program ad ABQ365 outdoor board Albuquerque and neighborhoods downloadable online map Texas Monthly ½ page Balloon Fiesta ad Fly to Sunshine June email ABQ365 :30 tv spot for Who Rocks NM Arabian Horse Show airport banner

Local Meetings:

- June 5 Attended Chief Eden/ACVB partner meeting Tania & Heather
- June 5 Museum Cooperative Council Meeting, Explora! Kelly
- June 10 ACVB Annual Luncheon
- June 16 Attended NMTD's Breakfast Burrito Byway press conference Tania, Heather & Kelly
- June 17 TANM & NMLA Meeting Tania
- June 18 Social Media Panel Discussion, Garrity Group Kelly
- June 19 Ski NM Board Meeting Tania
- June 19 Partner Meeting with Mr. Hall, DSH Entertainment Kelly
- June 20 Kathleen Manicke from Hyatt Tamaya (at ACVB offices) Heather
- June 24 Chris Goblet from NM Beer Heather
- June 24 DivvyHQ Demo Kelly & Audrey
- June 25 ACT-On Software Demo Kelly
- June 27 Public Art Charette Kelly & Audrey
- June 25 Garrity PR Balloon Fiesta Media meeting Heather & Kelly
- June 26 NMPRSA Heather & Kelly

• Awards:

Submitted Breaking Bad PR award entry for ESTO's Destiny Awards

Totals:	December	November	CEIODEL	September	1 ch Xnu	Angust	Julv	June	IVIAY	111111	Anril	March	February	January	In the second			Center		
34 52,359	1 227	2 2.992	0, 2,07	1 809		2 7 7	3 9.269	4 4,989	1 1,426		7821 2	1 125	5 10,220	CD6.5			Definite	2009		
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BUSINESS OCCURRING BY CALENDAR YEAR **CONVENTION SALES & SPORTS**

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Page 8

Item 9F.

278

FIRST AMENDMENT TO DESTINATION AND MARKETING SERVICES AGREEMENT BETWEEN THE CITY OF BASTROP, TEXAS AND VISIT BASTROP

This Agreement is made as of this 9th day of September, 2019, by and between the City of Bastrop, Texas ("City"), a Texas municipal corporation, and Visit Bastrop ("Visit Bastrop"), a Texas non-profit corporation organized under Chapter 22, Texas Business Organizations Code, acting by and through their authorized representatives.

WHEREAS, the City and Visit Bastrop entered into that certain Destination and Marketing Services Agreement, ("Agreement") on September 12, 2017, for destination and marketing services to be provided by Visit Bastrop; and

WHEREAS, the City of Bastrop City Council and the Visit Bastrop Board of Directors approved minor amendments to the terms of the Agreement on September 9, 2019, as provided herein.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

That Section II. "Scope of Services", Paragraph 2.3 "Business Plan", (C) "Reporting", Item (i) is amended as follows:

The President's Report shall include sales, marketing and public relations metrics, along with the industries economic update and trends. Format of report shall be at the discretion of Visit Bastrop.

That Section II. "Scope of Services", Paragraph 2.3 "Business Plan", (C) "Reporting", Item (ii) is amended as follows:

> Update presentations quarterly at a regularly scheduled Council meeting, specifically the second Council meeting in January, April, July, and October.

That Section II. "Scope of Services", Paragraph 2.3 "Business Plan", (C) "Reporting", Item (iii) is amended as follows:

> Participate in an annual workshop between City Council and Visit Bastrop Board of Directors to have opportunity to dialog about performance, establish future goals and objectives, and other topics that may be relevant to the components of this contract in July of each year.



4. That Section III. "Compensation to Visit Bastrop", Paragraph 3.2 "Forecasting" is amended as follows:

 Visit Bastrop shall inform and provide input on the establishment of a three-year forecast and the adopted budget appropriation for HOT Revenues.

5. The amendments to the Contract set forth herein shall be effective as of September 9, 2019.

6. In the event any section, subsection, paragraph, sentence, phrase or word herein is held invalid, illegal or unconstitutional, the balance of this Agreement shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

7. This Agreement shall be construed under the laws of the State of Texas. Venue for any action under this Agreement shall be the State District Court of Bastrop County, Texas. This Agreement is performable in Bastrop County, Texas.

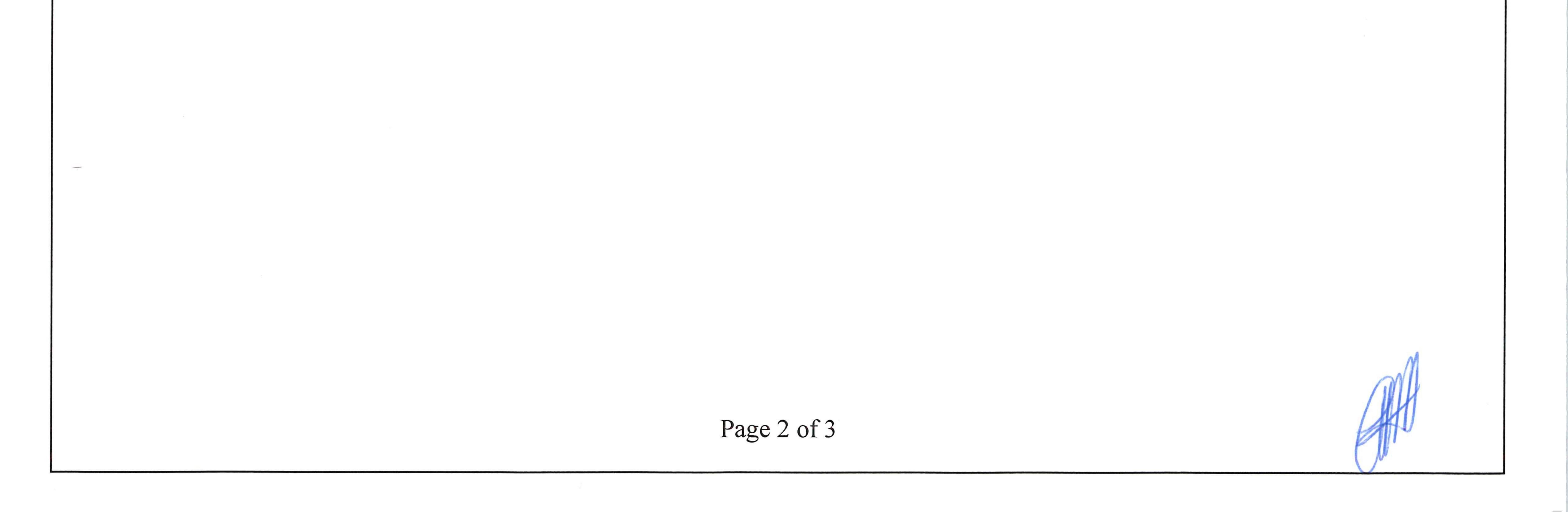
8. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

9. This Agreement amends and supersedes only those specific enumerated

provisions of the Destination and Marketing Services Agreement between the City of Bastrop, Texas and Visit Bastrop, as amended the balance of which remains unaffected by the amendments set fourth herein.

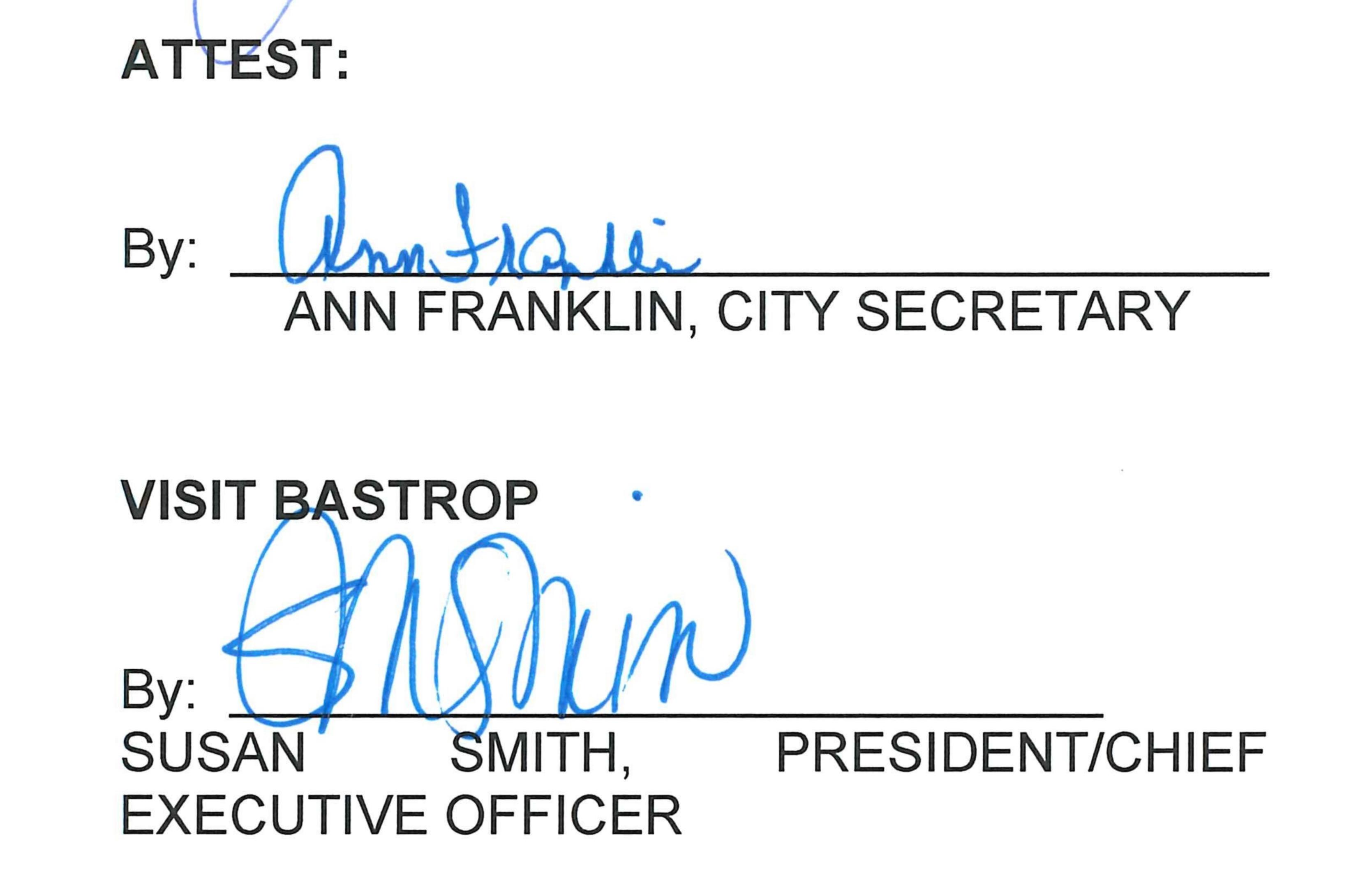
10. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to the matters in this Agreement, and except as otherwise provided herein may not be modified without written agreement of the parties to be attached to and made a part of this Agreement.

11. The Agreement, as heretofore amended, shall continue in full force and effect except as amended herein.



EXECUTED in duplicate originals this the 15th day of January 2020.

By: LYNDA K. HUMBLE, CITY MANAGER



Item 9F.

EXHIBIT A

SECOND AMENDMENT TO DESTINATION AND MARKETING SERVICES AGREEMENT BETWEEN THE CITY OF BASTROP, TEXAS AND VISIT BASTROP

This Agreement is made as of this 10th day of November, 2020, by and between the City of Bastrop, Texas ("City"), a Texas municipal corporation, and Visit Bastrop ("Visit Bastrop"), a Texas non-profit corporation organized under Chapter 22, Texas Business Organizations Code, acting by and through their authorized representatives.

WHEREAS, the City and Visit Bastrop entered into that certain Destination and Marketing Services Agreement, ("Agreement") on September 12, 2017, for destination and marketing services to be provided by Visit Bastrop; and

WHEREAS, the City of Bastrop City Council and the Visit Bastrop Board of Directors approved minor amendments to the terms of the Agreement on September 9, 2019, as provided herein.

WHEREAS, the City of Bastrop City Council and the Visit Bastrop Board of Directors approved a first amendment to the terms of the Agreement on January 15, 2020, as provided herein.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. That Section II. "Scope of Services", Paragraph 2.3 "Business Plan", (A) "Reporting", Sentence number 5 is amended as follows:

In years 2-5 of the contract, *in August of each year*, Visit Bastrop shall prepare a business plan and include a proposed budget that indicates in appropriate detail how the funding to be provided by the City for that fiscal year will be expended. This business plan and proposed budget will be presented publicly *as part of the Joint City Council meeting in August for the upcoming fiscal year.*

2. That Section II. "Scope of Services", Paragraph 2.3 "Business Plan", (C) "Reporting", item (iii) is amended as follows.

Participate in an annual workshop between City Council and Visit Bastrop Board of Directors to have opportunity to dialog about performance and establish future goals and objectives, and other topics that may be relevant to the components of this contract in *August* of each year.

3. The amendments to the Contract set forth herein shall be effective as of November 10, 2020.

4. In the event any section, subsection, paragraph, sentence, phrase or word herein is held invalid, illegal or unconstitutional, the balance of this Agreement shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

5. This Agreement shall be construed under the laws of the State of Texas. Venue for any action under this Agreement shall be the State District Court of Bastrop County, Texas. This Agreement is performable in Bastrop County, Texas.

6. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

7. This Agreement amends and supersedes only those specific enumerated provisions of the Destination and Marketing Services Agreement between the City of Bastrop, Texas and Visit Bastrop, as amended the balance of which remains unaffected by the amendments set forth herein.

8. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to the matters in this Agreement, and except as otherwise provided herein may not be modified without written agreement of the parties to be attached to and made a part of this Agreement.

9. The Agreement, as heretofore amended, shall continue in full force and effect except as amended herein.

EXECUTED in duplicate originals this the 10th day of November 2020.

CITY OF BASTROP, TEXAS

By:

Paul A. Hofmann, City Manager

ATTEST

Bv:

Ann Franklin, City Secretary

VISIT BASTROP By:

Susan Smith, President/Chief Executive Officer

THIRD AMENDMENT TO DESTINATION AND MARKETING SERVICES AGREEMENT BETWEEN THE CITY OF BASTROP, TEXAS, AND VISIT BASTROP

This Agreement is made as of this 29th day of November 2021, by and between the City of Bastrop, Texas ("City"), a Texas municipal corporation, and Visit Bastrop ("Visit Bastrop"), a Texas non-profit corporation organized under Chapter 22, Texas Business Organizations Code, acting by and through their authorized representatives.

WHEREAS, the City and Visit Bastrop entered into that certain Destination and Marketing Services Agreement, ("Agreement") on September 12, 2017, for destination and marketing services to be provided by Visit Bastrop; and

WHEREAS, the City of Bastrop City Council and the Visit Bastrop Board of Directors approved minor amendments to the terms of the Agreement on September 9, 2019; and

WHEREAS, the City of Bastrop City Council and the Visit Bastrop Board of Directors approved a first amendment to the terms of the Agreement on January 15, 2020; and

WHEREAS, the City of Bastrop City Council and the Visit Bastrop Board of Directors approved a second amendment to the terms of the Agreement on November 10, 2020, as provided herein.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. That Section II. "Scope of Services", Paragraph 2.3 "Business Plan", (C) "Reporting", Item (i) is replaced with the following:

- In August of each year, Visit Bastrop shall prepare a business plan and include a
 proposed budget that indicates in appropriate detail how the funding to be provided
 by the City for that fiscal year will be expended. This plan and proposed budget
 will be presented publicly as part of a Joint City Council meeting to be held no later
 than the third Monday in August for the upcoming year.
- In addition, Visit Bastrop shall present to the City Council a Mid-Year Report which shall include a review of the year thus far and plans for the rest of the fiscal year at the second City Council meeting in April or the next available meeting as determined by the City Manager.
- In October of each year, Visit Bastrop shall present an optional end of year
 presentation to be determined by Council which will present a recap of
 accomplishments for the previous fiscal year at the second City Council meeting
 in October or the next available meeting as determined by the City Manager.

2. That Section II. "Scope of Services", Paragraph 2.3 "Business Plan", (C) "Reporting", item (ii) is replaced with the following:

• Provide written quarterly reports to City Council through the City of Bastrop

Quarterly Report. The data, layout, and items reported on shall be decided in conjunction with the City Manager to ensure both parties are confident the reported data will give City Council an accurate snapshot of activities and level of success.

added:

- 3. That Section I. "Term", Paragraph 1.1 "Term", shall have the following clause
 - The term of this Agreement, that commenced on October 1, 2017 between the City
 of Bastrop, a Texas municipal corporation, and Visit Bastrop, a Texas non-profit
 corporation, shall be extended for an additional five (5) years, beginning on
 September 30, 2022 and ending on September 30, 2027, with an extension option
 of up to 5 years from the end of the next Term that can be mutually agreed upon
 prior to the expiration, unless such Agreement is terminated pursuant to Article VII
 of the original contract, as attached here as "Exhibit A".

4. In the event any section, subsection, paragraph, sentence, phrase, or word herein is held invalid, illegal, or unconstitutional, the balance of this Agreement shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

5. This Agreement shall be construed under the laws of the State of Texas. Venue for any action under this Agreement shall be the State District Court of Bastrop County, Texas. This Agreement is performable in Bastrop County, Texas.

6. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

7. This Agreement amends and supersedes only those specific enumerated provisions of the Destination and Marketing Services Agreement between the City of Bastrop, Texas, and Visit Bastrop, as amended the balance of which remains unaffected by the amendments set forth herein.

8. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to the matters in this Agreement, and except as otherwise provided herein may not be modified without written agreement of the parties to be attached to and made a part of this Agreement.

9. The Agreement, as heretofore amended, shall continue in full force and effect except as amended herein.

EXECUTED in duplicate originals this the 12TH day of October 2021.

CITY OF BASTROP, TEXAS

By: Paul A. Hofmann, City Manager

ATTEST By:

Ann Franklin, City Secretary

VISIT BASTROP

By:

Susan Smith, President/Chief Executive Officer

Visit Bastrop FY 23/24 - Budget	Template									
			F	Y 23/24	F	Y 22/23	FY 21/22		FY 20/21	
GL Account			Total		Total					
	Revenue									
		Board Approved Reserves	Ś	-						
4600 City Contract		City Contract	Ŧ	1,816,000.00	Ś	1,355,000.00	\$	717,824.00	\$	859,356.00
4720 Special Event Funding		Hot Special Event Funding	\$ 75,000.00		\$	125,000.00	\$	75,000.00	\$	75,000.00
		Total Revenue		1,891,000.00	-	1,480,000.00	\$	792,824.00	\$	934,356.00
	Expenses									
	Client Development									
7540 Sales & Client Development		Sales & Client Development	\$	30,000.00	\$	30,000.00	\$	10,000.00	\$	14,579.00
7400 Donation		Donation	\$	4,000.00	\$	4,000.00	\$	1,000.00	\$	1,000.00
7530 Promotional Items		Promotional Giveaway Tradeshow Items	\$	15,000.00	\$	15,000.00	\$	4,000.00	\$	4,000.00
		Total Client Development	\$	49,000.00	\$	49,000.00	\$	15,000.00	\$	19,579.00
	Dues, Memberships,	Subscriptions								
8300 Dues & Subscriptions		Texas Hospitality & Lodging Association	\$	450.00	\$	450.00	\$	16,832.00	\$	16,832.00
8300 Dues & Subscriptions		Bastrop Opera House	\$	250.00	\$	250.00				
8300 Dues & Subscriptions		Bastrop Chamber	\$	440.00	\$	1,030.00				
8300 Dues & Subscriptions		Bastrop Museum and Visitor Center	\$	250.00	\$	250.00				
8300 Dues & Subscriptions		Destinations International	\$	3,060.00	\$	3,060.00				
8300 Dues & Subscriptions		DMAP Annual Cert Fee	\$	2,000.00	\$	2,000.00				
		DMA West	\$	1,200.00						
8300 Dues & Subscriptions		D.I. Economic Impact Calculator	\$	3,900.00	\$	3,900.00				
8300 Dues & Subscriptions		Heart of Bastrop Chamber	\$	150.00	\$	150.00				
8300 Dues & Subscriptions		Lost Pines Art Center	\$	75.00	\$	75.00				
8300 Dues & Subscriptions		Meeting Professionals International	\$	600.00	\$	600.00				
8300 Dues & Subscriptions		Texas Assn. of Convention & Visitors Bureaus	\$	1,300.00	\$	1,300.00				
8300 Dues & Subscriptions		Texas Travel Industry Association	Ś	3,000.00	\$	3,000.00				
8300 Dues & Subscriptions		US Travel	Ś	1,100.00	\$	1,100.00				
8300 Dues & Subscriptions		Misc.	Ś	1,000.00	\$	1,000.00				
8300 Dues & Subscriptions		TSAE	Ś	1,100.00	\$	1,100.00				
		Total Dues, Memberships, Subscriptions	\$	19,875.00	\$	19,265.00	\$	16,832.00	\$	16,832.00
	Local Meetings/Tran	sportation								
7850 Board Meetings		Board Meetings	\$	8,000.00	Ś	12,000.00	Ś	6,000.00	\$	1,500.00
7820 Mileage/Parking		Mileage/Parking	\$	4,000.00	\$	4,000.00	\$	1,000.00	\$	1,000.00
1020 WIIICage/Faikilig		ויוויבמקב/ רמו אוויק	ç	4,000.00	ڊ	4,000.00	ې	1,000.00	ڊ	1,000.00

			-	Y 23/24	F	Y 22/23	F	Y 21/22	F	Y 20/21
GL Account				Total		Total				
7560 Staff Events		Staff Events	\$	4,500.00	\$	4,500.00	\$	1,000.00	\$	1,000.00
		Total Local Meetings/Transportation	\$	16,500.00	\$	20,500.00	\$	8,000.00	\$	3,500.00
	Marketing									
7300 Advertising		Advertising/PR/MKTG/SV	\$	845,976.00	\$	602,352.07	\$	380,045.19	\$	386,338.00
7500 Tradeshows/Conferences		Destination Southwest	\$	-	\$	-	\$	8,781.81	\$	9,556.00
7500 Tradeshows/Conferences		Southwest Showcase	\$	2,125.00	\$	2,125.00				
7500 Tradeshows/Conferences		TACVB - Sales Blitz	\$	1,500.00	\$	1,500.00				
7310 Research		Research	\$	25,000.00	\$	25,000.00				
		MPI	\$	2,500.00						
		DMA West	\$	2,000.00						
7500 Tradeshows/Conferences		Team Texas	\$	2,000.00	\$	2,000.00				
		Connect Travel	\$	2,000.00						
7500 Tradeshows/Conferences		In the Moment Trade Show	\$	5,000.00	\$	2,500.00				
			\$	888,101.00	\$	635,477.07	\$	388,827.00	\$	395,894.00
	Office Expenses									
8000 Copier/Printing Lease	Office Expenses	Copier/Printing Lease	\$	3,000.00	\$	3,000.00	\$	1,272.00	\$	1,272.00
8600 General Office Supplies		Office Supplies	\$	5,000.00	ډ \$	5,000.00	\$	1,000.00	\$	1,000.00
8025 Janitorial		Janitorial	ş Ş	5,000.00	ډ \$	5,000.00	\$	5,000.00	\$	5,000.00
8700 Postage/Freight		Postage/Freight	ş Ş	5,000.00	ډ \$	5,000.00	ې S	5,000.00	\$	3,459.00
8820 Printing		Printing	ş Ş	5,000.00	ې \$	5,000.00	Ş	5,000.00	Ş	5,459.00
8020 Rent & Utilities		Rent	\$ \$	15,282.00	ې \$	15,282.00	\$	15,282.00	\$	15,282.00
8950 Telephone & Internet		Telephone Service	ş Ş	4,000.00	ې \$	4,000.00	ې \$	4,000.00	ې \$	4,000.00
8950 Telephone & Internet		Total Office Expenses	<u>ې</u> \$	42,282.00	<u>ې</u> \$	42,282.00	<u> </u>	31,554.00	\$	30,013.00
		Total Office Expenses	Ç	42,282.00	ç	42,202.00	ç	51,554.00	ç	30,013.00
	Information Technology									
8100 Computer Equipment - Hardware		Computer Equipment / Hardware	\$	3,000.00	\$	1,500.00	\$	1,500.00	\$	1,500.00
8130 IT - City Support		City of Bastrop IT Support	\$	1,400.00	\$	1,368.00	\$	1,368.00	\$	1,368.00
		Total Information Technology	\$	4,400.00	\$	2,868.00	\$	2,868.00	\$	2,868.00
	Personnel Costs									
8350 Professional Development		Professional Development	\$	15,000.00	\$	30,000.00	\$	10,000.00	\$	12,210.00
6490 Worker's Compensation Insurance		Worker's Compensation Insurance	\$	2,004.00	\$	1,629.57	\$	1,212.00	\$	610.00
6400 Health Insurance		Health Insurance	\$	56,265.00	\$	40,797.20	\$	19,432.08	\$	34,758.01
6060 Incentives/Commission		Incentives/Commission	\$	25,000.00	\$	23,000.00	\$	22,450.08	\$	35,881.00

Visit Bastrop FY 23/24 - Budget Template		EV 22/24		Y 22/23	FV 21/22		Y 20/21
		 Y 23/24	ſ	1 22/25	 Y 21/22		1 20/21
GL Account		Total		Total			
6440 Life & Disabilty Insurance	Life Insurance	\$ 1,000.00	\$	1,000.00	\$ 619.92	\$	672.00
6200 Payroll Taxes	Payroll Taxes	\$ 37,397.00	\$	30,405.00	\$ 22,616.00	\$	21,242.00
6210 FUTA Taxes	FUTA Taxes	\$ -	\$	-			
6220 SUTA Taxes	SUTA Taxes	\$ 1,571.00	\$	1,309.50	\$ 1,084.00	\$	1,084.00
6300 Retirement Contribution	Retirement Contribution	\$ 58,565.00	\$	44,467.00	\$ 34,234.92	\$	32,204.00
6000 Salaries & Wages	Wages/Salaries	\$ 488,850.00	\$	428,936.00	\$ 295,635.00	\$	277,679.00
	Total Personnel Costs	\$ 685,652.00	\$	601,544.27	\$ 407,284.00	\$	416,340.01
Operational Cost	s						
8400 Audit Fees	Audit Fees	\$ 9,000.00	\$	8,500.00	\$ 7,500.00	\$	7,500.00
3420 Bank Fees/Bill.com/PO Box	Bill.com	\$ 1,500.00	\$	1,500.00	\$ 1,500.00	\$	1,500.00
3250 Depreciation & Amortization	Depreciation & Amortization	\$ 16,200.00	\$	14,400.00	\$ 14,400.00	\$	14,400.00
7180 Financial Services	Financial Services	\$ 51,000.00	\$	45,000.00	\$ 39,045.00	\$	39,045.00
8410 Legal Fees	Legal Fees	\$ 5,000.00	\$	20,000.00	\$ 1,000.00	\$	1,000.00
9000 Miscelleanous	Miscelleanous	\$ 2,000.00	\$	2,000.00	\$ 1,000.00	\$	1,450.00
HR	HR	\$ 12,000.00	\$	12,000.00			
3500 Office Insurance	Insurance, General Liability, D&O	\$ 7,490.00	\$	7,000.00	\$ 7,000.00	\$	7,000.00
3415 Contract Labor	Contract Labor	\$ 5,000.00	\$	1,000.00		\$	1,421.00
3450 Payroll Processing Fees	Payroll/HR Fees	\$ 1,000.00	\$	1,014.00	\$ 1,014.00	\$	1,014.00
	Total Operational Costs	\$ 110,190.00	\$	112,414.00	\$ 72,459.00	\$	74,330.00
Event Fund (pass	through)	\$ 75,000.00	\$	125,000.00	\$ 75,000.00	\$	75,000.00
TOTAL EXPENSES	:	\$ 1,891,000.00	\$	1,608,350.34	\$ 1,017,824.00	\$	1,034,356.01
	Monthly change in net assets:	\$ -	\$	(128,350.34)	\$ (225,000.00)	\$	(100,000.01)

What Cities Need to Know to Administer Municipal Hotel Occupancy Taxes

Abridged Version

Texas Hotel & Lodging Association

REVISED 2018

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Editor's Note

This is the abridged version of THLA's *What Cities Need to Know to Administer Municipal Hotel Occupancy Taxes*. A full version of this article, with information including expanded information on hotel tax collection, tax exemptions, and city-specific rules, is available by contacting THLA at 512-474-2996 or emailing us at <u>news@texaslodging.com</u>.

Authorized Entities

All incorporated Texas municipalities, including general law and home rule cities, may enact a hotel occupancy tax within the city limits.¹ A city with a population of under 35,000 may also adopt the hotel occupancy tax within that city's extraterritorial jurisdiction (ETJ).² Most cities are eligible to adopt a hotel occupancy tax at a rate of up to 7 percent of the price paid for the use of a hotel room.³ Additionally, a city or county may not propose a hotel occupancy tax rate that would result in a combined hotel occupancy tax rate imposed from all sources that would exceed 17 percent of the price paid for the room.⁴ If a city adopts the hotel occupancy tax within its ETJ, the combined state, county, and municipal hotel occupancy tax rate may not exceed 15 percent.⁵ Texas has among the highest combined hotel occupancy tax rates of any major metropolitan areas in the nation, with El Paso at 17 ½ percent, Houston at 17 percent, and San Antonio at 16 ¾ percent.⁶

In addition to local hotel occupancy taxes, all lodging properties operating in Texas are subject to a six percent state hotel occupancy tax.⁷ Governed under Chapter 156 of the Texas Tax Code, the state hotel occupancy tax is administered by the Texas Comptroller. Funds from the state six percent hotel occupancy tax flow directly to the Texas Comptroller's office and are largely used for the general governmental operations of the State. A portion of the state hotel occupancy tax revenue also goes toward funding tourism promotion through Texas's ad campaign. Most Texans know this successful ad campaign by its famous tagline, "Texas, it's like a whole other country."

Collecting the Tax

Under the Texas Tax Code, the following businesses are considered "hotels" and are required to collect hotel occupancy taxes from their guests: "Any building or buildings in which members of the public obtain sleeping accommodations for consideration" for less than 30 days, including a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast facilities.⁸ Additionally, a "short-term rental," defined as the rental of all or part of a residential property to a person

¹ Tex. Tax Code Ann. § 351.002(a) (Vernon 2017).

² § 351.0025(a).

³ § 351.003(a).

⁴ Tex. Loc. Gov't Code § 334.254(d). Note that the 17 percent cap does not apply to a city that approved a higher hotel tax through a venue ballot proposition prior to September 1, 2013, such as El Paso.

⁵ § 351.0025(b).

⁶ Source: National Business Travel Association 2009 Survey.

⁷ Tex. Tax Code § 156.051.

⁸ Tex. Tax Code § 156.001(a); 34 Tex. Admin. Code Ann. § 3.161(a)(3) (Vernon 2017).

who is not a permanent resident, is subject to hotel occupancy taxes.⁹ The Texas Administrative Code also includes "manufactured homes, skid mounted bunk houses, residency inns, condominiums, cabins, and cottages within the definition of a "hotel" if the facility is rented for periods of under 30 days.¹⁰ Hospitals, sanitariums, nursing homes, dormitories or other non-hotel housing facilities owned by institutions of higher education, and oilfield portable units do not collect the tax.¹¹ Subject to various exemptions, the hotel tax is imposed on any "person" who pays for the use of a room in a hotel, including corporations, organizations, and other legal entities. The hotel room must cost \$2 or more per day for the local hotel tax to apply, and \$15 or more per day for the state hotel tax to apply.¹²

Meeting rooms versus sleeping rooms:

The rental of sleeping rooms in hotels is subject to both state and local hotel taxes. However, there is a difference in how state and local hotel taxes apply to the rental of hotel meeting rooms. While the rental of sleeping rooms in hotels are subject to both state and local hotel taxes, meeting room rentals are not subject to local hotel occupancy taxes.¹³ The rental of a meeting room or meeting space in a hotel is subject to the state 6 percent hotel occupancy tax, provided the room or space is physically located in a structure that also contains sleeping rooms.¹⁴ For meeting rooms and banquet halls located in a structure that is physically separated from a structure that contains sleeping rooms, neither state nor local hotel occupancy taxes apply to that rental of those meeting rooms or banquet halls, provided rental costs or charges are separately stated from any lodging costs or charges on the guest's invoice or receipt.¹⁵

However, it must be noted that sales tax may apply to the costs associated with the rental of meeting rooms or banquet halls located in a structure that is physically separated from a structure that contains sleeping rooms, if the lodging facility provides food or beverage service that is subject to sales tax.¹⁶ Such sales tax would apply to the meeting room or banquet hall rental costs or charges regardless of whether the food or beverage charges are separately stated on the guest's invoice or receipt.¹⁷

Food and beverage and other hotel charges:

Certain charges assessed by a hotel to a guest are subject to hotel occupancy taxes, while other added charges are subject to state and local sales tax. Common hotel charges usually subject to sales taxes (but generally not subject to hotel occupancy taxes) are banquet service fees, food and beverage fees, movie rentals, dry cleaning/laundry services, internet connection, parking, and portage or bellhop fees.

Hotel charges related to occupancy of a sleeping room or readying a sleeping room for occupancy are usually subject to hotel occupancy taxes only. Common hotel charges subject to hotel occupancy tax are rollaway bed charges, pet charges, smoking fees, room damage fees, room safe charges, and late or early checkout fees.¹⁸ It is important to note that if a hotel offers services as part of a package rate included with lodging, and the price of a specific good or service is not separately stated on a guest's invoice, bill, or folio, the entire package is subject to hotel occupancy taxes.¹⁹

¹⁷ Id.

⁹ Tex. Tax Code § 156.001(c).

¹⁰ Tex. Tax Code § 156.001(a); 34 Tex. Admin. Code Ann. § 3.161(a)(3) (Vernon 2017).

¹¹ Tex. Tax Code § 156.001.

¹² Tex. Tax Code § 156.051(a); § 351.002(a).

¹³ Id.

¹⁴ Tex. Tax Code § 156.051(a); Tex. Comptroller Opinion Letter No. 200103106L, Mar. 9, 2001.

¹⁵ Id.

¹⁶ 34 Tex. Admin. Code Ann. § 3.161(a)(3) (Vernon 2017); Tex. Comptroller Opinion Letter No. 201010556L, Oct, 2010.

¹⁸ THLA maintains a list of most hotel charges and which tax, if any is assessed on a particular charge. This list is available upon request to THLA members.

¹⁹ Tex. Comptroller Opinion Letter No. 200102031L, Feb. 7, 2001.

Additionally, a special rule applies to whether hotel occupancy taxes are imposed on a hotel room rental cancellation fee. A 1989 Texas Comptroller's hearing concluded that hotel taxes are not due on charges to guests who 1) cancel more than 30 days before the schedule stay begins, <u>or</u> 2) when the charge to the guest is less than the reserved room rate.²⁰ This rule applies both to individual reservations and also to group contracts.²¹

Application of local hotel tax rate increases on pre-existing contracts

If a municipality increases its hotel tax rate, the increased tax rate does not apply to a hotel room under a contract that was executed before the date the increased rate takes effect and if the contract provides for payment of the tax at the rate in effect when the contract was executed.²² This statute does not apply if the contract's terms state that the contract is subject to change or modification from a tax rate increase.²³

Exemptions from the Local Tax

Texas law provides certain hotel tax exemptions based on the length of a guest's stay or the guest's affiliation with an exempt organization. Texas law is more permissive for exemptions from the state 6% hotel occupancy tax than it is for local hotel tax exemptions. The state hotel occupancy tax allows for an exemption for the following entities: educational, charitable, and religious entities are often exempt from the state hotel occupancy tax. These entities are *not exempt* from local hotel occupancy taxes.²⁴

Focusing specifically on the local hotel occupancy taxes, there are primarily four categories of exemptions permitted from municipal and county hotel occupancy taxes:

- 1) Federal Employees: Federal employees traveling on official business;
- 2) Diplomats: Foreign diplomats with a tax exempt card issued by the U.S. Department of State;
- 3) **High Ranking State Officials**: A very limited number of state officials with a hotel tax exemption card (e.g. heads of state agencies, state legislators and legislative staff, members of state boards and commissions, and state judges); and
- 4) Permanent Resident/Over 30 Day Stay: Persons or businesses who have agreed in advance to use a hotel room for more than 30 consecutive days (i.e. the "permanent resident" hotel tax exemption).²⁵
- 5) A full version of this article with information including expanded information on tax exemptions is available by contacting THLA.

²⁰ Texas Comptroller's Hearing Decision No. 24,654 (1989).

²¹ Id.

²²Tex. Tax Code § 351.007.

²³ Id.

²⁴ Tex. Tax Code § 156.102.

²⁵ Tex. Tax Code § 156.104.

Penalties for Failure to Report or Collect the Tax

The local hotel occupancy tax statutes provide for specific penalties a city may assess against hotel operators who fail to file the hotel tax collections report, file late or without full payment, or produce false tax returns.²⁶

A full version of this article with information including expanded information on hotel tax penalties is available by contacting THLA.

²⁶ § 351.004.

Use of Local Hotel Occupancy Tax Revenues

There is a two-part test for every expenditure of local hotel occupancy tax.²⁷

Criteria #1: First, every expenditure must DIRECTLY enhance and promote tourism AND the convention and hotel industry.²⁸

Under the Tax Code, every event, program, or facility funded with hotel occupancy tax revenues must be likely to do two things: 1) directly promote tourism; and 2) directly promote the convention and hotel industry.²⁹ "Tourism" is defined under Texas law as guiding or managing individuals who are traveling to a different, city, county, state, or country.³⁰ A "direct" promotion of the convention and hotel industry has been consistently interpreted by the Texas Attorney General as a program, event, or facility likely to cause increased hotel or convention activity.³¹ This activity may result from hotel or convention guests that are already in town and choose to attend the hotel tax funded facility or arts or historical event, or it may result from individuals who come from another city or county to stay in an area lodging property at least in part to attend the hotel tax funded event or facility.

If the funded event or facility is not reasonably likely to directly enhance tourism and the hotel and convention industry, local hotel occupancy tax revenues cannot legally fund it.³² However, it is important to note that events and facilities that do not qualify for hotel occupancy tax funding are often still legally eligible for city funding from most of the other funding sources available to the city (general property tax revenues, general sales tax revenues, franchise fee revenues, etc.). State law is stricter in terms of how the local hotel occupancy tax revenues can be spent.

There is no statutory formula for determining the level of impact an event must have to satisfy the requirement to directly promote tourism and hotel and convention activity.³³ However, communities with successful tourism promotion programs generally award the amount of the hotel occupancy tax by the proportionate impact on tourism and hotel activity incident to the funding request. Entities applying for hotel occupancy tax revenue funding should indicate how they will market the event to attract tourists and hotel guests. If an entity does not adequately market its events to tourists and hotel guests, it is difficult to produce an event or facility that will effectively promote tourism and hotel activity.

A city or delegated entity should also consider whether a funded event will be held in a venue that will likely attract tourists and hotel guests. For example, if an event is held in a local school or community center, it may be less likely to attract tourists than if it is held at a local performing arts venue, museum or civic center. Each community will need to assess whether the facility hosting the function is likely to attract tourists and hotel guests. Similarly, if an event is a community picnic, local parade, educational class, or other similar type of event, it is often not likely to attract tourists and hotel guests, and would likely not be eligible for hotel occupancy tax funding.

- ²⁸ §§ 351.101(b).
- ²⁹ *Id.* ³⁰ § 351.001(6).
- ³¹ See Op. Tex. Att'y Gen. Nos. GA-0124 (2003), JM-690 (1987).
- ³² Id.

^{27 §§ 351.101(}a), (b).

³³ See generally Tex. Tax Code §§ 351.101(a), (b).

Finally, it is a good practice to utilize a hotel tax application form. THLA has a sample hotel occupancy tax application form and a "post event" form that are already in use by many city governments throughout Texas. For a copy of these two forms, simply call THLA at (512) 474-2996, or email THLA at <u>news@texaslodging.com</u>. These forms pose questions of funding applicants such as "Do you have a hotel room block for your events?," and "What do you expect to be the number of room nights sold for this event?" Additionally, the application asks if the entity has negotiated a special hotel price for attendees of their funded event. If the entity does not find the need to reserve a hotel block or negotiate a special hotel activity.

Funded entities can also visit with area hoteliers who, in many cases, can provide feedback on whether any of their hotel guests expressed an interest in attending such events or facilities in the past. Hotel front desk and management staff usually know what local events and facilities were of interest to their guests by notes in their reservation systems, requests for directions, information and transportation to such venues by hotel patrons.

After an applicant's event or program is offered for several years, the applicant should have a reasonable idea as to whether their event or program's attendance includes a number of tourists and hotel guests. For example, some entities track whether guests are staying at local hotels via their guest registry. Other entities measure potential out-of-town attendance from their ticket sales records or other survey information.

It is important to note that Texas law also provides that the hotel occupancy tax may not be used for general revenue purposes or general governmental operations of a municipality.³⁴ It also may not be used to pay for governmental expenses that are not directly related to increasing tourism and hotel and convention activity.³⁵ For example, consider a request to use the hotel occupancy tax to pay for construction of additional lighting, restrooms, roads, sidewalks, or landscaping in a downtown area. These are expenditures for which the city would traditionally use its general revenues. Therefore, such an expenditure would violate the prohibition against using the hotel tax for "general governmental operations of a municipality."³⁶ It is difficult to argue that such improvements to a non-tourism facility would "directly" promote tourism and hotel activity. At best, one could argue the improvements would "indirectly" enhance tourism and hotel activity—which is not sufficient under the clear language of the Tax Code to qualify for funding from the hotel occupancy tax.

³⁴ Tex. Tax Code § 351.101(b); see also Op. Tex. Att'y Gen. Nos. JM-184 (1984), JM-965(1988).

³⁵ Id.

³⁶ Id.

Criteria #2: Every expenditure of the hotel occupancy tax must clearly fit into one of nine statutorily provided categories for expenditure of local hotel occupancy tax revenues.³⁷

The nine categories for expenditure of the hotel occupancy tax are as follows:

1) Funding the establishment, improvement, or maintenance of a convention center or visitor information center.

This category allows expenditures of the hotel tax for the creation, improvement, or upkeep of a convention center or a visitor information center.³⁸ The term "convention center" is defined to include civic centers, auditoriums, exhibition halls, and coliseums that are owned by the city or another governmental entity or that are managed in whole or in part by the city.³⁹ It also includes parking areas in the immediate vicinity of a convention center facility, and certain hotels that are owned by the city or another governmental entity, or that are managed in whole or in part by the city.⁴⁰ It does not include facilities that are not of the same general characteristics as the structures listed above.

Texas law specifies that for a facility to be funded as a convention center, it must be a facility primarily used to host conventions and meetings.⁴¹ "Primarily used" in this context would arguably mean that more than 50 percent of the bookings for the facility are to host conventions or meetings that directly promote tourism and the hotel and convention industry.⁴² In other words, holding local resident meetings in a facility would not count toward qualifying the facility as a convention center, but meetings of individuals from out-of-town who in part stay at hotels would qualify.

Simply naming a facility a convention center or visitor information center does not automatically qualify the facility as a "convention center." The authority to use the hotel occupancy tax for facilities is limited and any such facility must meet the above noted "primary usage" test. For example, general civic buildings such as the city hall, local senior citizen centers or activity centers would not qualify as convention centers that could be funded by hotel tax.

2) Paying the administrative costs for facilitating convention registration.

This provision allows expenditures for administrative costs that are actually incurred for assisting in the registration of convention delegates or attendees.⁴³ This is generally an expenditure for larger cities that hold large conventions, and includes covering the personnel costs and costs of materials for the registration of convention delegates or attendees.

- ³⁹ § 351.001(2).
- 40 Id.

³⁷ Tex. Tax Code § 351.101(a).

³⁸ § 351.101(a)(1).

⁴¹ Id.

⁴² *Id.*; see generally Tex. Tax Code §§ 351.101(a), (b).

⁴³ Tex. Tax Code § 351.101(a)(2).

3) Paying for advertising, solicitations, and promotions that attract tourists and convention delegates to the city or its vicinity.

This provision allows expenditures for solicitations or promotional programs/advertising directly related to attracting tourists and convention delegates to the city or its vicinity.⁴⁴ Such expenditures are traditionally in the form of internet, newspaper, mail, television, or radio ads; or solicitations to promote an event or facility. The advertising or promotion must directly promote the hotel and convention industry.⁴⁵ For example, the Texas Attorney General ruled that the local hotel occupancy tax may not be used for advertising or other economic development initiatives or improvements to attract new businesses or permanent residents to a city.⁴⁶

In certain cases, a city may be able to use the advertising and promotion category to justify covering the costs of advertising an event that will attract tourists and hotel guests, even though the administrative or facility costs for the underlying event would not qualify for hotel tax funding.⁴⁷

4) Expenditures that promote the arts.

This section authorizes the expenditure of local hotel occupancy tax for a variety of art-related programs that also promote tourism and local hotel and convention activity.⁴⁸ Specifically, it allows funding the encouragement, promotion, improvement, and application of the arts including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution and exhibition of these major art forms.⁴⁹ However, it is not enough that a facility or event promotes the arts; Texas law requires that the arts related expenditure also directly promote tourism and the hotel and convention industry.⁵⁰

Section 351.101(a) of the Tax Code specifically states that "the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry." The Texas Attorney General reaffirmed this standard when it held in Opinion GA-0124: "Under section 351.101 of the Tax Code, a municipality may expend its municipal hotel occupancy tax revenue only to promote tourism and the convention and hotel industry, and only for the specific uses listed in the statute."

Additionally, the amount of funding a city allocates to the arts category may be limited by statute. See the "Special Rules" section of this guide

Attorney General opinion on arts facilities

In 2017, the Texas Attorney General issued opinion number KP-0131 regarding whether a city can expend hotel tax revenues for an arts-related facility under the arts category of the Tax Code. This opinion was requested by the City of Lakeway regarding funding the construction of a new performing arts center (referred to as "PAC"), to be owned by the City. The City of Lakeway requested an Attorney General

^{44 § 351.101(}a)(3).

⁴⁵ § 351.101(b).

⁴⁶ Op. Tex. Att'y Gen. No. JM-690 (1987).

⁴⁷ See generally Tex. Tax Code § 351.101(a)(3).

⁴⁸ Tex. Tax Code § 351.101(a)(4).

⁴⁹ Id.

⁵⁰ § 351.101(b).

In Opinion KP-0131, the Attorney General took a strict position on using local hotel tax revenue for an arts facility. The opinion states that the phrase, "promotion of the arts," in the state statute does not expressly authorize the use of municipal hotel tax revenues for the construction of arts facilities. The opinion continues, "construction costs of theater facilities, considered alone, are not within the scope" of the arts category of hotel occupancy tax expenditures.⁵¹ Based on this reasoning, it seems that the Texas Attorney General holds that funding of a physical structure with local hotel tax revenue must be coupled with some other authorized category of hotel tax expenditures aside from "promotion of the arts" alone.

5) Funding historical restoration or preservation programs.

A city may spend a portion of its hotel occupancy tax revenues to enhance historical restoration and preservation projects or activities, or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums that are likely to attract tourists and hotel guests.⁵² Texas law does not limit such funding to structures that are owned by a public or nonprofit entity, or to whether the project is listed on a historic registry, but the city may choose to impose such limitations.

It is not enough that a project or activity event merely be historical in nature; Texas law requires that the historical related expenditure also directly promote tourism and the hotel and convention industry.⁵³ Section 351.101(a) of the Tax Code specifically states that "the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry." The Attorney General in Opinion GA-0124 (2003) reaffirmed this standard when it held: "Under section 351.101 of the Tax Code, a municipality may expend its municipal hotel occupancy tax revenue "only to promote tourism and the convention and hotel industry."

Additionally, the amount of funding a city allocates to the historical programs category may be limited by statute. See the "Special Rules" section of this guide, starting on page 24.

6) Funding certain expenses, including promotional expenses, directly related to a sporting event within counties with a population of under 1 million.

This section authorizes a municipality located in a county with a population of under 1 million to use local hotel occupancy tax revenue to fund certain expenses, including promotional expenses, directly related to a sporting event.⁵⁴ To qualify under this authorization, the sporting event must be one that would "substantially increase economic activity at hotels and motels within the city or its vicinity."⁵⁵ The statutory authorization also requires that a majority of the participants in the sporting event also be tourists to the area.⁵⁶

⁵¹ Op. Tex. Att'y Gen. No. KP-0131 (2017).

⁵² § 351.101(a)(5).

⁵³ § 351.101(b).

⁵⁴ § 351.101(a)(6).

⁵⁵ Id. ⁵⁶ Id.

This category is intended to allow communities to fund the event costs for sporting tournaments that result in substantial hotel activity. For example, if a city had to pay an application fee to seek a particular sporting event or tournament, if could use hotel tax for such an expenditure if the sporting event would substantially increase economic activity at hotels and the city was within a county of under one million population. The requirement that a majority of the participants must be "tourists" is included in the statuary authority to prohibit the use of local hotel tax for sporting related facilities or events that are purely local (e.g.; local recreation centers, local little league and parks events, intramural sports, etc.).

7) Funding the enhancement or upgrading of existing sports facilities or sports fields for certain municipalities.

Certain statutorily bracketed cities may use local hotel occupancy tax to enhance and upgrade existing sports facilities owned by the municipality.⁵⁷ The municipality must own the sporting facility, and the municipality must meet applicable population requirements. A full version of this article, with information including which cities are eligible for this category, is available by contacting THLA.

Texas law further requires that before local hotel tax to be used for this purpose, the sports facilities and fields must have been used a combined total of more than 10 times for district, state, regional, or national sports tournaments in the preceding calendar year.⁵⁸

If hotel tax revenues are spent on enhancing or upgrading a sports facility, the municipality must also determine the amount of "area hotel revenue" generated by hotel activity from sports events held at the hotel tax funded facility for five years after the upgrades to the sport facility are completed.⁵⁹ The area hotel revenues that were generated from sports events at the hotel tax funded facility over that five year period must at least equal the amount of hotel tax that was spent to upgrade the sports facility.⁶⁰ If the amount of hotel tax that was spent on the facility upgrades exceeds hotel revenue attributable to events held at that facility over that five year period, the municipality must reimburse the hotel occupancy tax revenue fund any such difference from the municipality's general fund.⁶¹

For example, if a city spent \$400,000 on improvements to its soccer fields, it would have to show at least \$400,000 in area hotel revenue directly attributable to events held at that soccer field over the five year period after the soccer field improvements were completed. If the city could only show \$300,000 in hotel industry revenue due to events held at that soccer field, the city would have to reimburse the city hotel tax with the \$100,000 difference from the city's general fund.

8) Funding transportation systems for tourists

Often with conventions and large meetings, there is a need to transport the attendees to different tourism venues. In 2007, the Texas Legislature authorized the use of city hotel tax for any sized city to cover the costs for transporting tourists from hotels to and near the city to any of the following destinations:

⁵⁷ § 351.101(a)(7).

⁵⁸ Tex. Tax Code §§ 351.101(a)(7), 351.1076.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Id.

- the commercial center of the city;
- a convention center in the city;
- > other hotels in or near the city; and
- tourist attractions in or near the city.⁶²

The reimbursed transportation system must be owned and operated by the city, or privately owned and operated but financed in part by the city.⁶³ For example, this authority could be used to cover the costs of a city to finance certain private shuttles to operate between the convention center and area hotels and attractions for a large city-wide convention. The law specifically prohibits the use of the local hotel tax to cover the costs for a transportation system that serves the general public.⁶⁴

9) Signage directing tourists to sights and attractions that are visited frequently by hotel guests in the municipality.

In 2009, the Texas Legislature added a statutory category that allows cities to use municipal hotel occupancy tax revenue to pay for signage directing tourists to sights and attractions frequently visited by hotel guests in the municipality.⁶⁵ Arguably, this type of expenditure was permissible as "advertising and promotion" prior to this 2009 legislation. However, the Legislature codified this understanding to officially include signage directing tourists to sights and attractions that are frequently visited by hotel guests.⁶⁶

^{62 § 351.110(}a).

⁶³ § 351.110(b).

⁶⁴ § 351.110(c). ⁶⁵ § 351.101(a)(9).

⁶⁶ Id.

City reporting of information to the Texas Comptroller

In 2017, the Texas Legislature passed a statute to require Texas cities to annually report hotel tax rate and spending information the State Comptroller. Specifically, the statute requires the city to report: 1) its municipal hotel tax rate, 2) any applicable venue tax rate, 3) the amount of hotel tax revenue collected for the preceding fiscal year, and 4) the amount and percentage of funds spent on each major category under state law.

The Comptroller will adopt rules to administer this new statute in the second half of 2017. These new rules will include a form for cities to complete when providing the information to the State.

Duty of funded entities to provide a list of activities.

All entities (including the city itself) that are directly or indirectly funded by the local hotel occupancy tax are annually required to provide a list of the scheduled activities, programs, or events that will directly enhance and promote tourism and the convention and hotel industry.⁶⁷ This list is to be provided annually to the city secretary or his/her designee prior to the expenditure of the hotel occupancy tax funding by the funded entity.⁶⁸ An entity may add items to this list at any time, and each city decides the format for providing this information. This documentation requirement does not apply if the entity already provides written information to the city indicating which scheduled activities or events that it offers that directly enhance and promote tourism and the convention and hotel industry. For example, cities that require quarterly or annual reports on the use of hotel tax by hotel tax funded entities would satisfy this requirement if their report addresses the extent to which their events directly promote tourism and hotel activity.⁶⁹

It is important to remember that if an entity does not have any such events or programs reasonably expected to directly promote tourism and the hotel and convention industry, it is not eligible for local hotel occupancy tax funding.⁷⁰ If only a portion of an entity's programs fit these criteria, then only a proportionate amount of that entity's costs should be covered by the local hotel occupancy tax.⁷¹

Delegating management of funded activities.

The governing body of a city may delegate the management or supervision of programs funded by the hotel occupancy tax by written contract.⁷² This delegation may be made to a person, another governmental entity, or to a private organization.⁷³ This delegation is often made to a local arts council, a chamber of commerce, or to the convention and visitors bureau. The municipality shall approve the entity's annual budget prior to delegating the management or supervision of hotel tax funded programs.⁷⁴ Furthermore, the municipality shall require the delegated entity to make periodic reports, at least

- ⁶⁸ *Id.;* § 351.108(d).
- ⁶⁹ § 351.108(g).
- ⁷⁰ § 351.101(b). ⁷¹ § 351.101(e).
- ⁷² § 351.101(c).
- ⁷³ Id.
- ⁷⁴ Id.

⁶⁷ § 351.108(b).

quarterly, listing the hotel occupancy tax expenditures made by the delegated entity.⁷⁵ Additionally, the Code requires that the contracted entity maintain complete and accurate financial records for every expenditure of hotel occupancy tax revenue, and upon the request of the municipality or another person, make the records available for inspection and review.⁷⁶

An entity with delegated authority to manage hotel tax funded programs undertakes a fiduciary duty with respect to the use of the tax revenue.⁷⁷ Such entities are also required to maintain the city hotel occupancy tax revenue in a separate bank account that may not be commingled with any other account or funds.⁷⁸ The Tax Code does not contain similar prohibitions against commingling the funds for individual organizations, such as an arts or historical group that receives hotel tax funding for their individual program, but do not themselves oversee hotel tax funding to other entities.

Use of hotel occupancy tax revenues to cover administrative expenses.

Texas law allows proceeds of the municipal hotel occupancy tax to be used to cover the portion of administrative costs that are directly attributable to work on activities that may be funded by the tax.⁷⁹ For example, entities that manage activities funded by the hotel occupancy tax may spend some of the tax for certain day-to-day operational expenses.⁸⁰ These expenses may include supplies, salaries, office rental, travel expenses, and other administrative costs.⁸¹ However, these costs may be reimbursed only if the expenses are incurred in the promotion and servicing of expenditures authorized under the hotel occupancy tax laws.⁸² The portion of the administrative costs that are covered should not exceed the percentage of the cost that is attributable to the activity funded by the hotel occupancy tax.⁸³ For example, administrators who spend 33 percent of their time overseeing hotel occupancy tax funded programs should seek funding for no more than 33 percent of their salary or 33 percent of other related overhead costs. Additionally, hotel occupancy tax revenues may be spent on travel that is directly related to the performance of the person's job in an efficient and professional manner.⁸⁴ This travel should facilitate the acquisition of skills and knowledge that will promote tourism and the convention and hotel industry.⁸⁵

⁷⁵ *Id.*⁷⁶ § 351.101(d).
⁷⁷ § 351.101(c).
⁷⁸ *Id.*⁷⁹ § 351.101(e).
⁸⁰ *Id.*⁸¹ *Id.*⁸² *Id.*⁸³ *Id.*⁸⁴ § 351.101(f).
⁸⁵ *Id.*

Special Rules for Selected Municipalities

The Texas Tax Code provides additional rules for certain Texas cities based on the city's population bracket. The Texas Tax Code provides additional rules for certain Texas cities based on the city's population brackets. A full version of this article with information on city-specific rules is available by contacting THLA.

Additional Information

If a city or funded entity has additional questions about the administration or use of the hotel occupancy tax, it is welcome to contact the Texas Hotel & Lodging Association for assistance by phone at (512) 474-2996 or by email at <u>news@texaslodging.com</u>. THLA has sample documents available to assist in administering hotel taxes, such as funding grant application forms, post event forms, and tax collection guidelines.

Texas city officials can also make inquiries to the legal staff of the Texas Municipal League at (512) 231-7400.



MEETING DATE: August 22, 2023

TITLE:

Consider action to approve the first reading of Ordinance 2023-30 of the City Council, of the City of Bastrop, Texas, reallocating \$167,000 of the Hotel Occupancy Tax fund previously allocated to the 4th quarter of Visit Bastrop "midyear adjustment" to fund repairs to the rodeo arena; and move to include on the September 12, 2023, Council agenda for second reading.

AGENDA ITEM SUBMITTED BY:

Submitted by: Mayor Lyle Nelson

BACKGROUND/HISTORY:

The existing Visit Bastrop contract calls for a potential mid-year adjustment or "true up" of the Hotel Occupancy Fund (HOT) fund allocation. For the 4th quarter of 2023, that amount is estimated at \$167,000.

The Rodeo Arena is in need of repairs that exceed \$167,000, The arena is a qualified HOT expense under the 2-part test of Criteria 1 and Criteria 2 (Number 7)

"USE OF LOCAL HOTEL OCCUPANCY TAX REVENUES

Criteria #1: First, every expenditure must DIRECTLY enhance and promote tourism AND the convention and hotel industry.

Criteria #2: Every expenditure of the hotel occupancy tax must clearly fit into one of nine statutorily provided categories for expenditure of local hotel occupancy tax revenues.

1) Funding the establishment, improvement, or maintenance of a convention center or visitor information center.

2) Paying the administrative costs for facilitating convention registration.

3) Paying for advertising, solicitations, and promotions that attract tourists and convention delegates to the city or its vicinity.

- 4) Expenditures that promote the arts.
- 5) Funding historical restoration or preservation programs.
- 6) Funding certain expenses, including promotional expenses, directly related to a sporting event within counties with a population of under 1 million.

7) Funding the enhancement or upgrading of existing sports facilities or sports fields for certain municipalities.

8) Funding transportation systems for tourists

9) Signage directing tourists to sights and attractions that are visited frequently by hotel guests in the municipality. " (TML, 2018, What Cities Need to Know to Administer the Hotel Occupancy Tax"

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FISCAL IMPACT:

Net 0. Re-allocation of funds from Visit Bastrop to the rodeo arena.

RECOMMENDATION:

Staff recommends reallocation of funds to the rodeo arena.

ATTACHMENTS:

1. Picture of repairs needed.



STAFF REPORT

MEETING DATE: August 22, 2023

TITLE:

Consider action to approve the first reading of Ordinance No. 2023-29 of the City Council of the City of Bastrop, Texas, amending the budget for the Fiscal Year 2023 in accordance with existing statutory requirements; appropriating the various amounts herein as attached in Exhibit A; repealing all prior ordinances and actions in conflict herewith; and establishing an effective date, and move to include on the September 12, 2023, City Council consent agenda for a second reading.

AGENDA ITEM SUBMITTED BY:

Tracy Waldron, Chief Financial Officer

BACKGROUND/HISTORY:

The FY2023 budget was approved by City Council on September 20, 2022. Since that approval, there has been two budget amendment ordinances (Ordinance 2022-27, Ordinance 2023-05) approved. The City continues to have additional factors that require some adjustments to the revenue and expenditures of multiple funds.

Exhibit A to the ordinance explains in detail the nature of each of the budget amendments being requested.

The Financial Management Policy states that the level of budgetary control is at the department level in all Funds over \$25,000. If transfers are required over \$25,000 between departments, this must be approved by City Council.

The City Charter requires that when the budget is amended, that the amendment be made by Ordinance.

FISCAL IMPACT:

Various – See Ordinance Exhibit A

RECOMMENDATION:

Tracy Waldron, CFO recommends approval of the first reading of Ordinance No. 2023-29 of the City Council of the City of Bastrop, Texas, amending the budget for the Fiscal Year 2023 in accordance with existing statutory requirements; appropriating the various amounts herein as attached in Exhibit A; repealing all prior ordinances and actions in conflict herewith; and establishing an effective date, and move to include on the September 12, 2023, City Council consent agenda for a second reading.

ATTACHMENTS:

- Ordinance 2023-29
- Exhibit A
- All Funds Summary FY2023 updated to reflect proposed amendments.

ORDINANCE NO. 2023-29

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AMENDING THE BUDGET FOR THE FISCAL YEAR 2023 IN ACCORDANCE WITH EXISTING STATUTORY REQUIREMENTS; APPROPRIATING THE VARIOUS AMOUNTS HEREIN, AS ATTACHED IN EXHIBIT A; REPEALING ALL PRIOR ORDINANCES AND ACTIONS IN CONFLICT HEREWITH; AND ESTABLISHING FOR AN EFFECTIVE DATE.

WHEREAS, the City Manager of the City of Bastrop, Texas has submitted to the Mayor and City Council proposed amendment(s) to the budget of the revenues and/or expenditures/expenses of conducting the affairs of said city and providing a complete financial plan for Fiscal Year 2023; and

WHEREAS, the Mayor and City Council have now provided for and conducted a public hearing on the budget as provided by law.

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

Section 1: That the proposed budget amendment(s) for the Fiscal Year 2023, as submitted to the City Council by the City Manager and which budget amendment(s) are attached hereto as Exhibit A, are hereby adopted, and approved as the amended budget of said City for Fiscal Year 2023.

<u>Section 2:</u> If any provision of this ordinance or application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions, or application thereof, of this ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

Section 3: 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.

READ and APPROVED on First Reading on the 22nd day of August 2023.

READ and ADOPTED on Second Reading on the 12th day of September 2023.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

ALL FUND SUMMARY FY 2023

	GENERAL FUND	DEBT SERVICE FUNDS	н	IOTEL TAX FUND	RE	SPECIAL VENUE FUNDS	WA	WATER/ ASTEWATER FUNDS	BP&L FUND	IM	CAPITAL IPROVEMENT FUNDS	s	INTERNAL SERVICE FUND	D	ECONOMIC EVELOPMENT CORP		OTAL ALL FUNDS
BEGINNING FUND BALANCES	\$ 7,558,857	\$ 422,708	\$	2,891,934	\$	5,898,571	\$	5,027,207	\$ 3,597,330	\$	27,277,209	\$	3,324,217	\$	7,171,259	\$	63,169,292
REVENUES:																	
AD VALOREM TAXES	4,848,261	2,989,161				-		-	-		-						7,837,422
SALES TAXES	8,067,715					-		-	-		-				4,183,039		12,250,754
FRANCHISE & OTHER TAXES	555,400			3,233,000		24,500		-	-		-						3,812,900
LICENSES & PERMITS	1,948,000			2,000		-		-	-		-						1,950,000
CHARGES FOR SERVICES	865,550			218,000		4,064,429		8,127,559	7,929,241		-		666,867		15,870	:	21,887,516
FINES & FORFEITURES	285,000					14,000		-	-		-						299,000
INTEREST	40,000	19,500		15,000		31,850		35,520	30,000		47,600		15,000		15,000		249,470
INTERGOVERNMENTAL	104,682	271,614		66,554		-		-	-		47,460,109						47,902,959
OTHER	35,000			-		40,200		7,500	-		1,365				-		84,065
TOTAL REVENUES	16,749,608	3,280,275		3,534,554		4,174,979		8,170,579	7,959,241		47,509,074		681,867		4,213,909		96,274,086
OTHER SOURCES																	
Other Financing Sources	-										-						-
Interfund Transfers	653,000	589,900		-		-		4,537,639	-		1,547,395		753,623				8,081,557
TOTAL REVENUE & OTHER SOURCES	17,402,608	3,870,175		3,534,554		4,174,979		12,708,218	7,959,241		49,056,469		1,435,490		4,213,909	1	04,355,643
TOTAL AVAILABLE RESOURCES	\$ 24,961,465	\$ 4,292,883	\$	6,426,488	\$	10,073,550	\$	17,735,425	\$ 11,556,571	\$	76,333,678	\$	4,759,707	\$	11,385,168	\$1	67,524,935
EXPENDITURES:																	
GENERAL GOVERNMENT	7,508,922					25,000		-	-		923,500						8,457,422
PUBLIC SAFETY	6,030,651					27,080		-	-		47,160		200,000				6,304,891
DEVELOPMENT SERVICES	1,949,663					-		-	-		62,000						2,011,663
COMMUNITY SERVICES	2,917,819			-		513,106		-	-		13,540						3,444,465
UTILITIES						10,000		5,531,685	7,640,435		100,000						13,282,120
DEBT SERVICE		3,850,699				-		4,457,069	-		-				271,614		8,579,382
ECONOMIC DEVELOPMENT				4,081,552		-		-	-		-				5,137,634		9,219,186
CAPITAL OUTLAY						7,390,000		1,037,631	-		74,777,177		1,478,763		4,000,000		88,683,571
TOTAL EXPENDITURES	18,407,055	3,850,699		4,081,552		7,965,186		11,026,385	7,640,435		75,923,377		1,678,763		9,409,248	1	39,982,700
OTHER USES																	
Interfund Transfers	 2,051,018	 -	_	523,000		1,144,200		3,678,340	 685,000		-		-		-		8,081,557
TOTAL EXPENDITURE & OTHER USES	20,458,073	3,850,699		4,604,552		9,109,386		14,704,725	8,325,435		75,923,377		1,678,763		9,409,248	14	48,064,257
ENDING FUND BALANCES	\$ 4,503,392	\$ 442,184	\$	1,821,936	\$	964,164	\$	3,030,700	\$ 3,231,136	\$	410,301	\$	3,080,944	\$	1,975,920	\$	19,460,678

GENERAL FUND

Budget Amendment #1: General Fund-Revenue

FY 2023 Budget Book (Page 70-72)		
Original Budget	\$	16,847,515
Budget Amendment Ord #2023-05	\$	205,093
Sales Tax Revenue (101-00-00-4006)	\$	175,000
Public Improv Fees (101-00-00-4016)	<u>\$</u>	175,000
New Total Revenue	\$	17,402,608

This amendment increases several General Fund revenue sources to support other budget amendment expenditure items. Sales Tax revenue has been running approximately 8% over forecast. This amendment increase is conservative to specifically cover requested increases for budget amendments #2, #3, and #4. The Public Improvement Fees exceed budget by \$474K. This increase is being used to increase the Development Services expenditures identified in Budget Amendment #5.

Budget Amendment #2: General Fund-Community Engagement-Admin Expenditures

FY 2023 Budget Book (Page 136)	
Original Budget	\$ 420,480
Community Event Support (101-08-10-5622)	\$ 20,000
New Total Expenditure	\$ 440,480

This budget amendment is needed to increase Community Event Support to cover the additional costs incurred for barricades and security for parade events. This amendment is offset by the revenue reflected in budget amendment #1.

Budget Amendment #3: General Fund-Police-Patrol Expenditures

FY 2023 Budget Book (Page 139)	
Original Budget	\$ 1,725,910
Operational Salary (101-09-22-5101)	\$ 60,000
Overtime (101-09-22-5117)	<u>\$ 45,000</u>
New Total Expenditure	\$ 1,830,910

This budget amendment is needed to increase the amount budgeted for wages and overtime. The hourly total used to calculate the budgeted salaries was short the holiday pay that is paid in addition to regular hours. This caused the budget to be short. This has been corrected in the FY 2024 budget. There was also excess overtime due to staffing shortages during scheduled training. This amendment is offset by the revenue reflected in budget amendment #1.

ltem 9H.

Budget Amendment #4: General Fund-Fire Operational Expenditures

FY 2023 Budget Book (Page 143)

Original Budget	\$ 909,199
Overtime (101-11-11-5117)	\$ 50,000
New Total Expenditure	\$ 959,199

This budget amendment is needed to increase the overtime line item. The budgeted amount was short what actual has been this year. This has been corrected in the FY2024 proposed budget. This amendment is offset by the revenue reflected in budget amendment #1.

Budget Amendment #5: General Fund-Development Services

The following eight (8) positions were approved with ORD 2023-05:

Administrative Assistant	Technician
Senior Engineer	Senior Inspector
Planner	Senior Inspector
Subdivision Inspector	Plan Reviewer

FY 2023 Budget Book (Page 148)

Original Budget	\$ 1,4	411,752
Operational Salaries (101-15-00-5101)	\$	22,000
Operational Salaries (101-15-18-5101)	\$	68,000
Professional Service (101-15-00-5505)	\$	65,000
Professional Service (101-15-18-5505)	\$	20,000
New Total Expenditure	\$ 1,5	586,752

This budget amendment includes additional staff added to this department. These amounts are based on a reconciliation of positions eliminated, reclassifications, and new positions added. The professional service is for third party inspection services and engineering services. The engineer providing plan review was reclassed to development services because this work is included in the fee that is collected for plan review. This amendment is offset by the revenue reflected in budget amendment #1.

SUMMARY OF GENERAL FUND BY DEPARTMENT						
Community Engagement	\$20,000	N				
Police	\$105,000	New Expenditures				
Fire	\$50,000	spend				
Development Services	\$175,000	liture				
		es				
Sales Tax	(\$175,000)	New Reve				
Public Improvement Fees	(\$175,000)	New Revenue				
		ıe				
Total Net Adjustment	<u>\$0.00</u>					

OTHER FUNDS

Budget Amendment #6: Water/Wastewater Operating Fund

FY 2023 Budget Book (Page 85)		
Original Budget	\$ 7	,927,692
Budget Amendment Ord #2023-05	\$	50,000
Sewer Tapping Fees (202-00-00-4252)	\$	15,000
Wastewater Sales – Resid. (202-00-00-4201)	\$	120,200
Water Service Fees (202-00-00-4154)	\$	20,000
Water Tapping Fees (202-00-00-4152)	\$	<u>25,000</u>
New Total Revenue	\$8	8,157,892
FY 2023 Budget Book (Page 159-160)		
Original Budget	\$8	8,592,325
Budget Amendment Ord #2022-27	\$	7,500
Budget Amendment Ord #2023-05	\$	90,000
Lab Fees (202-35-46-5506)	\$	25,000
Equipment maintenance (202-35-46-5320)	\$	15,000
System maintenance (202-35-43-5303)	\$	60,000
Chemicals (202-35-46-5212)	\$	26,200
Chemicals (202-35-43-5212)	\$	<u>54,000</u>
New Total Expenditure	\$ 8	8,870,025

This amendment is needed due to the delay in the WWTP#3 going online. The additional chemicals, sludge hauling, lab analysis, etc. that has been needed at the old plant has been extensive. This old plant has been stretched to it's limits and repairs are often. The increase in expense has been fully offset by an increase in revenue. The fund has exceeded budgeted revenue expectations.

Budget Amendment #7: Revenue Bond, Series 2020 (Funds 262)

FY 2023 Budget Book (Page 111)

	-	
Original Budget	\$	156,919
Real Property (262-35-00-6060)	\$	154,573
WWTP#3 – Phase I (262-35-00-6174)	\$	448,000
WWTP#3 – Westside Coll Sys (262-35-00-6176)	\$	289,500
WWTP#3 - Lift Station & Force Main (262-35-00-6178)	\$	16,000
New Total Expenditure	\$	1,064,992

This amendment is to carry-over projects from FY2022 (missed in first budget amendment). The ending fund balance as of 9/30/2022 was \$1,064,992. This fund should be complete by end of FY2023.



MEETING DATE: August 22, 2023

TITLE:

Consider action to approve Resolution No. R-2023-133 of the City Council, of the City of Bastrop, Texas, approving the expansion of Fairview Cemetery and requesting the City Manager and City Attorney to make preparations for the demolition, sale and repurposing of certain municipal surplus real property adjacent to the cemetery.

AGENDA ITEM SUBMITTED BY:

Submitted by: Councilmembers Crouch and Plunkett

BACKGROUND/HISTORY:

he city acquired various lots adjacent to Fairview cemetery for future expansion. The lots are delineated below and does not include the lot marked with an X. (Figure 1)

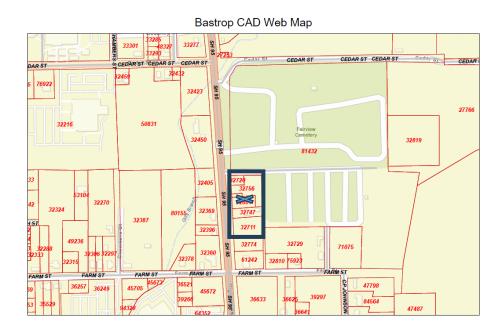


Figure 1

As of August 17, 2023, the cemetery has 49 lots available for burial. The cemetery board is working on plans for a columbarium which would allow cremated loved ones to be placed in a different area of the grounds. That project is not estimated to be completed until early 2025. Additionally, staff is exploring utilizing a partnership with the Boys Scouts to mark additional rows that have already been surveyed but need on the ground marking. This could create an additional 75-100 burial plots.

Item 91.

Additionally, there is a "blue house" situated on one of the lots (Figure 2). The house is in disrepair. The city could either demolish the house or place the house for sale to be moved by a potential buyer.



Figure 2

The lots are currently zoned Civic Space <u>and</u> P5 Core. (Figure 3)

P5 is defined in the B3 code as "Higher density mixture of Building Types that accommodate commercial, retail, offices, row houses, and apartments. It has a tight network of Streets, with wide sidewalks, steady Street Tree plantings, and buildings set close to the sidewalks. P5 is a highly walkable area. A continuous line of buildings is critical to define the Public Frontage and allow for visible activity along the Street edge."

Figure 3



To be used as a cemetery, the lots would need to be rezoned from P5 Core to Civic Space. As city owned property, there would be zero cost for an application to Planning Commission to rezone.

FISCAL IMPACT:

Potential cost for a demolition which would include asbestos abatement and disposal and could range up to \$100,000.

Initially, a proposal to sell the house with the buyer to move the structure is the most cost effective for the City.

RECOMMENDATION:

Staff recommends rezoning the property to Civic Space and also placing the blue house up for sale with the buyer to remove the structure from the site.

ATTACHMENTS:

1. Resolution

EXPANSION OF MUNICIPAL CEMETERY

A RESOLUTION OF THE CITY OF BASTROP, TEXAS, APPROVING THE EXPANSION OF FAIRVIEW CEMETERY AND REQUESTING THE CITY MANAGER AND CITY ATTORNEY TO MAKE PREPARATIONS FOR THE DEMOLITION, SALE AND REPURPOSING OF CERTAIN MUNICIPAL SURPLUS REAL PROPERTY ADJACENT TO THE CEMETERY

- **WHEREAS,** the City Council of the City of Bastrop ("City Council") finds it to be in the public interest and necessary to maintain and occasionally expand cemeteries to protect public health and peace of the community; and
- WHEREAS, Texas Local Government Code Section 51.001 provides the City general authority to adopt an ordinance, rule, 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**, Texas Health and Safety Code Section 713.001 authorizes a city to purchase, establish, and regulate a cemetery or enclose and improve a cemetery already owned by the city.
- **WHEREAS**, Texas Local Government Code Section 331.001 authorizes a city to acquire burial grounds by gift, devise, purchase, or eminent domain.
- WHEREAS, pursuant to Section 3.01(15) of the City's Charter, the City Council has the authority to exercise exclusive dominion, control and jurisdiction in, upon, over, and under the public streets, avenues, sidewalks, alleys, highways, boulevards, and public grounds of the City and provide for the improvement of same; and
- WHEREAS, pursuant to Section 15.01.007 of the City's Code of Ordinances, the City Council has the authority to invest funds for all purposes set forth in Article 15 of the City's Code of Ordinances, including managing and maintaining cemeteries; and
- **WHEREAS,** the City Council finds it to be in the public interest that the City demolish, sell, or repurpose municipal real property adjacent to a municipal cemetery for the purpose of expanding and modifying the same municipal cemetery to promote the public health and welfare of the community.

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

- **Section 1:** The City Council hereby approves the conceptual policy of expanding the Fairview Cemetery beyond its current boundary.
- **Section 2:** The City Council hereby requests that the City Manager commence with identifying options and making tentative plans for the demolition and sale of certain municipal surplus real property (including improvements) located adjacent to the Fairview Cemetery, and repurpose remaining real property.
- **Section 3:** The City Council requests that the City Attorney assist the City Manager in the preparation of the documentation necessary to effectuate the objectives listed in Sections 1 and 2 (above) for submittal to the City Council for consideration and possible action.
- **Section 4:** The meeting at which this Resolution 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 Texas Open Meetings Act.

DULY RESOLVED & ADOPTED by the City Council of the City of Bastrop, Texas, on this, the 22nd dapf August 2023.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney



MEETING DATE: August 22, 2023

TITLE:

Consider action to approve the first reading of Ordinance No. 2023-31, of the City Council of the City of Bastrop, Texas, amending the Bastrop Code of Ordinances Chapter 14, the Bastrop Building Block (B3) Technical Manual, Article 4.1 Plat Submission; and providing for findings of fact, repealer, severability, codification, effective date, proper notice and meeting; and move to include on the September 12, 2023, agenda for second reading.

AGENDA ITEM SUBMITTED BY:

Sylvia Carrillo, ICMA-CM, CPM, City Manager

BACKGROUND/HISTORY:

As the City of Bastrop continues to grow and develop, staying current with development impacts is an important part of staff workload and training. Increasingly, the City Manager is working towards an end goal of all information contained in a geospatial format that makes it easy to read and understand what is happening in our town and county. To this end, we are relying more and more on geospatial information systems (GIS) to give us a "picture" of what is happening around us.

A subdivision of property, or a plat, is one of the foundational steps of development. This agenda item seeks to add a requirement of a shapefile that can be easily dropped into the City's GIS system to keep us up to date with each submittal. The shapefile would be a part of the process at intake and can quickly be updated by our GIS staffer or our Sr. Planner.

The rationale for requiring anything above four lots is due to Chapter 212 of the Local Government Code which grants exemptions for certain smaller developments.

FISCAL IMPACT: None

RECOMMENDATION:

Amend Article 4.1 of the B3 Technical Manual requiring a shapefile for preliminary and final plat for subdivisions of more than four (4) lots.

ATTACHMENTS:

1. Ordinance.

CITY OF BASTROP, TEXAS

ORDINANCE NO. 2023-31

PLAT SUBMISSION REQUIREMENTS

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE BASTROP CODE OF ORDINANCES CHAPTER 14, THE BASTROP BUILDING BLOCK (B3) TECHNICAL MANUAL, ARTICLE 4.1 PLAT SUBMISSION; 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 (City Council) 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, pursuant to Texas Local Government Code Chapters 211, 212, 214, and 217, the City Council has general authority to regulate planning, zoning, subdivisions, and the construction of buildings; and
- WHEREAS, the City Council finds certain amendments to the Bastrop Code of Ordinances necessary to meet changing conditions and are in the best interest of the City; and
- WHEREAS, the City Council finds the attached amendments are necessary and proper for the good government, peace, or order of the City to adopt an ordinance providing requirements for plat submissions.

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

- **Section 1.** Findings of Fact: The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.
- **Section 2. Amendment:** Chapter 14 of the Bastrop Code of Ordinances, the Bastrop Building Block (B3) Technical Manual, Article 4.1 Plat Submission 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. 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.
- **Section 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.

- **Section 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.
- Section 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.
- **Section 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.
- Section 7. Proper Notice & 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.

[Signatures on the following page]

PASSED & APPROVED on First Reading by the City Council of the City of Bastrop, on this, the 22nd day of August 2023.

PASSED & APPROVED on Second Reading by the City Council of the City of Bastrop, on this, the _____ day of September 2023.

APPROVED:

by:

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

ATTACHMENT A

Amendment to B3 Technical Manual Article 4.1 Plat Submission



STAFF REPORT

MEETING DATE: August 22, 2023

TITLE:

Consider action to approve Resolution No. R-2023-135 of the City Council of the City of Bastrop, Texas approving Agreements for Tree Mitigation for Pearl River projects, including Blakey Owner Apartments II, LLC for Multi-Family Phase II, and PRC 01 Bastrop, LLC for the Commercial phase, including related bonds, and authorizing the City Manager to execute all necessary documents.

AGENDA ITEM SUBMITTED BY:

Sylvia Carrillo, ICMA-CM, CPM, City Manager

BACKGROUND/HISTORY:

The Public Improvement Plan Agreement (PIPA) was developed as part of the City of Bastrop's Development Manual. This standardized agreement is a tool that can be used by staff. It allows a developer to final plat lots within the approved section of the subdivision prior to the completion of all public improvements.

Prior approval of a PIPA on June 27, 2023, for both above stated properties, did not take into account tree mitigation. This item seeks to remedy trees that were cut down in advance of a final approved site plan, to ensure the city has the ability to replant trees in other areas of the town as needed. The Pearl River site has a multifamily and commercial sections. This agenda item covers both as follows:

(1) Agreement for Tree Mitigation by and between City of Bastrop and Blakey Owner Apartments II, LLC, a Texas limited liability company, relating to tree mitigation on 14.024 acres of land, situated in the City of Bastrop, Bastrop County, Texas, being the land described in that certain Special Warranty Deed dated as of March 31, 2023, and recorded on April 3, 2023, under Document No. 202304799 of the Official Public Records of Bastrop County, Texas

(2) \$235,800.00 bond for obligations under Agreement for Tree Mitigation for 14.024 acres of land referenced in #1 above

(3) Agreement for Tree Mitigation by and between the City of Bastrop and PRC 01 BASTROP, LLC, a Texas limited liability company, relating to tree mitigation on 49.821 acres of land, situated in the City of Bastrop, Bastrop County, Texas, being a portion of the land conveyed to PRC 01 Bastrop, LLC pursuant to special warranty deed being recorded under Document No. 202200112 of the Official Public Records of Bastrop County

(4) \$739,200 bond for obligations under Agreement for Tree Mitigation for 49.821 acres referenced in #3 above

The cost estimates and scope of work included in the attached agreement has been reviewed by the necessary city staff. The agreements and bond have been reviewed and approved by the City Attorney.

Item 9K.

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.

FISCAL IMPACT:

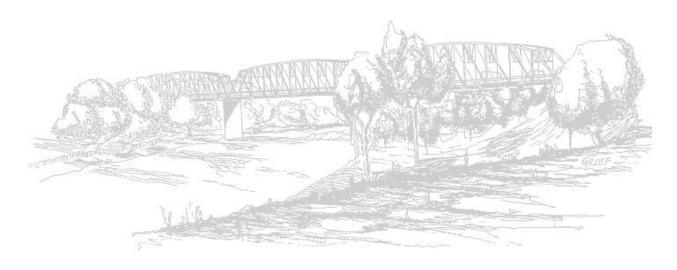
Undetermined at this time; dependent on the amount of trees replaced onsite. Any residual amount will be placed into the city's tree fund used to plant trees in other areas.

RECOMMENDATION:

Approve the resolution as presented.

ATTACHMENTS:

- Resolution No. R-2023-135
- Agreements and Bond



CITY OF BASTROP, TEXAS AGREEMENT FOR TREE MITIGATION ALTA BLAKEY MULTIFAMILY PHASE II

The State of Texas County of Bastrop

WHEREAS, BLAKEY OWNER APARTMENTS II, LLC, a Delaware limited liability company ("Developer"), is the developer of approximately 14.024 acres of land, situated in the City of Bastrop, Bastrop County, Texas, being the land described in that certain Special Warranty Deed dated as of March 31, 2023, and recorded on April 3, 2023, under Document No. 202304799 of the Official Public Records of Bastrop County, Texas ("Blakey Phase II Property"); and

WHEREAS, the Blakey Phase II Property is part of the real property that is the subject of that certain Land Disturbance Permit issued by the City of Bastrop on or about May 12, 2023, being City of Bastrop Permit No. 23-000048 (the "Land Disturbance Permit"), which permitted certain grading and clearing work on the Blakey Phase II Property and the other real property described in the Land Disturbance Permit;

WHEREAS, the said Developer has requested the City of Bastrop, a Home Rule Municipality of Bastrop County, Texas, hereinafter referred to as, "City", to provide approvals and cooperative arrangements in connection with tree mitigation that is required to be performed following the clearing of the trees permitted in the Land Disturbance Permit:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That said Developer, acting herein by and through Bart Barrett, Vice President of WP Texas, LLC, a Delaware limited liability, the manager of WS Blakey Lane, LLC, a Delaware limited liability company, the manager of Blakey Owner Holdings, LLC, a Delaware limited liability

company, the duly authorized manager of Developer, and the City, acting herein by and through Sylvia Carrillo, its City Manager, for and in consideration of the covenants and agreements herein performed and to be performed, do hereby covenant and agree as follows regarding assurance of the tree mitigation to be performed and completed on the Blakey Phase II Property.

1.00 Compliance with Tree Preservation Ordinance

The Developer is responsible to fully comply with the City's Tree Preservation Ordinance and Construction Standards during all phases of construction on the Blakey Phase II Property. Prior to the date hereof, in furtherance of its preparation of and the City's approval of the Land Disturbance Agreement, the Developer submitted a tree protection plan and protected tree survey showing the protected trees on the Blakey Phase II Property and the measures of tree protection to be employed by Developer on the Blakey Phase II Property. The chart below reflects the costs attributable to tree mitigation (the "Phase II Tree Mitigation Obligation") that will be the obligation of Developer in connection with its construction of non-public site work for development of the Blakey Phase II Plat. Contemporaneously with the Developer's execution of this Agreement and as a condition precedent to the City's approval of the Final Plat of Replat Establishing Pearl 75 – Phase One (City Permit Number 23-000012) (the "Phase I Final Plat"), Developer shall deliver a fiscal surety bond to secure Developer's Phase II Tree Mitigation obligation (the "Tree Mitigation Bond") in the amount stated under "Full Mitigation Cost" below. Developer shall cause the Phase II Tree Mitigation Obligation to be satisfied no later than two (2) years after the date of this Agreement (the "Mitigation Deadline") either in connection with the development of the Blakey Phase II Property (through tree on site planting and a combination of payment into the City's Tree Preservation Fund) or through a separate City approved permit. Should Developer fail to satisfy the Phase II Tree Mitigation Obligation by the Mitigation Deadline, the City shall have the right to cause

Developer to replace the Tree Mitigation Bond with a cash escrow fund in the amount of the Full Mitigation Cost (the "Future Mitigation Escrow") which Future Mitigation Escrow may be used by the City to be deposited into the Tree Preservation Fund or to plant trees in other locations established by the City within the City limits. Promptly following Developer's satisfaction of the Phase II Tree Mitigation Obligation or depositing the Full Mitigation Cost into the Future Mitigation Escrow, whichever occurs first, the City shall release the Tree Mitigation Bond, and Developer shall have no additional obligations under this Agreement.

Tree (inches) to be replanted	393 trees (1,570 inches)
Dollar Equivalent of total trees to be replanted	\$235,800.00
Full Mitigation Costs	\$235,800.00

The City Engineer does hereby confirm his approval of the above-referenced Full Mitigation Cost.

Signature of City Engineer

2.00 On Site Tree Mitigation Obligation Costs

All costs associated with or incurred in connection with the Phase II Tree Mitigation Obligation are the full responsibility of the Developer unless otherwise noted, or unless otherwise funded with a public improvement district revenue, tax increment reinvestments zone revenue, or a Chapter 380 grant, pursuant to a separate agreement. The following improvement costs for the Public Infrastructure Improvements have been developed using the Developer's plans and specifications and recommendations by the City in accordance with the construction guidelines set forth by the City. The Full Mitigation Amount and the Tree Mitigation Obligation were established using the chart attached

hereto as Exhibit A.

3.00 Miscellaneous Provisions

3.10 Bonds

The Developer will provide the City with proof of payment to the surety and that all other obligations of the Developer or its general contractor have been met in order for the bonds to be binding upon the surety.

3.20 Public Liability

The Developer shall further require the contractor(s) performing the on site tree mitigation on the Blakey Phase II Property to secure Public Liability Insurance. The amount of Insurance required shall include Public Liability, Bodily Injury and Property Damage of not less than \$100,000 one person, \$300,000 one accident and \$100,000 property damage. The minimum requirements for automobile and truck public liability, bodily injury and property damage shall also include not less than \$100,000 one person, \$300,000 one accident, and \$100,000 property damage.

The Contractor shall provide Worker's Compensation Insurance in accordance with the most recent Texas Workers' Compensation Commission's rules.

3.30 General Indemnity Provisions

The Developer shall waive all claims, fully release, indemnify, defend and hold harmless the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action, including all expenses of litigation and/or settlement which may arise by injury to property or person occasioned by error, omission, intentional or negligent act of Developer, its officers, agents, consultants, employees, invitees, or other person, arising out of or in connection with the Agreement, or on or about the Blakey Phase II Property, and Developer will, at its own cost and expense, defend and protect the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from any and all such claims and demands. Also, Developer agrees to and shall indemnify, defend and hold harmless the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from and against any and all claims, losses, damages, causes of action, suit and liability of every kind (each a "Claim" and collectively, the "Claims"), including all expenses of litigation, court costs and reasonable attorney fees for injury to or death of any person or for any damage to any property, but not including special, punitive or consequential damages, arising out of or in connection with this Agreement or any and all activity or use pursuant to the Agreement, or on or about the Blakey Phase II Property. This indemnity shall apply whether the Claims arise in whole or in part from the intentional acts or negligence of developer or any of its officers, officials, agents, consultants, employees or invitees, whether said negligence is contractual, comparative negligence, concurrent negligence, or any other form of negligence, but not for Claims resulting or arising from the City's sole negligence, gross negligence or willful misconduct. The City shall be responsible only for any Claims resulting or arising from the City's sole negligence, gross negligence. Provided, however, that nothing contained in this Agreement shall waive the City's defenses or immunities under Section 101.001 et seq. of the Texas Civil Practice and Remedies Code or other applicable statutory or common law. Notwithstanding anything to the contrary in this section, the Developer shall not be required to indemnify the City in the event the Claims arise in

whole or in part as a result of the City's breach of this agreement or a separate agreement pertaining to the property governed by this agreement.

3.40 Venue

Venue of any action brought hereunder shall be in the City of Bastrop, Bastrop County, Texas.

4.60 Assignment

This Agreement, any part hereof, or any interest herein shall not be assigned by the Developer without written consent of the City Manager, said consent shall not be unreasonably withheld, and it is further agreed that such written consent will not be granted for the assignment, transfer, pledge and/or conveyance of any refunds due or to become due to the Developer except that such assignment, transfer, pledge and/or conveyance shall be for the full amount of the total of all such refunds due or to become due hereunder nor shall assignment release assignor or assignee from any and all Development assurances and responsibilities set forth herein. Notwithstanding the foregoing, however, Developer shall have the right to assign its rights hereunder to any future owner of all or any part of the Blakey Phase II Property so long as such assignee enters into a joinder to this Agreement and confirms to the City that the insurance, bond, and other requirements hereunder continue to be satisfied.

Signature Page Follows

IN TESTIMONY WHEREOF, the City of Bastrop has caused this instrument to be executed in duplicate in its name and on its behalf by its City Manager, attested by its City Secretary, with the corporate seal of the City affixed, and said Developer has executed this instrument in duplicate, at the City of Bastrop, Texas this the _____

day of _____, **2023**.

BLAKEY OWNER APARTMENTS II, LLC, a Delaware limited liability company

By: Blakey Owner Holdings, LLC, a Delaware limited liability company, its manager

By: WS Blakey Lane, LLC, a Delaware limited liability company, its manager

> By: WP Texas, LLC, a Delaware limited liability company, its manager

Ser Smith

By: Name: Bart Barrett Title: Vice President

ATTEST:

Ann Franklin City Secretary Date

Date

Alan Bojorquez
City Attorney

Distribution of Originals:

Developer City Secretary

CITY OF BASTROP, TEXAS

By: Name: Sylvia Carrillo, ICMA-CM, CPM Title: City Manager

Planning and Development Department

The Miligation Obligation Chart					
POINT NUMBER	FULL DESCRIPTION	SPECIES	INCHES	PROTECTED INCHES	Heritage
80978	12.5" CEDAR ELM	CEDAR ELM	12.5	0	
80979	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
80980	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
80981	13" CEDAR ELM	CEDAR ELM	13	13	
80982	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
80983	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
80984	15" CEDAR ELM	CEDAR ELM	15	15	
80985	13" CEDAR ELM	CEDAR ELM	13	13	
80986	16.5" CEDAR ELM	CEDAR ELM	16.5	16.5	
80987	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
80988	15" CEDAR ELM	CEDAR ELM	15	15	
80989	19.5" MESQUITE	MESQUITE	19.5	0	
80990	15" MESQUITE	MESQUITE	15	0	
80991	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
80992	20" MESQUITE	MESQUITE	20	0	
80993	17" MESQUITE	MESQUITE	17	0	
80994	32" MESQUITE	MESQUITE	32	0	
80995	23" MESQUITE	MESQUITE	23	0	
80996	15" MESQUITE	MESQUITE	15	0	
80997	17" MESQUITE	MESQUITE	17	0	
80998	19.5" MESQUITE	MESQUITE	19.5	0	
80999	15" MESQUITE	MESQUITE	15	0	
81000	13" MESQUITE	MESQUITE	13	0	
81001	15" CEDAR ELM	CEDAR ELM	15	15	
81002	24" CEDAR ELM	CEDAR ELM	24	24	Heritage
81003	23.5" CEDAR ELM	CEDAR ELM	23.5	23.5	
81004	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5	
81005	31" LIVE OAK	LIVE OAK	31	31	Heritage
81006	20" CEDAR ELM	CEDAR ELM	20	20	
81007	15" CEDAR ELM	CEDAR ELM	15	15	
81008	14" CEDAR ELM	CEDAR ELM	14	14	
81009	14" CEDAR ELM	CEDAR ELM	14	14	
81010	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
81011	15" CEDAR ELM	CEDAR ELM	15	15	
81012	15" CEDAR ELM	CEDAR ELM	15	15	
81013	14" MESQUITE	MESQUITE	14	0	
81014	17.5" CEDAR ELM	CEDAR ELM	17.5	17.5	
81015	12.5" CEDAR ELM	CEDAR ELM	12.5	0	
81016	24" CEDAR ELM	CEDAR ELM	24	24	Heritage
81017	17" CEDAR ELM	CEDAR ELM	17	17	

Exhibit A Tree Mitigation Obligation Chart

81018	17" CEDAR ELM	CEDAR ELM	17	17	
81019	12.5" CEDAR ELM	CEDAR ELM	12.5	0	
81020	14" CEDAR ELM	CEDAR ELM	14	14	
81021	14" CEDAR ELM	CEDAR ELM	14	14	
81022	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
81023	15" CEDAR ELM	CEDAR ELM	15	15	
81025	15" CEDAR ELM	CEDAR ELM	15	15	
81027	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
81028	12.5" CEDAR ELM	CEDAR ELM	12.5	0	
81029	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
81030	17" CEDAR ELM	CEDAR ELM	17	17	
81031	24.5" CEDAR ELM	CEDAR ELM	24.5	24.5	Heritage
81032	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
81033	14" CEDAR ELM	CEDAR ELM	14	14	
81034	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
81035	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
81036	14" CEDAR ELM	CEDAR ELM	14	14	
81037	19.5" CEDAR ELM	CEDAR ELM	19.5	19.5	
81038	15" CEDAR ELM	CEDAR ELM	15	15	
81039	15" CEDAR ELM	CEDAR ELM	15	15	
81040	17.5" CEDAR ELM	CEDAR ELM	17.5	17.5	
81041	16.5" CEDAR ELM	CEDAR ELM	16.5	16.5	
81042	13" LIVE OAK	LIVE OAK	13	13	
81043	31.5" CEDAR ELM	CEDAR ELM	31.5	31.5	Heritage
81044	13" CEDAR ELM	CEDAR ELM	13	13	
81045	13" CEDAR ELM	CEDAR ELM	13	13	
81059	12.5" CEDAR ELM	CEDAR ELM	12.5	0	
81060	13" CEDAR ELM	CEDAR ELM	13	13	
81061	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
81062	15" CEDAR ELM	CEDAR ELM	15	15	
81063	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5	
81064	15" CEDAR ELM	CEDAR ELM	15	15	
81065	14" CEDAR ELM	CEDAR ELM	14	14	
81066	16" CEDAR ELM	CEDAR ELM	16	16	
81067	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5	
81068	25" CEDAR ELM	CEDAR ELM	25	25	Heritage
81069	16.5" MESQUITE	MESQUITE	16.5	0	
81070	12.5" CEDAR ELM	CEDAR ELM	12.5	0	
81071	13" CEDAR ELM	CEDAR ELM	13	13	
81072	16" CEDAR ELM	CEDAR ELM	16	16	
81073	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5	
81074	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
81075	13" CEDAR ELM	CEDAR ELM	13	13	
81076	16.5" CEDAR ELM	CEDAR ELM	16.5	16.5	
81077	14" GUM	GUM	14	14	

81078	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5
81079	14.5" MESQUITE	MESQUITE	14.5	0
81080	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5
81081	22" CEDAR ELM	CEDAR ELM	22	22
81082	12.5" CEDAR ELM	CEDAR ELM	12.5	0
81083	15" CEDAR ELM	CEDAR ELM	15	15
81084	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
81085	18" CEDAR ELM	CEDAR ELM	18	18
81086	14" CEDAR ELM	CEDAR ELM	14	14
81087	14.5" GUM	GUM	14.5	14.5
81088	21" CEDAR ELM	CEDAR ELM	21	21
81089	14" CEDAR ELM	CEDAR ELM	14	14
81090	13" CEDAR ELM	CEDAR ELM	13	13
81091	13" CEDAR ELM	CEDAR ELM	13	13
81092	13" CEDAR ELM	CEDAR ELM	13	13
81093	15" CEDAR ELM	CEDAR ELM	15	15
81096	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
81100	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
81101	16" CEDAR ELM	CEDAR ELM	16	16
81102	15" CEDAR ELM	CEDAR ELM	15	15
81103	16" CEDAR ELM	CEDAR ELM	16	16
81104	12.5" CEDAR ELM	CEDAR ELM	12.5	0
81105	13" CEDAR ELM	CEDAR ELM	13	13
81106	13" CEDAR ELM	CEDAR ELM	13	13
81107	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5
81108	16" CEDAR ELM	CEDAR ELM	16	16
81109	15" CEDAR ELM	CEDAR ELM	15	15
81110	13" GUM	GUM	13	13
81111	14" CEDAR ELM	CEDAR ELM	14	14
81112	13" CEDAR ELM	CEDAR ELM	13	13
81113	15" GUM	GUM	15	15
81114	18" CEDAR ELM	CEDAR ELM	18	18
81115	16" HACKBERRY	HACKBERRY	16	0
81120	17.5" CEDAR ELM	CEDAR ELM	17.5	17.5
81121	13" CEDAR ELM	CEDAR ELM	13	13
81122	12.5" CEDAR ELM	CEDAR ELM	12.5	0
81123	13" CEDAR ELM	CEDAR ELM	13	13
81124	12.5" HACKBERRY	HACKBERRY	12.5	0
81126	15" CEDAR ELM	CEDAR ELM	15	15
81129	14" CEDAR ELM	CEDAR ELM	14	14
81320	15" MESQUITE	MESQUITE	15	0
81321	19" MESQUITE	MESQUITE	19	0
81325	25.5" MESQUITE	MESQUITE	25.5	0
81326	29.5" MESQUITE	MESQUITE	29.5	0
81327	17.5" MESQUITE	MESQUITE	17.5	0

81328	18" MESQUITE	MESQUITE	18	0
81332	26.5" PECAN	PECAN	26.5	0
81336	22.5" MESQUITE	MESQUITE	22.5	0
81337	24.5" MESQUITE	MESQUITE	24.5	0

134	TOTAL TREES
100	PROTECTED TREES
6	Heritage TREES
1570	INCHES
393	4" TREES BY REPLANTING
\$	MITIGATION FEE IN LIEU OF
235,800.00	PLANTING

CITY OF BASTROP, TEXAS AGREEMENT FOR TREE MITIGATION PEARL 75 COMMERCIAL

The State of Texas

County of Bastrop

WHEREAS, PRC 01 BASTROP, LLC, a Texas limited liability company ("Developer"), is the developer of approximately 49.821 acres of land, situated in the City of Bastrop, Bastrop County, Texas, being the land described more particularly in <u>Exhibit A</u> attached hereto (the "Pearl 75 Commercial Property"); and

WHEREAS, the Pearl 75 Commercial Property is part of the real property that is the subject of that certain Land Disturbance Permit issued by the City of Bastrop on or about May 12, 2023, being City of Bastrop Permit No. 23-000048 (the "Land Disturbance Permit"), which permitted certain grading and clearing work on the Pearl 75 Commercial Property and the other real property described in the Land Disturbance Permit; and

WHEREAS, the said Developer has requested the City of Bastrop, a Home Rule Municipality of Bastrop County, Texas, hereinafter referred to as, "City", to provide approvals and cooperative arrangements in connection with tree mitigation that is required to be performed following the clearing of the trees permitted in the Land Disturbance Permit:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That said Developer, acting herein by and through Spencer Harkness and Mason Mote, each the Managing Members of Pearl River Companies, LLC, a limited liability company, the duly authorized manager of Developer, and the City, acting herein by and through Sylvia Carrillo, its City Manager, for and in consideration of the covenants and agreements herein performed and to be performed, do hereby covenant and agree as follows regarding assurance of the tree mitigation to be performed and completed on the Pearl 75 Commercial Property.

1.00 Compliance with Tree Preservation Ordinance

The Developer is responsible to fully comply with the City's Tree Preservation Ordinance and Construction Standards during all phases of construction on the Pearl 75 Commercial Property. Prior to the date hereof, in furtherance of its preparation of and the City's approval of the Land Disturbance Agreement, the Developer submitted a tree protection plan and protected tree survey showing the protected trees on the Pearl 75 Commercial Property and the measures of tree protection to be employed by Developer on the Pearl 75 Commercial Property. The chart below reflects the costs attributable to tree mitigation that will be accomplished in conjunction with the development of the Pearl 75 Commercial Property through a combination of on-site tree planting and payment into the City's Tree Preservation Fund as required by the City Land Development Code (the "Pearl 75 Tree Mitigation Obligation"). The Pearl 75 Tree Mitigation Obligation will be the obligation of Developer in connection with its construction of non-public site work for development of the Pearl 75 Commercial Property. Contemporaneously with the Developer's execution of this Agreement and as a condition precedent to the City's approval of the Final Plat of Replat Establishing Pearl 75 – Phase One (City Permit Number <u>23-000012</u>) (the "Phase I Final Plat"), Developer shall deliver a fiscal surety bond to secure Developer's Pearl 75 Tree Mitigation Obligation (the "Tree Mitigation Bond") in the amount stated under "Full Mitigation Cost" below. Developer shall cause the Pearl 75 Tree Mitigation Obligation to be satisfied no later than two (2) years after the date of this Agreement (the "Initial Mitigation Deadline") either in connection with the development of the Pearl 75 Commercial Property in multiple phases, through a combination of on-site tree planting and payment of fees to the City's Tree Preservation Fund in accordance with the City's Land Development Code.. On the Initial Mitigation Deadline, Developer may satisfy its obligations under this Agreement by replacing the Tree Mitigation Bond with a cash escrow fund in the amount of the Full Mitigation Cost (the "Future Mitigation Escrow") which Future Mitigation Escrow shall be held by the City to secure the Pearl 75 Tree Mitigation Obligation. Promptly following Developer's satisfaction of the Pearl 75 Tree Mitigation Obligation or depositing the Full Mitigation Cost into the Future Mitigation Escrow, whichever occurs first, the City shall release the Tree Mitigation Bond, and Developer shall have no additional obligations to post such fiscal surety hereunder.

The City may elect to use funds deposited into Future Mitigation Escrow to be deposited into the Tree Preservation Fund or to plant trees in other locations established by the City within the City limits. If funds from the Future Mitigation Escrow are used by the City in advance of Developer subdividing and developing any portion of the Pearl 75 Commercial Property with active permits or applications under review with City for any portion of the Pearl 75 Commercial Property evidencing progress toward completion of the Pearl 75 development, at the time of the City's approval of a site plan for any portion of the Pearl 75 Commercial Property (which shall establish Developer's actual mitigation requirements for such portion), Developer shall (i) receive a credit against any assessed and payable (or performable) Pearl 75 Tree Mitigation Obligation equal to such amount disbursed to the City from the Future Mitigation Escrow as of the date of such assessment and (ii) receive a reimbursement from the City for total trees replanted on the Pearl 75 Commercial Property. The foregoing reimbursement shall be finally established on the date Developer receives approval by the City of the final plat for the last remaining undeveloped portion of the Pearl 75 Commercial Property (the "Final Pearl 75 Commercial Plat Approval") taking into account all trees planted on the entirety of the Pearl 75 Commercial Property).

To the extent any funds from the Future Mitigation Escrow have not been used by

the City, from time to time, Developer shall have the right to draw down funds from the Future Mitigation Escrow to use such funds to satisfy required actual assessed and payable (or performable) Pearl 75 Tree Mitigation Obligations as such obligations are actually assessed and determined (at the time of City approval of each final plat within the Pearl 75 Commercial Property). To the extent any funds from the Future Mitigation Escrow have not been used to offset Developer's actual Pearl 75 Tree Mitigation Obligation following the date of the Final Pearl 75 Plat Approval recordation, the City shall cause such balance to be released to Developer. The credits available to Developer and Developer's ability to draw down funds from the Future Mitigation Escrow pursuant to this paragraph shall only be applicable to development of the Pearl 75 Commercial Property in pursuant to the City approved preliminary plat entitled Replat of Lone Star Storage Subdivision (City Case No. 22-000293) (the "Preliminary Plat")

Tree (inches) to be replanted	1232 trees (4925 inches)
Dollar Equivalent of total trees to be replanted	\$739,200
Full Mitigation Costs	\$739,200

The City Engineer does hereby confirm his approval of the above-referenced Full Mitigation Cost.

Signature of City Engineer

2.00 Tree Mitigation Obligation Costs

All costs associated with or incurred in connection with the Pearl 75 Tree Mitigation Obligation are the full responsibility of the Developer unless otherwise noted, or unless otherwise funded with a public improvement district revenue, tax increment reinvestments zone revenue, or a Chapter 380 grant, pursuant to a separate agreement. The Full Mitigation Amount and the Pearl 75 Tree Mitigation Obligation were established using the chart attached hereto as <u>Exhibit B</u>.

3.00 Miscellaneous Provisions

3.10 Bonds

The Developer will provide the City with proof of payment to the surety and that all other obligations of the Developer or its general contractor have been met in order for the bonds to be binding upon the surety.

3.20 Public Liability

The Developer shall further require the contractor(s) performing the on site tree mitigation on the Pearl 75 Commercial Property to secure Public Liability Insurance. The amount of Insurance required shall include Public Liability, Bodily Injury and Property Damage of not less than \$100,000 one person, \$300,000 one accident and \$100,000 property damage. The minimum requirements for automobile and truck public liability, bodily injury and property damage shall also include not less than \$100,000 one person, \$300,000 one accident, and \$100,000 property damage.

The Contractor shall provide Worker's Compensation Insurance in accordance with the most recent Texas Workers' Compensation Commission's rules.

3.30 General Indemnity Provisions

The Developer shall waive all claims, fully release, indemnify, defend and hold harmless the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action, including all expenses of litigation and/or settlement which may arise by injury to property or person occasioned by error, omission, intentional or negligent act of Developer, its officers, agents, consultants, employees, invitees, or other person, arising out of or in connection with the Agreement, or on or about the Pearl 75 Commercial Property, and Developer will, at its own cost and expense, defend and protect the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from any and all such claims and demands. Also, Developer agrees to and shall indemnify, defend and hold harmless the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from and against any and all claims, losses, damages, causes of action, suit and liability of every kind (each a "Claim" and collectively, the "Claims"), including all expenses of litigation, court costs and reasonable attorney fees for injury to or death of any person or for any damage to any property, but not including special, punitive or consequential damages, arising out of or in connection with this Agreement or any and all activity or use pursuant to the Agreement, or on or about the Pearl 75 Commercial Property. This indemnity shall apply whether the Claims arise in whole or in part from the intentional acts or negligence of developer or any of its officers, officials, agents, consultants, employees or invitees, whether said negligence is contractual, comparative negligence, concurrent negligence, or any other form of negligence, but not for Claims resulting or arising from the City's sole negligence, gross negligence or willful misconduct. The City shall be responsible only for any Claims resulting or arising from the City's sole negligence, gross negligence. Provided, however, that nothing contained in this Agreement shall waive the City's defenses or immunities under Section 101.001 et seq. of the Texas Civil Practice and Remedies Code or other applicable statutory or common law. Notwithstanding anything to the contrary in this section, the Developer shall not be required to indemnify the City in the event the Claims arise in whole or in part as a result of the City's breach of this agreement or a separate agreement pertaining to the property governed by this agreement.

3.40 Venue

Venue of any action brought hereunder shall be in the City of Bastrop, Bastrop County, Texas.

3.50 Assignment

This Agreement, any part hereof, or any interest herein shall not be assigned by the Developer without written consent of the City Manager, said consent shall not be unreasonably withheld, and it is further agreed that such written consent will not be granted for the assignment, transfer, pledge and/or conveyance of any refunds due or to become due to the Developer except that such assignment, transfer, pledge and/or conveyance shall be for the full amount of the total of all such refunds due or to become due hereunder nor shall assignment release assignor or assignee from any Development assurances responsibilities set forth and all and herein. Notwithstanding the foregoing, however, Developer shall have the right to assign its rights hereunder, in whole or in part, to any future owner of all or any part of the Pearl 75 Commercial Property so long as such assignee enters into a joinder to this Agreement and confirms to the City that the insurance, bond, and other requirements hereunder continue to be satisfied.

<u>3.60</u>. <u>Replat of the Pearl 75 Commercial Property</u>. Developer does hereby confirm that the Pearl 75 Commercial Property shall be re-subdivided no later than the expiration date of the Preliminary Plat in accordance with Article 4.6 of the City's

Technical Code, being 2 years from the date the Preliminary Plat was approved, unless extended as a result of progress being made toward the completion of the project reflected therein, as set forth in such Article 4.6 and the City of Bastrop Code of Ordinances.

Signature Page Follows

IN TESTIMONY WHEREOF, the City of Bastrop has caused this instrument to be executed in duplicate in its name and on its behalf by its City Manager, attested by its City Secretary, with the corporate seal of the City affixed, and said Developer has executed this instrument in duplicate, at the City of Bastrop, Texas this the ___day of July, 2023.

PRC 01 BASTROP, LLC, a Texas limited liability company

By: Pearl River Companies, LLC, a Texas limited liability company, its manager

> By: Name: Mason Mote Title: Managing Member

By:___

Name: Spencer Harkness Title: Managing Member

Ann Franklin City Secretary

Date

APPROVED AS TO FORM:

Alan Bojorquez City Attorney Date

Distribution of Originals:

Developer City Secretary Planning and Development Department

CITY OF BASTROP, TEXAS

By:__

Name: Sylvia Carrillo, ICMA-CM, CPM Title: City Manager IN TESTIMONY WHEREOF, the City of Bastrop has caused this instrument to be executed in duplicate in its name and on its behalf by its City Manager, attested by its City Secretary, with the corporate seal of the City affixed, and said Developer has executed this instrument in duplicate, at the City of Bastrop, Texas this the ___day of July, 2023.

PRC 01 BASTROP, LLC,

a Texas limited liability company

By: Pearl River Companies, LLC, a Texas limited liability company, its manager CITY OF BASTROP, TEXAS

By:_____ Name: Sylvia Carrillo, ICMA-CM, CPM Title: City Manager

By:_____ Name: Mason Mote Title: Managing Member

By:

Name: Spencer Harkness Title: Managing Member

Ann Franklin City Secretary

Date

Date

APPROVED AS TO FORM:

Alan Bojorquez City Attorney

Distribution of Originals:

Developer City Secretary Planning and Development Department

Exhibit A Pearl River Commercial Land

74.974 acre tract described in instrument to PRC 01 Bastrop, LLC, recorded in Document No. 202200112 of the Official Public Records of Bastrop County, **less and except** (i) 14.024 acres of land conveyed to Blakey Owner Apartments II, LLC, by that certain Special Warranty Deed dated as of March 31, 2023, and recorded on April 3, 2023, under Document No. 202304799 of the Official Public Records of Bastrop County, Texas and (ii) 11.129 acres of land conveyed to Blakey Owner Apartments, LLC, by that certain Special Warranty Deed dated as of March 31, 2023, and recorded April 3, 2023, under Document No. 202304799 of the Official Public Records of Bastrop County, Texas and (ii) 11.129 acres of land conveyed to Blakey Owner Apartments, LLC, by that certain Special Warranty Deed dated as of March 31, 2023, and recorded April 3, 2023, under Document No. 202304798 of the Official Public Records of Bastrop County, Texas

Exhibit B Pearl 75 Tree Mitigation Obligation Chart

POINT NUMBER	FULL DESCRIPTION	SPECIES	INCHES	PROTECTED INCHES	HERRITAGE ?
31209	26" MESQUITE	MESQUITE	26	0	
31210	29.5" MESQUITE	MESQUITE	29.5	0	
31211	15" MESQUITE	MESQUITE	15	0	
31212	15" MESQUITE	MESQUITE	15	0	
31213	14.5" MESQUITE	MESQUITE	14.5	0	
31214	13.5" MESQUITE	MESQUITE	13.5	0	
31215	15" MESQUITE	MESQUITE	15	0	
31216	20" CEDAR ELM	CEDAR ELM	20	20	
31217	16" ASH	ASH	16	0	
31218	13" ASH	ASH	13	0	
31219	43.5" MISC. TREE	MISC. TREE	43.5	43.5	HERRITAGE
31221	15" MESQUITE	MESQUITE	15	0	
31222	19.5" MESQUITE	MESQUITE	19.5	0	
31223	15" CEDAR	CEDAR	15	15	
31224	13" MESQUITE	MESQUITE	13	0	
31225	16" MESQUITE	MESQUITE	16	0	
31226	13.5" MESQUITE	MESQUITE	13.5	0	
31227	14" MESQUITE	MESQUITE	14	0	
31228	18" CHINABERRY	CHINABERRY	18	0	
31229	23.5" MESQUITE	MESQUITE	23.5	0	
31230	14" MESQUITE	MESQUITE	14	0	
31231	14" MESQUITE	MESQUITE	14	0	
31232	14" CHINABERRY	CHINABERRY	14	0	
31233	24.5" MESQUITE	MESQUITE	24.5	0	
31234	13" CEDAR ELM	CEDAR ELM	13	13	
31235	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31236	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
31237	14" CEDAR ELM	CEDAR ELM	14	14	
31238	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
31239	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31240	13" CEDAR ELM	CEDAR ELM	13	13	
31241	13.5" MESQUITE	MESQUITE	13.5	0	
31242	14" CEDAR ELM	CEDAR ELM	14	14	
31243	15" CEDAR ELM	CEDAR ELM	15	15	
31244	15" CEDAR ELM	CEDAR ELM	15	15	
31245	15" CEDAR ELM	CEDAR ELM	15	15	
31246	13" CEDAR ELM	CEDAR ELM	13	13	
31247	17" CEDAR ELM	CEDAR ELM	17	17	
31248	13" CEDAR ELM	CEDAR ELM	13	13	

31249	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5
31250	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
31251	18" MESQUITE	MESQUITE	18	0
31252	14" CEDAR ELM	CEDAR ELM	14	14
31253	13" CEDAR ELM	CEDAR ELM	13	13
31254	14" CEDAR ELM	CEDAR ELM	14	14
31255	14" CEDAR ELM	CEDAR ELM	14	14
31256	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5
31257	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
31258	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5
31259	20" CEDAR ELM	CEDAR ELM	20	20
31260	15" CEDAR ELM	CEDAR ELM	15	15
31261	13" CEDAR ELM	CEDAR ELM	13	13
31262	16" ASH	ASH	16	0
31263	16.5" CEDAR ELM	CEDAR ELM	16.5	16.5
31264	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5
31265	16.5" CEDAR ELM	CEDAR ELM	16.5	16.5
31266	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5
31267	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
31268	18" CHINABERRY	CHINABERRY	18	0
31269	20" CEDAR ELM	CEDAR ELM	20	20
31270	15" CEDAR ELM	CEDAR ELM	15	15
31271	13" MESQUITE	MESQUITE	13	0
31272	14" MESQUITE	MESQUITE	14	0
31273	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
31274	14" CEDAR ELM	CEDAR ELM	14	14
31275	14" MESQUITE	MESQUITE	14	0
31276	18" MESQUITE	MESQUITE	18	0
31277	15.5" MESQUITE	MESQUITE	15.5	0
31278	18.5" CEDAR ELM	CEDAR ELM	18.5	18.5
31279	13" CEDAR ELM	CEDAR ELM	13	13
31281	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
31282	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5
31283	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
31284	14" CEDAR ELM	CEDAR ELM	14	14
31285	17" CEDAR ELM	CEDAR ELM	17	17
31286	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
31287	17" CEDAR ELM	CEDAR ELM	17	17
31288	14.5" MESQUITE	MESQUITE	14.5	0
31289	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
31290	15" CEDAR ELM	CEDAR ELM	15	15
31291	15" CEDAR ELM	CEDAR ELM	15	15
31292	13" MESQUITE	MESQUITE	13	0
31293	14" MESQUITE	MESQUITE	14	0
31294	14" MESQUITE	MESQUITE	14	0

31295	14" MESQUITE	MESQUITE	14	0
31296	17" MESQUITE	MESQUITE	17	0
31297	15" CEDAR ELM	CEDAR ELM	15	15
31298	13" MESQUITE	MESQUITE	13	0
31299	18.5" MESQUITE	MESQUITE	18.5	0
31300	19" MESQUITE	MESQUITE	19	0
31301	18.5" MESQUITE	MESQUITE	18.5	0
31302	15" MESQUITE	MESQUITE	15	0
31303	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5
31304	18" MESQUITE	MESQUITE	18	0
31305	15" MESQUITE	MESQUITE	15	0
31306	18" MESQUITE	MESQUITE	18	0
31307	13" CEDAR ELM	CEDAR ELM	13	13
31308	16.5" MESQUITE	MESQUITE	16.5	0
31309	13" CEDAR ELM	CEDAR ELM	13	13
31310	15" CEDAR ELM	CEDAR ELM	15	15
31311	15" MESQUITE	MESQUITE	15	0
31312	13" CEDAR ELM	CEDAR ELM	13	13
31313	14" CEDAR ELM	CEDAR ELM	14	14
31314	13" MESQUITE	MESQUITE	13	0
31315	17" MESQUITE	MESQUITE	17	0
31316	16.5" MESQUITE	MESQUITE	16.5	0
31317	19" MESQUITE	MESQUITE	19	0
31318	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5
31319	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5
31320	13.5" MESQUITE	MESQUITE	13.5	0
31321	13" CEDAR ELM	CEDAR ELM	13	13
31322	13" CEDAR ELM	CEDAR ELM	13	13
31323	22" MESQUITE	MESQUITE	22	0
31324	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5
31325	22" MESQUITE	MESQUITE	22	0
31326	16" MESQUITE	MESQUITE	16	0
31327	13" MESQUITE	MESQUITE	13	0
31328	14" MESQUITE	MESQUITE	14	0
31329	15.5" MESQUITE	MESQUITE	15.5	0
31330	15" MESQUITE	MESQUITE	15	0
31331	14" MESQUITE	MESQUITE	14	0
31332	15.5" MESQUITE	MESQUITE	15.5	0
31333	13" MESQUITE	MESQUITE	13	0
31334	14" MESQUITE	MESQUITE	14	0
31335	13" CEDAR ELM	CEDAR ELM	13	13
31336	16" CEDAR ELM	CEDAR ELM	16	16
31337	20.5" MESQUITE	MESQUITE	20.5	0
31338	14" MESQUITE	MESQUITE	14	0
31339	16.5" MESQUITE	MESQUITE	16.5	0
	-	-		

31340	15.5" MESQUITE	MESQUITE	15.5	0	
31341	17.5" MESQUITE	MESQUITE	17.5	0	
31342	14" CEDAR ELM	CEDAR ELM	14	14	
31343	18.5" MESQUITE	MESQUITE	18.5	0	
31344	17.5" MESQUITE	MESQUITE	17.5	0	
31345	14.5" MESQUITE	MESQUITE	14.5	0	
31346	19" MESQUITE	MESQUITE	19	0	
31347	13.5" MESQUITE	MESQUITE	13.5	0	
31348	16.5" MESQUITE	MESQUITE	16.5	0	
31349	15" CEDAR ELM	CEDAR ELM	15	15	
31350	18" CEDAR ELM	CEDAR ELM	18	18	
31352	14" CEDAR ELM	CEDAR ELM	14	14	
31353	23" CEDAR ELM	CEDAR ELM	23	23	
31354	14" CEDAR ELM	CEDAR ELM	14	14	
31355	14" CEDAR ELM	CEDAR ELM	14	14	
31356	23.5" MESQUITE	MESQUITE	23.5	0	
31357	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
31358	15" MESQUITE	MESQUITE	15	0	
31359	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31360	16" CEDAR ELM	CEDAR ELM	16	16	
31361	17" CEDAR ELM	CEDAR ELM	17	17	
31362	32" CEDAR ELM	CEDAR ELM	32	32	HERRITAGE
31363	16" CEDAR ELM	CEDAR ELM	16	16	
31364	14" CEDAR ELM	CEDAR ELM	14	14	
31365	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31366	13" CEDAR ELM	CEDAR ELM	13	13	
31367	14" CEDAR ELM	CEDAR ELM	14	14	
31368	17" CEDAR ELM	CEDAR ELM	17	17	
31369	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
31370	19" CEDAR ELM	CEDAR ELM	19	19	
31371	19" CEDAR ELM	CEDAR ELM	19	19	
31372	13" MESQUITE	MESQUITE	13	0	
31373	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31374	17.5" CHINABERRY	CHINABERRY	17.5	0	
31375	13" CHINABERRY	CHINABERRY	13	0	
31376	31" MESQUITE	MESQUITE	31	0	
31377	16" CEDAR	CEDAR	16	16	
31378	18" MESQUITE	MESQUITE	18	0	
31379	22" MESQUITE	MESQUITE	22	0	
31380	25.5" MESQUITE	MESQUITE	25.5	0	
31381	15.5" CEDAR	CEDAR	15.5	15.5	
31382	15" CEDAR	CEDAR	15	15	
31383	13" MESQUITE	MESQUITE	13	0	
31384	13" CEDAR	CEDAR	13	13	

31385	14" CEDAR	CEDAR	14	14	
31386	19.5" CEDAR ELM	CEDAR ELM	19.5	19.5	
31387	13.5" CEDAR	CEDAR	13.5	13.5	
31388	24" MESQUITE	MESQUITE	24	0	
31389	16.5" HACKBERRY	HACKBERRY	16.5	0	
31390	14.5" CEDAR	CEDAR	14.5	14.5	
31391	21" MESQUITE	MESQUITE	21	0	
31392	15.5" CEDAR	CEDAR	15.5	15.5	
31393	23" MESQUITE	MESQUITE	23	0	
31394	21" MESQUITE	MESQUITE	21	0	
31395	13" CEDAR ELM	CEDAR ELM	13	13	
31396	16" CEDAR ELM	CEDAR ELM	16	16	
31397	17.5" MESQUITE	MESQUITE	17.5	0	
31398	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31399	16" CEDAR	CEDAR	16	16	
31400	17" CEDAR	CEDAR	17	17	
31401	13" CEDAR	CEDAR	13	13	
31402	14" CEDAR ELM	CEDAR ELM	14	14	
31403	13" CEDAR	CEDAR	13	13	
31404	37" POST OAK	POST OAK	37	37	HERRITAGE
31405	13.5" POST OAK	POST OAK	13.5	13.5	
31406	17.5" CEDAR ELM	CEDAR ELM	17.5	17.5	
31407	15" MESQUITE	MESQUITE	15	0	
31408	16" CEDAR	CEDAR	16	16	
31409	14" MESQUITE	MESQUITE	14	0	
31410	13.5" CEDAR	CEDAR	13.5	13.5	
31411	13.5" CEDAR	CEDAR	13.5	13.5	
31412	15.5" CEDAR	CEDAR	15.5	15.5	
31413	14.5" MESQUITE	MESQUITE	14.5	0	
31414	17.5" MESQUITE	MESQUITE	17.5	0	
31415	16.5" MESQUITE	MESQUITE	16.5	0	
31416	13" MESQUITE	MESQUITE	13	0	
31417	22" MESQUITE	MESQUITE	22	0	
31418	17" ASH	ASH	17	0	
31419	13" HACKBERRY	HACKBERRY	13	0	
31420	17" CEDAR	CEDAR	17	17	
31421	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
31422	18.5" CEDAR ELM	CEDAR ELM	18.5	18.5	
31423	19" CEDAR ELM	CEDAR ELM	19	19	
31424	14" CEDAR ELM	CEDAR ELM	14	14	
31425	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
31426	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31427	14" CEDAR ELM	CEDAR ELM	14	14	
31428	13" CEDAR ELM	CEDAR ELM	13	13	
31429	13" MESQUITE	MESQUITE	13	0	

31430	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31431	14" CEDAR ELM	CEDAR ELM	14	14	
31432	16" CEDAR ELM	CEDAR ELM	16	16	
31433	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5	
31434	17" CEDAR ELM	CEDAR ELM	17	17	
31435	16" CEDAR ELM	CEDAR ELM	16	16	
31436	14" CEDAR ELM	CEDAR ELM	14	14	
31437	26" CEDAR ELM	CEDAR ELM	26	26	HERR
31438	18.5" CEDAR ELM	CEDAR ELM	18.5	18.5	
31439	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
31440	14" CEDAR ELM	CEDAR ELM	14	14	
31441	17.5" CEDAR ELM	CEDAR ELM	17.5	17.5	
31442	16" CEDAR ELM	CEDAR ELM	16	16	
31443	17" CEDAR ELM	CEDAR ELM	17	17	
31444	18" CEDAR ELM	CEDAR ELM	18	18	
31445	18" CEDAR ELM	CEDAR ELM	18	18	
31446	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
31447	19" CEDAR ELM	CEDAR ELM	19	19	
31448	17" CEDAR ELM	CEDAR ELM	17	17	
31449	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31450	18.5" CEDAR ELM	CEDAR ELM	18.5	18.5	
31451	21" CEDAR ELM	CEDAR ELM	21	21	
31453	17" MESQUITE	MESQUITE	17	0	
31454	16" CEDAR ELM	CEDAR ELM	16	16	
31455	13" CEDAR ELM	CEDAR ELM	13	13	
31456	13" CEDAR ELM	CEDAR ELM	13	13	
31457	13" CEDAR ELM	CEDAR ELM	13	13	
31458	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31459	17.5" CEDAR ELM	CEDAR ELM	17.5	17.5	
31460	14" CEDAR ELM	CEDAR ELM	14	14	
31461	13" CEDAR ELM	CEDAR ELM	13	13	
31462	16" MESQUITE	MESQUITE	16	0	
31463	13" CEDAR ELM	CEDAR ELM	13	13	
31464	13" CEDAR ELM	CEDAR ELM	13	13	
31465	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31466	13" MESQUITE	MESQUITE	13	0	
31467	13.5" MESQUITE	MESQUITE	13.5	0	
31468	13" CEDAR ELM	CEDAR ELM	13	13	
31469	14" CEDAR ELM	CEDAR ELM	14	14	
31470	14" CEDAR ELM	CEDAR ELM	14	14	
31471	13" CEDAR ELM	CEDAR ELM	13	13	
31472	18" CEDAR ELM	CEDAR ELM	18	18	
31473	13" CEDAR ELM	CEDAR ELM	13	13	
31474	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
31475	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	

31476	15" CEDAR ELM	CEDAR ELM	15	15
31477	15" CEDAR ELM	CEDAR ELM	15	15
31478	13" CEDAR ELM	CEDAR ELM	13	13
31479	13" CEDAR ELM	CEDAR ELM	13	13
31480	17.5" CEDAR ELM	CEDAR ELM	17.5	17.5
31481	13" MESQUITE	MESQUITE	13	0
31482	14" CEDAR ELM	CEDAR ELM	14	14
31483	23" MESQUITE	MESQUITE	23	0
31484	23" MESQUITE	MESQUITE	23	0
31485	16.5" MESQUITE	MESQUITE	16.5	0
31486	13" HACKBERRY	HACKBERRY	13	0
31487	13" CEDAR	CEDAR	13	13
31488	13" CEDAR	CEDAR	13	13
31489	17" MESQUITE	MESQUITE	17	0
31490	13" CEDAR	CEDAR	13	13
31491	16.5" CEDAR	CEDAR	16.5	16.5
31492	13.5" CEDAR	CEDAR	13.5	13.5
31493	15" MESQUITE	MESQUITE	15	0
31494	16.5" MESQUITE	MESQUITE	16.5	0
31495	15" CEDAR	CEDAR	15	15
31496	13" CHINABERRY	CHINABERRY	13	0
31497	13.5" CEDAR	CEDAR	13.5	13.5
31498	15.5" MESQUITE	MESQUITE	15.5	0
31499	15" CEDAR ELM	CEDAR ELM	15	15
31500	13" CEDAR ELM	CEDAR ELM	13	13
31501	15" MESQUITE	MESQUITE	15	0
31502	14.5" MESQUITE	MESQUITE	14.5	0
31503	13.5" MESQUITE	MESQUITE	13.5	0
31504	16" CEDAR ELM	CEDAR ELM	16	16
31505	13" CEDAR ELM	CEDAR ELM	13	13
31506	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5
31507	13" CEDAR ELM	CEDAR ELM	13	13
31508	13" CEDAR ELM	CEDAR ELM	13	13
31509	14" CEDAR ELM	CEDAR ELM	14	14
31510	17.5" CEDAR ELM	CEDAR ELM	17.5	17.5
31511	13" CEDAR ELM	CEDAR ELM	13	13
31512	14" CEDAR ELM	CEDAR ELM	14	14
31513	17" CEDAR ELM	CEDAR ELM	17	17
31514	18" CEDAR ELM	CEDAR ELM	18	18
31515	17" CEDAR ELM	CEDAR ELM	17	17
31516	13" CEDAR ELM	CEDAR ELM	13	13
31517	13" CEDAR ELM	CEDAR ELM	13	13
31518	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
31519	13" CEDAR ELM	CEDAR ELM	13	13
31520	15" MESQUITE	MESQUITE	15	0

31521	15" CEDAR ELM	CEDAR ELM	15	15
31522	15" MESQUITE	MESQUITE	15	0
31523	15" CEDAR ELM	CEDAR ELM	15	15
31524	15" CEDAR ELM	CEDAR ELM	15	15
31525	17" CEDAR ELM	CEDAR ELM	17	17
31526	13" CEDAR ELM	CEDAR ELM	13	13
31527	15" CEDAR ELM	CEDAR ELM	15	15
31528	19" CEDAR ELM	CEDAR ELM	19	19
31529	17" CEDAR ELM	CEDAR ELM	17	17
31530	14" CEDAR ELM	CEDAR ELM	14	14
31531	15" CHINABERRY	CHINABERRY	15	0
31532	16" CHINABERRY	CHINABERRY	16	0
31533	17.5"	CHINABERRY	17.5	0
21222	CHINABERRY	CHINADERKI	17.5	0
31534	13" CEDAR	CEDAR	13	13
31535	19" CHINABERRY	CHINABERRY	19	0
31536	16.5" HACKBERRY	HACKBERRY	16.5	0
31537	13" MESQUITE	MESQUITE	13	0
31538	13" HACKBERRY	HACKBERRY	13	0
31539	15" MESQUITE	MESQUITE	15	0
31540	23" MESQUITE	MESQUITE	23	0
31541	25" MESQUITE	MESQUITE	25	0
31542	18" MESQUITE	MESQUITE	18	0
31545	14" MESQUITE	MESQUITE	14	0
31546	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5
31547	16" MESQUITE	MESQUITE	16	0
31548	15" CEDAR ELM	CEDAR ELM	15	15
31549	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
31550	15" MESQUITE	MESQUITE	15	0
31551	20.5" MESQUITE	MESQUITE	20.5	0
31552	14" CEDAR ELM	CEDAR ELM	14	14
31553	13" MESQUITE	MESQUITE	13	0
31554	13" CEDAR ELM	CEDAR ELM	13	13
31555	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5
31556	13" CEDAR ELM	CEDAR ELM	13	13
31557	13" CEDAR ELM	CEDAR ELM	13	13
31558	19" CEDAR ELM	CEDAR ELM	19	19
31559	14" CEDAR ELM	CEDAR ELM	14	14
31560	15" CEDAR ELM	CEDAR ELM	15	15
31561	18" CHINABERRY	CHINABERRY	18	0
31562	14" MESQUITE	MESQUITE	14	0
31563	15" MESQUITE	MESQUITE	15	0
31564	19.5" MESQUITE	MESQUITE	19.5	0
31565	13" CEDAR ELM	CEDAR ELM	13	13
31566	19" MESQUITE	MESQUITE	19	0

31567	18" CEDAR ELM	CEDAR ELM	18	18	
31568	14" MESQUITE	MESQUITE	14	0	
31569	23" CEDAR ELM	CEDAR ELM	23	23	
31570	19" CEDAR ELM	CEDAR ELM	19	19	
31571	21" POST OAK	POST OAK	21	21	
31572	14" CEDAR ELM	CEDAR ELM	14	14	
31573	19" MESQUITE	MESQUITE	19	0	
31574	15" CEDAR ELM	CEDAR ELM	15	15	
31575	22" CEDAR ELM	CEDAR ELM	22	22	
31576	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31577	15" CEDAR ELM	CEDAR ELM	15	15	
31578	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31579	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
31580	14" MESQUITE	MESQUITE	14	0	
31581	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
31582	14" CEDAR ELM	CEDAR ELM	14	14	
31583	13.5" MESQUITE	MESQUITE	13.5	0	
31584	17.5" MESQUITE	MESQUITE	17.5	0	
31585	16" MESQUITE	MESQUITE	16	0	
31586	15" MESQUITE	MESQUITE	15	0	
31587	13" MESQUITE	MESQUITE	13	0	
31588	18.5" MESQUITE	MESQUITE	18.5	0	
31589	24.5" MESQUITE	MESQUITE	24.5	0	
31590	14" CEDAR	CEDAR	14	14	
31591	13.5" MESQUITE	MESQUITE	13.5	0	
31592	14.5" MESQUITE	MESQUITE	14.5	0	
31593	16.5" MESQUITE	MESQUITE	16.5	0	
31594	18.5" MESQUITE	MESQUITE	18.5	0	
31595	15" CEDAR	CEDAR	15	15	
31596	18.5" MESQUITE	MESQUITE	18.5	0	
31597	13.5" MESQUITE	MESQUITE	13.5	0	
31598	14" MESQUITE	MESQUITE	14	0	
31599	13" CEDAR	CEDAR	13	13	
31600	15" MESQUITE	MESQUITE	15	0	
31601	16" MESQUITE	MESQUITE	16	0	
31602	14.5" MESQUITE	MESQUITE	14.5	0	
31603	14" CEDAR ELM	CEDAR ELM	14	14	
31604	17.5" CEDAR ELM	CEDAR ELM	17.5	17.5	
31605	19.5" CEDAR ELM	CEDAR ELM	19.5	19.5	
31606	17.5" CEDAR ELM	CEDAR ELM	17.5	17.5	
31607	33" POST OAK	POST OAK	33	33	HERRITAGE
31608	13" CEDAR ELM	CEDAR ELM	13	13	
31609	16" CEDAR ELM	CEDAR ELM	16	16	
31610	15" CEDAR ELM	CEDAR ELM	15	15	
31611	15" CEDAR ELM	CEDAR ELM	15	15	

31612	16" CEDAR ELM	CEDAR ELM	16	16	
31613	14" CEDAR ELM	CEDAR ELM	14	14	
31614	19" CEDAR ELM	CEDAR ELM	19	19	
31615	17.5" MESQUITE	MESQUITE	17.5	0	
31616	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5	
31617	16" MESQUITE	MESQUITE	16	0	
31618	27" POST OAK	POST OAK	27	27	HERRITAGE
31619	14" CEDAR ELM	CEDAR ELM	14	14	
31620	13" MESQUITE	MESQUITE	13	0	
31621	16.5" MESQUITE	MESQUITE	16.5	0	
31622	20" CEDAR ELM	CEDAR ELM	20	20	
31623	14" MESQUITE	MESQUITE	14	0	
31624	15.5" HACKBERRY	HACKBERRY	15.5	0	
31625	15" HACKBERRY	HACKBERRY	15	0	
31626	14" HACKBERRY	HACKBERRY	14	0	
31627	13.5" CEDAR	CEDAR	13.5	13.5	
31628	26.5" MESQUITE	MESQUITE	26.5	0	
31629	16" CEDAR	CEDAR	16	16	
31630	18" CHINABERRY	CHINABERRY	18	0	
31631	16" CEDAR	CEDAR	16	16	
31632	18.5" MESQUITE	MESQUITE	18.5	0	
31633	13.5" HACKBERRY	HACKBERRY	13.5	0	
31634	13.5" HACKBERRY	HACKBERRY	13.5	0	
31635	14.5" MESQUITE	MESQUITE	14.5	0	
31636	14.5" MESQUITE	MESQUITE	14.5	0	
31637	17.5" MESQUITE	MESQUITE	17.5	0	
31638	16" MESQUITE	MESQUITE	16	0	
31639	17" MESQUITE	MESQUITE	17	0	
31640	25.5" POST OAK	POST OAK	25.5	25.5	HERRITAGE
31641	16.5" CEDAR ELM	CEDAR ELM	16.5	16.5	
31642	14" MESQUITE	MESQUITE	14	0	
31643	16" CEDAR ELM	CEDAR ELM	16	16	
31644	13" MESQUITE	MESQUITE	13	0	
31645	13" MESQUITE	MESQUITE	13	0	
31646	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5	
31647	14" MESQUITE	MESQUITE	14	0	
31648	20.5" CHINABERRY	CHINABERRY	20.5	0	
31649	13" MESQUITE	MESQUITE	13	0	
31650	20" MESQUITE	MESQUITE	20	0	
31651	16" MESQUITE	MESQUITE	16	0	
31653	16.5" MESQUITE	MESQUITE	16.5	0	
31654	17" MESQUITE	MESQUITE	17	0	
31655	13" CEDAR	CEDAR	13	13	
31656	14.5" CEDAR	CEDAR	14.5	14.5	

31657	15" CEDAR	CEDAR	15	15
31658	14" HACKBERRY	HACKBERRY	14	0
31659	13" CEDAR	CEDAR	13	13
31660	16" MESQUITE	MESQUITE	16	0
31661	19.5" POST OAK	POST OAK	19.5	19.5
31662	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5
31663	13.5" MESQUITE	MESQUITE	13.5	0
31664	15.5" MISC. TREE	MISC. TREE	15.5	15.5
31665	23" MESQUITE	MESQUITE	23	0
31666	15.5" MESQUITE	MESQUITE	15.5	0
31667	17" MESQUITE	MESQUITE	17	0
31668	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5
31669	19.5" MESQUITE	MESQUITE	19.5	0
31670	22" MESQUITE	MESQUITE	22	0
31671	17.5" CEDAR ELM	CEDAR ELM	17.5	17.5
31672	13" CEDAR ELM	CEDAR ELM	13	13
31673	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5
31674	19" BOIS D'ARC	BOIS D'ARC	19	0
31675	19" CEDAR ELM	CEDAR ELM	19	19
31676	17" CEDAR ELM	CEDAR ELM	17	17
31677	15" CEDAR ELM	CEDAR ELM	15	15
31678	22" MESQUITE	MESQUITE	22	0
31679	18" MESQUITE	MESQUITE	18	0
31680	18" MESQUITE	MESQUITE	18	0
31681	16.5" MESQUITE	MESQUITE	16.5	0
31682	21.5" MESQUITE	MESQUITE	21.5	0
31683	17.5" MESQUITE	MESQUITE	17.5	0
31684	18.5" MESQUITE	MESQUITE	18.5	0
31685	17.5" MESQUITE	MESQUITE	17.5	0
31686	21.5" MESQUITE	MESQUITE	21.5	0
31687	17.5" MESQUITE	MESQUITE	17.5	0
31688	17" CHINABERRY	CHINABERRY	17	0
31689	21" MESQUITE	MESQUITE	21	0
31690	16.5" MESQUITE	MESQUITE	16.5	0
31691	28" MESQUITE	MESQUITE	28	0
31692	30.5" MESQUITE	MESQUITE	30.5	0
31693	19" MESQUITE	MESQUITE	19	0
31694	14" HACKBERRY	HACKBERRY	14	0
24 6 2 5	21.5"		24 5	
31695	CHINABERRY	CHINABERRY	21.5	0
31696	15" CEDAR ELM	CEDAR ELM	15	15
31697	16.5" BOIS D'ARC	BOIS D'ARC	16.5	0
31698	22" MESQUITE	MESQUITE	22	0
31699	15" MESQUITE	MESQUITE	15	0
31700	14" CEDAR	CEDAR	14	14

51/02	17 IVIESQUITE	MESQUITE	17	0
31703	13" CEDAR	CEDAR	13	13
31704	18" CEDAR	CEDAR	18	18
31705	18" CEDAR	CEDAR	18	18
31706	18" MESQUITE	MESQUITE	18	0
31707	14.5" CHINABERRY	CHINABERRY	14.5	0
31708	16" MESQUITE	MESQUITE	16	0
31710	14" MESQUITE	MESQUITE	14	0
31711	21" MESQUITE	MESQUITE	21	0
31712	13" HACKBERRY	HACKBERRY	13	0
31713	13" MESQUITE	MESQUITE	13	0
31714	15" MESQUITE	MESQUITE	15	0
31715	18.5" MESQUITE	MESQUITE	18.5	0
31716	16.5" MESQUITE	MESQUITE	16.5	0
31717	24.5" CHINABERRY	CHINABERRY	24.5	0
31718	15.5" MESQUITE	MESQUITE	15.5	0
31719	17.5" CEDAR	CEDAR	17.5	17.5
31720	13.5" CEDAR	CEDAR	13.5	13.5
31721	13.5" CHINABERRY	CHINABERRY	13.5	0
31722	14" CEDAR	CEDAR	14	14
31725	14" MESQUITE	MESQUITE	14	0
31726	16" MESQUITE	MESQUITE	16	0
31727	20.5" MESQUITE	MESQUITE	20.5	0
31728	15.5" MESQUITE	MESQUITE	15.5	0
31729	14" CEDAR	CEDAR	14	14
31730	18.5" CEDAR	CEDAR	18.5	18.5
31731	14" CEDAR	CEDAR	14	14
31732	13" CEDAR	CEDAR	13	13
31733	17" ASH	ASH	17	0
31734	14" MESQUITE	MESQUITE	14	0
31735	18" CEDAR	CEDAR	18	18
31736	15" CEDAR	CEDAR	15	15
31737	14" CEDAR	CEDAR	14	14
31738	17" CEDAR	CEDAR	17	17
31739	13" HACKBERRY	HACKBERRY	13	0
31740	13" HACKBERRY	HACKBERRY	13	0
31741	21" POST OAK	POST OAK	21	21
31742	17" POST OAK	POST OAK	17	17
31743	14" POST OAK	POST OAK	14	14
31744	23" POST OAK	POST OAK	23	23
31745	22.5" POST OAK	POST OAK	22.5	22.5

CEDAR ELM

MESQUITE

18.5

17

18.5

0

31701

31702

18.5" CEDAR ELM

17" MESQUITE

31746	18" POST OAK	POST OAK	18	18	
31747	26.5" POST OAK	POST OAK	26.5	26.5	HERRITAGE
31748	17" HACKBERRY	HACKBERRY	17	0	
31749	24.5" HACKBERRY	HACKBERRY	24.5	0	
31750	13.5" MESQUITE	MESQUITE	13.5	0	
31751	20.5" MESQUITE	MESQUITE	20.5	0	
31752	13" CEDAR	CEDAR	13	13	
31753	13.5" CEDAR	CEDAR	13.5	13.5	
31754	13" GUM	GUM	13	13	
31755	15" OAK	OAK	15	15	
31756	16" MESQUITE	MESQUITE	16	0	
31757	24" MESQUITE	MESQUITE	24	0	
31758	15.5" CEDAR	CEDAR	15.5	15.5	
31759	13" CEDAR	CEDAR	13	13	
31760	26" MESQUITE	MESQUITE	26	0	
31761	28" GUM	GUM	28	28	HERRITAGE
31762	15" CEDAR	CEDAR	15	15	
31763	20.5" MESQUITE	MESQUITE	20.5	0	
31764	20" MESQUITE	MESQUITE	20	0	
31765	14.5" MESQUITE	MESQUITE	14.5	0	
31766	28" MESQUITE	MESQUITE	28	0	
31767	13" CEDAR	CEDAR	13	13	
31768	14.5" MESQUITE	MESQUITE	14.5	0	
31769	15" CEDAR	CEDAR	15	15	
31770	22" MESQUITE	MESQUITE	22	0	
31771	17" MESQUITE	MESQUITE	17	0	
24772	13.5"		10 F	0	
31772	CHINABERRY	CHINABERRY	13.5	0	
31773	20.5" HACKBERRY	HACKBERRY	20.5	0	
31774	21.5" MESQUITE	MESQUITE	21.5	0	
31775	17" MESQUITE	MESQUITE	17	0	
31776	14" MESQUITE	MESQUITE	14	0	
31777	13.5" MESQUITE	MESQUITE	13.5	0	
31778	19" MESQUITE	MESQUITE	19	0	
31779	14" MESQUITE	MESQUITE	14	0	
31780	14.5" MESQUITE	MESQUITE	14.5	0	
31781	16.5" MESQUITE	MESQUITE	16.5	0	
31782	14.5" MESQUITE	MESQUITE	14.5	0	
31783	24.5" MESQUITE	MESQUITE	24.5	0	
31784	22" MESQUITE	MESQUITE	22	0	
31785	14" BOIS D'ARC	BOIS D'ARC	14	0	
31786	25.5" MESQUITE	MESQUITE	25.5	0	
31787	15" MESQUITE	MESQUITE	15	0	
31788	18" CHINABERRY	CHINABERRY	18	0	
31789	15" MESQUITE	MESQUITE	15	0	

31790	15" MESQUITE	MESQUITE	15	0
31791	20.5" MESQUITE	MESQUITE	20.5	0
31792	16" MESQUITE	MESQUITE	16	0
31794	21.5" MESQUITE	MESQUITE	21.5	0
31795	19.5" MESQUITE	MESQUITE	19.5	0
31796	18" MESQUITE	MESQUITE	18	0
31797	23" MESQUITE	MESQUITE	23	0
31798	15" MESQUITE	MESQUITE	15	0
31799	19" MESQUITE	MESQUITE	19	0
31800	13" MESQUITE	MESQUITE	13	0
31801	15.5" MESQUITE	MESQUITE	15.5	0
31802	15.5" MESQUITE	MESQUITE	15.5	0
31803	21" MESQUITE	MESQUITE	21	0
31804	13.5" MESQUITE	MESQUITE	13.5	0
31805	13" MESQUITE	MESQUITE	13	0
31806	16.5" ASH	ASH	16.5	0
31807	18" CHINABERRY	CHINABERRY	18	0
31811	17.5" MESQUITE	MESQUITE	17.5	0
31857	13" MESQUITE	MESQUITE	13	0
31858	13" CEDAR ELM	CEDAR ELM	13	13
31859	15" MESQUITE	MESQUITE	15	0
31860	13" MESQUITE	MESQUITE	13	0
	14.5"			
31861	CHINABERRY	CHINABERRY	14.5	0
31871	15.5" CEDAR	CEDAR	15.5	15.5
81024	15" CEDAR ELM	CEDAR ELM	15	15
81026	15.5" CEDAR ELM	CEDAR ELM	15.5	15.5
81094	14.5" CEDAR ELM	CEDAR ELM	14.5	14.5
81095	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
81097	13" CEDAR ELM	CEDAR ELM	13	13
81098	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
81099	13" CEDAR ELM	CEDAR ELM	13	13
81130	16" CEDAR ELM	CEDAR ELM	16	16
81131	14" CEDAR ELM	CEDAR ELM	14	14
81132	13" CEDAR ELM	CEDAR ELM	13	13
81166	18.5" CEDAR ELM	CEDAR ELM	18.5	18.5
81167	13.5" CEDAR ELM	CEDAR ELM	13.5	13.5
81174	18.5" CEDAR ELM	CEDAR ELM	18.5	18.5
81175	17" CEDAR ELM	CEDAR ELM	17	17
81176	19" MESQUITE	MESQUITE	19	0
81205	13" MESQUITE	MESQUITE	13	0
81206	18" MESQUITE	MESQUITE	18	0
81210	14" MESQUITE	MESQUITE	14	0
81211	16" MESQUITE	MESQUITE	16	0
81322	16.5" MESQUITE	MESQUITE	16.5	0
				-

81323 81324	26" MESQUITE 16.5" MESQUITE	MESQUITE MESQUITE	26 16.5	0 0	
				617	TOTAL TREES 316 9
				4925	INCHES 1232

SUBDIVISION BOND

Item 9K.

SU1154263 Bond No.

KNOW ALL MEN BY THESE PRESENTS, that we	PRC 01 BASTROP, LLC, a Texas limited liability company
, 2727 Allen Parkway, Suite 1600, Houston, TX 770)19
as Principal, and Arch Insurance Company	
authorized to do business in the State of Texas	, as Surety, are held and firmly bound unto
City of Bastrop	
	Nine Thousand Two Hundred and no/100
	(\$ 739,200.00) DOLLARS, lawful money of
the United States of America, for the payment of which	well and truly to be made, we bind ourselves, our heirs, executors,
administrators, successors and assigns, jointly and severally	, firmly by these presents.
WHEREAS, PRC 01 BASTROP, LLC, a Texas	limited liability company
has agreed to construct in Pearl 75 Commercial Prop	erty
the following improvements: Tree mitigation and repl	lacement
NOW, THEREFORE, THE CONDITION OF TH	HS OBLIGATION IS SUCH, that if the said Principal shall
construct, or have constructed, the improvements herein d	escribed and shall save the Obligee harmless from any loss, cost or
damage by reason of its failure to complete said work, the	en this obligation shall be null and void; otherwise to remain in full
force and effect.	Auroration 0000
Signed, sealed and dated this <u>18th</u> day of	August _, <u>2023</u> .
	PRC 01 BASTROP, LLC a Texas limited liability company
	Principal
	Ву:
Insurance Con	
CORPORATE SEAL 1971	Arch Insurance Company
A 1971	By: margaret a sinem
Missouri	Margaret A. Ginem Attorney-in-Fact

Inquiries: 813 210-4412

Margaret A. Ginem

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated. Not valid for Note, Loan, Letter of Credit, Currency Rate, Interest Rate or Residential Value Guarantees.

POWER OF ATTORNEY

Know All Persons By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal administrative office in Jersey City, New Jersey (hereinafter referred to as the "Company") does hereby appoint:

Anett Cardinale, David H. Carr and Margaret A. Ginem of Tampa, FL (EACH)

its true and lawful Attorney(s)in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed:

Any and all bonds, undertakings, recognizances and other surety obligations, in the penal sum not exceeding <u>Ninety Million</u> Dollars (90,000,000.00).

This authority does not permit the same obligation to be split into two or more bonds In order to bring each such bond within the dollar limit of authority as set forth herein.

The execution of such bonds, undertakings, recognizances and other surety obligations in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal administrative office in Jersey City, New Jersey.

This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on September 15, 2011, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them subject to the limitations set forth in their respective powers of attorney, to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances and other surety obligations obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on September 15, 2011:

VOTED, That the signature of the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on September 15, 2011, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company.

In Testimony Whereof, the Company has caused this instrument to be signed and its corporate seal to be affixed by their authorized officers, this <u>16th</u> day of <u>March</u>, <u>2020</u>

Insurance

Ach

CORPORAT

SEAL 1971

Hissouri

Attested and Certified

Patrick K. Nails, Secretary

purposes therein set forth.

STATE OF PENNSYLVANIA SS

COUNTY OF PHILADELPHIA SS I, Michele Tripodi, a Notary Public, do hereby certify that Patrick K. Nails and David M. Finkelstein personally known to me to be the same persons whose names are respectively as Secretary and Executive Vice President of the Arch Insurance Company, a Corporation organized and existing under the laws of the State of Missouri, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary acts for the uses and

> COMMONWEALTH OF PENNISYLVANIA NOTARIAL SEAL MICHELE TRIPODI, Notary Public City of Philadelphia, Phila. County My Commission Expires July 31, 2021

David M. Finkelstein, Executive Vice President

Michele Tripodi, Notary Public My commission expires 07/31/2021

Arch Insurance Company

CERTIFICATION

I, Patrick K. Nails, Secretary of the Arch Insurance Company, do hereby certify that the attached Power of Attorney dated <u>March 16</u>, <u>2020</u> on behalf of the person(s) as listed above is a true and correct copy and that the same has been in full force and effect since the date thereof and is in full force and effect on the date of this certificate; and I do further certify that the said David M. Finkelstein, who executed the Power of Attorney as Executive Vice President, was on the date of execution of the attached Power of Attorney the duly elected Executive Vice President of the Arch Insurance Company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Arch Insurance Company on this <u>18th</u> day of <u>August</u>, 20 <u>23</u>.

Patrick K. Nails, Secretary

This Power of Attorney limits the acts of those named therein to the bonds and undertakings specifically named therein and they have no authority to bind the Company except in the manner and to the extent herein stated.

PLEASE SEND ALL CLAIM INQUIRIES R.ELATING TO THIS BOND TO THE FOLLOWING ADDRESS:

Arch Insurance – Surety Division 3 Parkway, Suite 1500 Philadelphia, PA 19102



SUBDIVISION BOND

Bond No. 0836033

KNOW ALL MEN BY THESE PRESENTS, that we BLAKEY OWNER APARTMENTS II, LLC

3715 Northside Parkway NW, Suite 4-600 Atlanta, GA 30327

as Principal, and <u>Harco National Insurance Company</u>	
authorized to do business in the State of	nd firmly bound unto
City of Bastrop	
as Obligee, in the penal sum of Two Hundred Thirty Five Thousand Eight Hundred Dollars	s and No Cents
(\$ 235,800.00) DOLLARS, lawful money of
the United States of America, for the payment of which well and truly to be made, we bin	d ourselves, our heirs, executors,
administrators, successors and assigns, jointly and severally, firmly by these presents.	
WHEREAS, BLAKEY OWNER APARTMENTS II, LLC	
has agreed to construct in Alta Blakey Lane Phase II	
the following improvements: Tree Mitigation	
NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, th	
construct, or have constructed, the improvements herein described and shall save the Obligee	e harmless from any loss, cost or
damage by reason of its failure to complete said work, then this obligation shall be null and	void; otherwise to remain in full
force and effect.	
Signed, sealed and dated this 27th day of July	, 2023 .

BLAKEY OWNER APARTMENTS II, LLC

By: _____see attached signature page"



Harco National Insurance Company

By: margaret a. Genem

Margaret A. Ginem Inquiries: 813 210-4412 Attorney-in-Fact

Principal

S-3689/GEEF 2/98

Signature Page for Bond Number 0836033

BLAKEY OWNER APARTMENTS II, LLC,

a Delaware limited liability company

By: Blakey Owner Holdings, LLC, a Delaware limited liability company, its manager

By: WS Blakey Lane, LLC, a Delaware limited liability company, its manager

By: WP Texas, LLC, a Delaware limited liability company, its manager

By:_____ Name: Bart Barrett Title: Vice President

POWER OF ATTORNEY HARCO NATIONAL INSURANCE COMPANY INTERNATIONAL FIDELITY INSURANCE COMPANY

Member companies of IAT Insurance Group, Headquartered: 4200 Six Forks Rd, Suite 1400, Raleigh, NC 27609

KNOW ALL MEN BY THESE PRESENTS: That HARCO NATIONAL INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Illinois, and INTERNATIONAL FIDELITY INSURANCE COMPANY, a corporation organized and existing under the laws of the State of New Jersey, and having their principal offices located respectively in the cities of Rolling Meadows, Illinois and Newark, New Jersey, do hereby constitute and appoint

NATASHE A. DAVIS, TIFFANY SOKO, MARGARET A. GINEM

Tampa, FL

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY**, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY** and is granted under and by authority of the following resolution adopted by the Board of Directors of **INTERNATIONAL FIDELITY INSURANCE COMPANY** at a meeting duly held on the 13th day of December, 2018 and by the Board of Directors of **HARCO NATIONAL INSURANCE COMPANY** at a meeting held on the 13th day of December, 2018.

"**RESOLVED**, that (1) the Chief Executive Officer, President, Executive Vice President, Senior Vice President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY** have each executed and attested these presents on this 31st day of December, 2022



STATE OF NEW JERSEY County of Essex

STATE OF ILLINOIS County of Cook



370

Kenneth Chapman Executive Vice President, Harco National Insurance Company and International Fidelity Insurance Company

On this 31st day of December, 2022 , before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

Shirelle A. Outley a Notary Public of New Jersey My Commission Expires April 4, 2023

CERTIFICATION

I, the undersigned officer of **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY** do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand on this day, July 27, 2023

IMPORTANT NOTICE

To obtain information or make a complaint:

You may contact Harco National Insurance Company at:

1-800-333-4167

You may also write to: Harco National Insurance Company c/o IAT Surety at:

> Attn: Claims Department One Newark Center, 20th Floor Newark, NJ 07102

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P. O. Box 149104 Austin, TX 78714-9104 Fax: (512) 490-1007 Web: <u>www.tdi.texas.gov</u> E-mail: <u>ConsumerProtection@tdi.texas.gov</u>

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact the agent or the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR BOND: This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener información o para presentar una queja:

Usted puede comunicarse con su Harco National Insurance Company al:

1-800-333-4167

Usted tambien puede escribir a Harco National Insurance Company c/o IAT Surety at:

> Attn: Claims Department One Newark Center, 20th Floor Newark, NJ 07102

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

P. O. Box 149104 Austin, TX 78714-9104 Fax: (512) 490-1007 Web: <u>www.tdi.texas.gov</u> E-mail: <u>ConsumerProtection@tdi.texas.gov</u>

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el agente o la compania primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU FIANZA DE GARANTIA: Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.