Bastrop, TX City Council Meeting Agenda

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

BASTROPTX
Heart of the Lost Pines / Est. 1832

November 26, 2019 at 5:30 P.M.

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.

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session for the purposes of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during 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 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.

1. CALL TO ORDER (NOTE: EXECUTIVE SESSION ITEMS WILL START AT 5:30 P.M. – SEE ITEM 10 BELOW.)

2. PLEDGE OF ALLEGIANCE –

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

3. INVOCATION – Pastor Travis Fitzgold, Good Shepherd Lutheran Church

4. PRESENTATIONS

4A. Mayor's Report

4B. Councilmembers' Report

4C. City Manager's Report

5. WORK SESSION/BRIEFINGS

5A. Discuss City of Bastrop's proposed submittal to the CAMPO Transportation Plan.

5B. Discuss Live Streaming Challenges in City Council Chambers.

5C. Receive presentation of the FY 2019 Workplan and Accomplishments.

6. STAFF AND BOARD REPORTS

6A. Receive Monthly Development Update.

7. CITIZEN COMMENTS

At this time, three (3) minute comments will be taken from the audience on any topic. To address the Council, please submit a fully completed request card to the City Secretary prior to the beginning of the Council meeting. 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 Staff for research and possible future action.

To address the Council concerning any item on the agenda, please submit a fully completed request card to the City Secretary prior to the start of the meeting.

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 Councilmember or a citizen may request items be removed from the Consent Agenda for individual consideration.

8A. Consider action to approve City Council minutes from November 12, 2019, Regular Meeting and November 13, 2019 Special Meeting.

8B. Consider action to approve the second reading of Ordinance No 2019-59 of the City Council of the City of Bastrop, Texas, Rezoning 65.926 acres out of the Nancy Blakey Survey, Abstract 98, from GR, General Retail to Bastrop Grove Planned Development District with a base residential use, located south of Agnes Street and east of State Highway 304, within the City Limits of Bastrop, Texas; as shown in Exhibits A, B, & C; including a severability clause; and establishing and effective date.

8C. Consider action to approve the second reading of Ordinance No. 2019-44 of the City Council of the City of Bastrop, Texas amending the Bastrop City Code of Ordinances, Chapter 1, titled "General Provisions", Article 1.02, titled "Administration," Section 1.02.002, Article 1.04, titled "Boards, Committees and Commissions," Sections 1.04.001,1.04.002, and adding 1.04.003; Article 1.05, titled "Housing Authority," Section 1.05.002, Article 1.10, titled "Parks," Section 1.10.001, Article 1.12, titled "Libraries," Division 2, titled "Library Board," Section 1.12.062, Article 1.15, titled "Code of Ethics," Division 3, titled "Implementation," Section 1.15.013, Article 1.16, titled "Art in Public

Places," Section 1.16.002 and 1.16.003, Article 1.17, titled "Main Street Advisory Board", Section 1.17.001; Chapter 3, titled "Building Regulations," Article 3.02, titled "Construction Standards Board of Adjustments and Appeals," Sections 3.02.001, 3.02.002, and 3.02.003; Chapter 15, titled "Cemeteries," Article 15.01, titled, "Fairview Cemetery," Section. 15.01.002; unifying appointments, terms, number of members, residency requirements, and the filling of vacancies for city boards and commissions attached as Exhibit A; providing for findings of fact; enactment; dissolution; repealer; severability; and providing an effective date, proper notice and meeting.

8D. Consider action to approve the second reading of Ordinance No. 2019-61 of the City Council of the City of Bastrop, Texas adopting the International Building Code (2018), amending Chapter 3, "Building Regulations", Section 3.04.001, Building Code Adopted; adopting the National Electric Code (2017), amending Section 3.05.031, Electrical Code Adopted; adopting International Plumbing Code (2018), amending Section 3.06.031, Plumbing Code Adopted; adopting International Mechanical Code (2018), amending Section 3.07.001, Mechanical Code Adopted; adopting International Fuel Gas Code (2018), amending Section 3.08.001, Fuel Gas Code; adopting International Residential Code (2018), amending Section 3.09.001, Residential Code; adopting International Energy Conservation Code (2018), amending Section 3.10.001, Energy Conservation Code; adopting International Green Construction Code (2018), amending Section 3.14.001, International Green Construction Code; adopting the International Swimming Pool and Spa Code (2018), amending Section 3.15.001, Swimming Pool Code Adopted; repealing Section 3.15.002, Screening and fencing, adopting International Existing Building Code (2018), amending Section 3.13.001, Existing Building Code Adopted; and adopting the International Fire Code (2018), amending Chapter 5, "Fire Prevention and Protection", Section 5.02.001, Fire Code Adopted, repealing Article 5.03, Life Safety Code, repealing Article 5.04-5.06 Reserved, repealing Article 5.07 Fire Lanes, repealing Article 5.08 Reserved, as attached in Exhibit A; and providing for findings of fact, adoption and amendment, repealer, severability, and enforcement; establishing an effective date; and proper notice and meeting.

8E. Consider action to approve the second reading of Ordinance No. 2019-56 of the City Council of the City of Bastrop, Texas repealing and replacing Chapter Six, Health and Sanitation, as attached in Exhibit A; and repealing and replacing Chapter Eight Offenses and Nuisances, as attached in Exhibit B; and providing for findings of fact, adoption, repealer, severability, and enforcement; establishing an effective date; and proper notice and meeting.

8F. Consider action to approve the second reading of Ordinance No. 2019-60 of the City Council of the City of Bastrop, Texas amending the Bastrop City Code of Ordinances, Chapter 13, "Utilities," adding Article 13.12 "Impact Fees," and providing for findings of fact, enactment, enforcement, a repealer, and severability; establishing an effective date; and proper notice and meeting.

9. ITEMS FOR INDIVIDUAL CONSIDERATION

9A. Consider action to approve Resolution No. R-2020-118 of the City Council of the City of Bastrop, Texas supporting the Bastrop County 2020 Census Complete Count Committee; and establishing an effective date.

9B. Consider action to approve Resolution No. R-2019-119 of the City Council of the City of Bastrop, Texas approving an Amendment to Task Order No. BAS.006A with KSA

Engineering for supplemental engineering services associated with the acquisition of 350 feet of Wastewater Treatment Plant Land in the amount of Twenty-four Thousand Five Hundred Dollars and Zero cents ($24,500.00) as attached in Exhibit A, authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

9C Conduct public hearing and consider action to deny the first reading of Ordinance No. 2019-73 of the City Council of the City of Bastrop, Texas, rezoning 1.866 acres of Bradford Subdivision, Lot 2 Fraction from P-3 Neighborhood, to P-4 Mix, located at 1903 Main Street, within the city limits of Bastrop, Texas, as shown in Exhibit A; including a severability clause; and establishing an effective date.

9D. Consider action to approve Resolution No. R-2019-100 of the City Council of the City of Bastrop, Texas, adopting a wholesale wastewater agreement with West Bastrop Village Municipal Utility District of Bastrop County and West Bastrop Village, Ltd.; attached as Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

9E. Consider action to approve Resolution No. R-2019-99 of the City Council of the City of Bastrop, Texas, adopting a wholesale water agreement with West Bastrop Village Municipal Utility District of Bastrop County and West Bastrop Village Ltd.; attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

9F. Consider action to approve Resolution No. R-2019-113 of the City Council of the City of Bastrop, Texas awarding a contract for the City of Bastrop Streets, Pavement and Preventative Maintenance Project to Angel Brothers Enterprises, Ltd. in the amount of One Million One Hundred Eighty-nine Thousand One Hundred Thirty-nine Dollars and Eighty Cents ($1,189,139.80) as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

9G. Consider action to approve the first reading of Ordinance No. 2019-75 of the City Council of the City of Bastrop, Texas amending the Bastrop City Code of Ordinances, Chapter 2, titled "Zoning Procedures", Article 2.4, titled "Administration," Sections 2.4.002(b) and 2.4.003(b); allowing Zoning Board of Adjustment members to be alternates to the Planning and Zoning Commission, attached as Exhibit A; providing for findings of fact; enactment; dissolution; repealer; severability; and providing an effective date, proper notice and meeting and move to include on the December 10, 2019 Consent agenda for a second reading.

9H. Consider action to approve Resolution No. R-2019-122 of the City Council of the City of Bastrop, Texas authorizing a License to Encroach with TDS Solutions, LLC to erect a sign for Stem & Stone Restaurant in a public utility easement, as attached as Exhibit A; authorizing the City Manager to execute necessary documents; providing for a repealing clause; and establishing an effective date.

9I. Consider action to approve Resolution No. R-2019-115 of the City Council of the City of Bastrop, Texas awarding a task order to Halff Associates, Inc. for engineering design services related to the Gills Branch Drainage Flood Mitigation Project. in the amount of Five hundred fifteen thousand Ninety dollars and zero cents ($515,090.00) as attached in Exhibit A; Authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

9J. Consider action to approve Resolution No. R-2019-128 of the City Council of the City of Bastrop, Texas supporting the extension of Jessica Place to Blakey Lane for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects; authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

9K. Consider action to approve Resolution No. R-2019-125 of the City Council of the City of Bastrop, Texas supporting the submission of State Highway 95 in the city limits of Bastrop for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects as a co-sponsor with Texas Department of Transportation (TxDOT); authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

9L. Consider action to approve Resolution No. R-2019-126 of the City Council of the City of Bastrop, Texas supporting the submission of Farm-to-Market Road 969 in the city limits of Bastrop for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects as a co-sponsor with Texas Department of Transportation (TxDOT); authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

9M. Consider action to approve Resolution No. R-2019-130 of the City Council of the City of Bastrop, Texas supporting Bastrop County's submission of a new bridge across the Colorado River connecting SH 304/Shiloh Rd. to S.H.71 through Tahitian Village connecting with Margie's Way with an additional segment within the City of Bastrop at Lover's Lane connecting to SH 71 for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects; authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

9N. Conduct public hearing and consider action to deny the first reading of Ordinance No. 2019-74 of the City Council of the City of Bastrop, Texas, rezoning 0.760 acres of Farm Lot 5, West of Main Street, located at 1910 Main Street and 2.467 acres of Farm Lot 5 West of Main Street, to located to the west of 1910 Main Street from P-3 Neighborhood, to P-4 Mix, within the city limits of Bastrop, Texas; as shown in Exhibit A; including a severability clause; and establishing an effective date.

9O. Consider action to approve Resolution No. R-2019-129 of the City Council of the City of Bastrop, Texas supporting the rehabilitation of the Old Iron Bridge for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects; authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

9P. Public hearing and consider action to approve the first reading of Ordinance No. 2019-67 of the City Council of the City of Bastrop, Texas, rezoning 0.683 acres of Farm Lot 37 East of Main Street from P-3 Neighborhood to P-5 Core, located 1302 SH 95, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

9Q. Public hearing and consider action to approve the first reading of Ordinance No. 2019-68, of the City Council of the City of Bastrop, Texas, rezoning 0.193 acres of Building Block 6 West of Water Street, from P-5 Core to P-4 Mix, located 1110 Water Street within the City

Limits of Bastrop, Texas; as showing in Exhibits A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

9R. Public hearing and consider action to approve the first reading of Ordinance No. 2019-69 of the City Council of the City of Bastrop, Texas, rezoning 0.129 acres of Building Block 6, West of Water Street, from P-5 Core to P-4 Mix, located 703 Farm Street, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

9S. Conduct public hearing and consider action to approve the first reading of Ordinance No. 2019-70 of the City Council of the City of Bastrop, Texas, rezoning 0.353 acres of Building Block 8, West of Water Street, from P-CS Civic Space to P-5 Core, Located 1028 Main Street, within the City Limits of Bastrop, Texas; as showing in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

9T. Conduct public hearing and consider action to deny the first reading of No. Ordinance 2019-71 of the City Council of the City of Bastrop, Texas, rezoning 0.2067 acres of Farm Lot 3 West of Main Street from P-3 Neighborhood, to P-4 Mix, located at 606 Cedar Street, within the city limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date.

9U. Conduct public hearing and consider action to approve the first reading of Ordinance No. 2019-72 of the City Council of the City of Bastrop, Texas, rezoning 0.214 acres of Building Block 1 West of Water Street from P-3 Neighborhood, to P-4 Mix, located at 701 Austin Street, within the city limits of Bastrop, Texas; as shown in Exhibit A; including a severability clause; and establishing an effective date; and move to include on the December 10, 2019 Consent Agenda for second reading.

9V. Consider action to approve Resolution No. R-2019-127 of the City Council of the City of Bastrop, Texas supporting the completion of Agnes Street for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects; authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

9W. Public hearing and consider action to approve the first reading of Ordinance No. 2019-63 of the City Council of the City of Bastrop, Texas, rezoning Farms End Estates Lot 3 from P-5, Core, to P-4, Mix, located at 1706 Farm Street, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

9X. Consider action to approve Resolution No. R-2019-124 of the City Council of the City of Bastrop, Texas ratifying the Mayor's Board Appointments; providing for a repealing clause; and establishing an effective date.

10. EXECUTIVE SESSION

10A. City Council shall convene into closed executive session pursuant to Section 551.072 of the Texas Government Code to deliberate the acquisition of outstanding easements on Main Street.

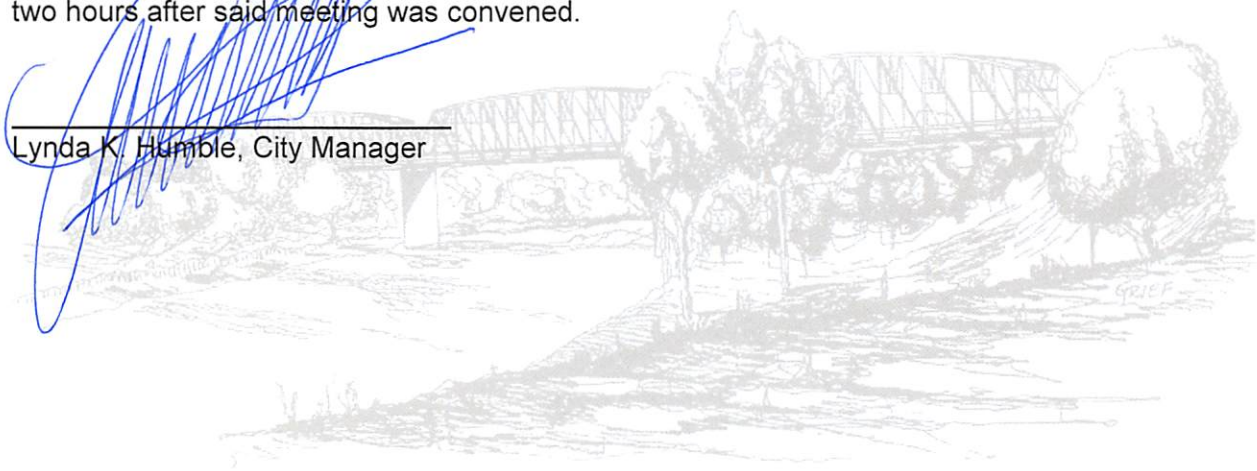
10B. City Council shall convene into closed executive session pursuant to Section 551.074 to conduct an annual performance evaluation of the City Manager as required by her employment agreement.

10C. City Council shall convene into closed executive session pursuant to Section 551.072 of the Texas Government Code to deliberate the acquisition of property located on MLK Drive.

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

12. ADJOURNMENT

I, the undersigned authority, do hereby certify that this Notice of Meeting as posted in accordance with the regulations of the Texas Open Meetings Act on the bulletin board located at the entrance to the City of Bastrop City Hall, a place of convenient and readily accessible to the general public, as well as to the City's website, www.cityofbastrop.org and said Notice was posted on the following date and time: Friday, November 22, 2019 at 8:30 p.m. and remained posted for at least two hours after said meeting was convened.



_____

Lynda K. Humble, City Manager

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 4A

TITLE:
Mayor's Report

STAFF REPRESENTATIVE:
Lynda Humble, 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.

ATTACHMENTS:

- Power Point Presentation

Mayor's Report
November 26, 2019

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Latest Activities

November 1 - November 14

Events in 2019: 286





Arbor Day
Smokey's 75th Birthday



ABJ Event



Veterans Car show



Red White & Blue Banquet



WWII Veterans



Volunteer Appreciation Banquet
Historic Landmark Commission



Stem & Stone
Linda Cheatham



Emile Career Day



APA Tx
Doug McDonald



ReMax 20 Yrs
Kay Wesson

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Planned Events

November 15 - 26

- November 16 – Feed the Need Gobble Kit Event
- November 18 - BEDC Board Meeting
- November 19 – CRCA Interview
- November 22 – Mina Elementary Career Day
- November 23 – “Men Who Cook” (Rotary)
- November 26 – City Council Meeting

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Upcoming Events & City Meetings

- November 30 –
  - Wassail Fest
  - Lighting of the Tree in Fisherman's Park
  - River of Lights
- December 2 – Library Board
- December 3 – TML Region 10 Meeting (Bryan)
- December 5 – "A Country Christmas" Farm Street Opry
- December 10
  - Generation Citizen Project Judge
  - Council Meeting
- December 11 – CAPCOG Lunch
- December 12 – Chamber "Mingle Jingle"
- December 13 – BCHS "Rendezvous"
- December 14 –
  - Holiday Open House in Downtown Bastrop
  - Lost Pines Christmas Snow Day
  - Lighted Christmas Parade

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STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 4B

TITLE:
Councilmembers' Report

STAFF REPRESENTATIVE:
Lynda Humble, 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.



2019-2023 Austin-Round Rock-Georgetown MSA Regional Air Quality Plan Overview

Contents

1 Introduction

2 Issues and Objectives

3 Actions

The Plan

The 2019-2023 Austin-Round Rock-Georgetown Metropolitan Statistical Area (MSA) Regional Air Quality Plan is a guide to addressing regional air pollution issues for Bastrop, Caldwell, Hays, Travis, and Williamson Counties.

The plan is designed to help the region:

1. Maintain and improve outdoor air quality within the MSA
2. Reduce the impact of emissions from within the region on air quality issues in nearby areas and elsewhere
3. Mitigate the health, environmental, economic, and social impacts of the remaining regional air pollution.

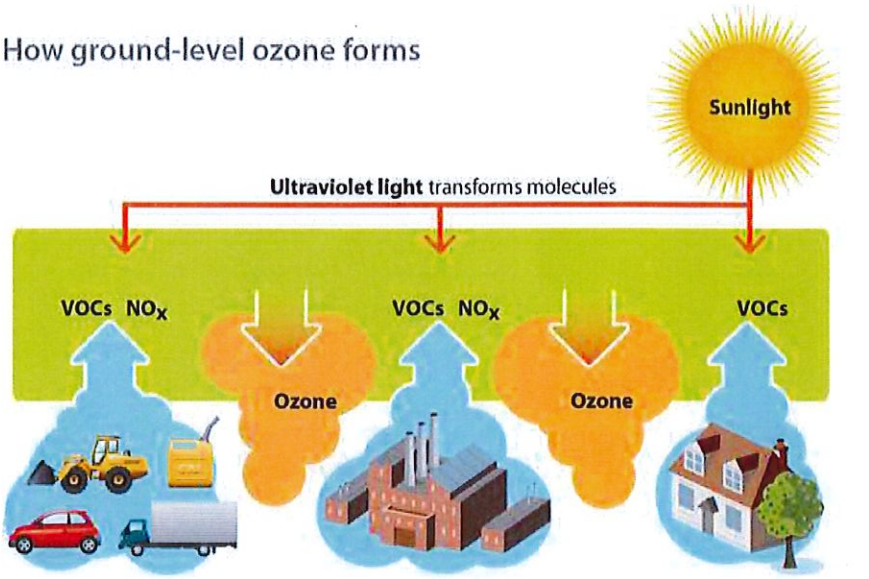
The entire plan is accessible at
https://www.capcog.org/divisions/regional-planning-services#air.

Introduction

Ozone

Of all of the air pollutants that are measured in the MSA, ground-level ozone is the one of most concern in the region. While the region's air pollution levels meet federal requirements, we sometimes have days when ground-level ozone reaches levels that are considered unhealthy for sensitive groups, such as children, older individuals, and adults with respiratory problems, such as asthma.

How ground-level ozone forms



Source: https://www.pca.state.mn.us/air/ozone

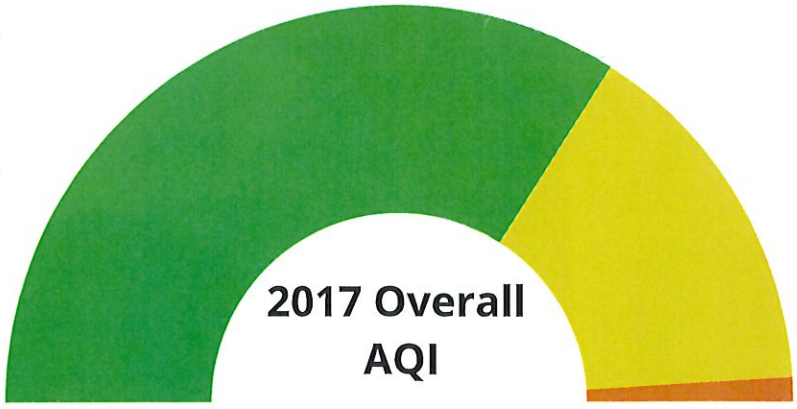
99%

Region's ozone levels as a percentage of the maximum allowable under the federal standard

Ozone is a colorless gas made up of three oxygen atoms. Ground-level ozone is not emitted directly into the air, rather it is formed through chemical reactions between natural and man-made emissions of nitrogen oxides (NOx) and volatile organic compounds (VOCs) in the presence of sunlight. These gaseous compounds mix in the air. When they interact with sunlight, ozone is formed.

The Environmental Protection Agency (EPA) sets the National Ambient Air Quality Standards (NAAQS) at levels that are necessary to protect public health and the environment. Currently, the region is designated as attainment for all of the NAAQS. **However, the region's 2015-2017 ozone levels were 69 parts per billion (ppb), while the 2015 ozone NAAQS is set at 70 ppb.**

The Air Quality Index (AQI) reports daily air quality and the associated health effects from air pollution. EPA calculates the AQI for the 5 major air pollutants under the NAAQS.



Issues & Objectives

Regional Air Quality Issues

To achieve clean air in Central Texas, the plan addresses the following air quality issues:

1. Regional compliance with the NAAQS
2. Periodic exposure to "criteria" air pollution concentrations that EPA considers to be "moderate" or worse based on its AQI
3. Exposure to hazardous air pollutants
4. Exposure to nuisance odors
5. Environmental justice considerations
6. Impact of activities within the region on air quality issues elsewhere

Plan Objectives

In order to address the six issues above, this plan has two objectives:

1. Maximize the probability of compliance with the NAAQS region-wide
2. Minimize the health and environmental impacts of regional air pollution

Actions

In order to achieve the objectives, the plan focuses on six general strategies:

1

Implementation of NOx Emissions Control Measures

NOx controls include measures that reduce the overall mass of NOx emitted across the year, during the ozone season, or on individual days. They can also include measures that minimize the impact of the NOx emissions that do occur on peak ozone days by changing the timing or location of the emissions.

The implementation of NOx reductions are necessary for reducing the region's ozone design value and reaching the 0.70 – 1.00 ppb target for ozone reductions.

2

Outreach, Education, and Technical Support to Enhance NOx Reductions

This type of outreach is focused on persuading people to take action to reduce emissions or otherwise providing them with the information needed to take action to maximize the amount of NOx emissions reductions that they can achieve.

3

Outreach and Education to Reduce Exposure for Public Health

While reducing NOx emissions can help control ambient air pollution concentrations, these pollutants can still reach levels considered "moderate" or "unhealthy for sensitive groups," based on EPA's AQI. Over 40% of the region's population is vulnerable to adverse health impacts from exposure to air pollution when it reaches levels considered "unhealthy for sensitive groups."

4

Ambient Air Monitoring

Air monitoring is a critical strategy for achieving the region's air quality objectives. CAPCOG will conduct non-regulatory ozone monitoring to supplement the 2 regulatory monitors. Ozone data collected can demonstrate air pollution coming from outside the MSA, provide better public information about air pollution, help other MSA counties stay within the NAAQS if Travis County violated the standard, and indicate the need for additional regulatory monitors.

5

Other Air Quality Research and Planning Activities

Ongoing research and planning activities beyond simply collecting air quality data is important for the region's ability to achieve its air quality objectives. These activities are necessary for continual improvement in reducing emissions, reducing exposure to poor air quality, and working with counterparts at the state and federal level to avoid a nonattainment designation for the region if the area does measure air quality that violates the NAAQS.

6

Policy Advocacy

From time to time, the CAC has weighed in on policy matters at the TCEQ, the legislature, and EPA, and within the region because of the potential impact on the region's air quality, regulations related to air quality, and our ongoing air quality planning efforts.

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 4C

TITLE:
City Manager's Report

STAFF REPRESENTATIVE:
Lynda Humble, 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:

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(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: November 26, 2019 **AGENDA ITEM**: 5A

TITLE:
Discuss City of Bastrop's proposed submittal to the CAMPO Transportation Plan.

STAFF REPRESENTATIVE:
Tony Buonodono, City Engineer
Trey Job, Assistant City Manager of Development Services
Lynda Humble, City Manager

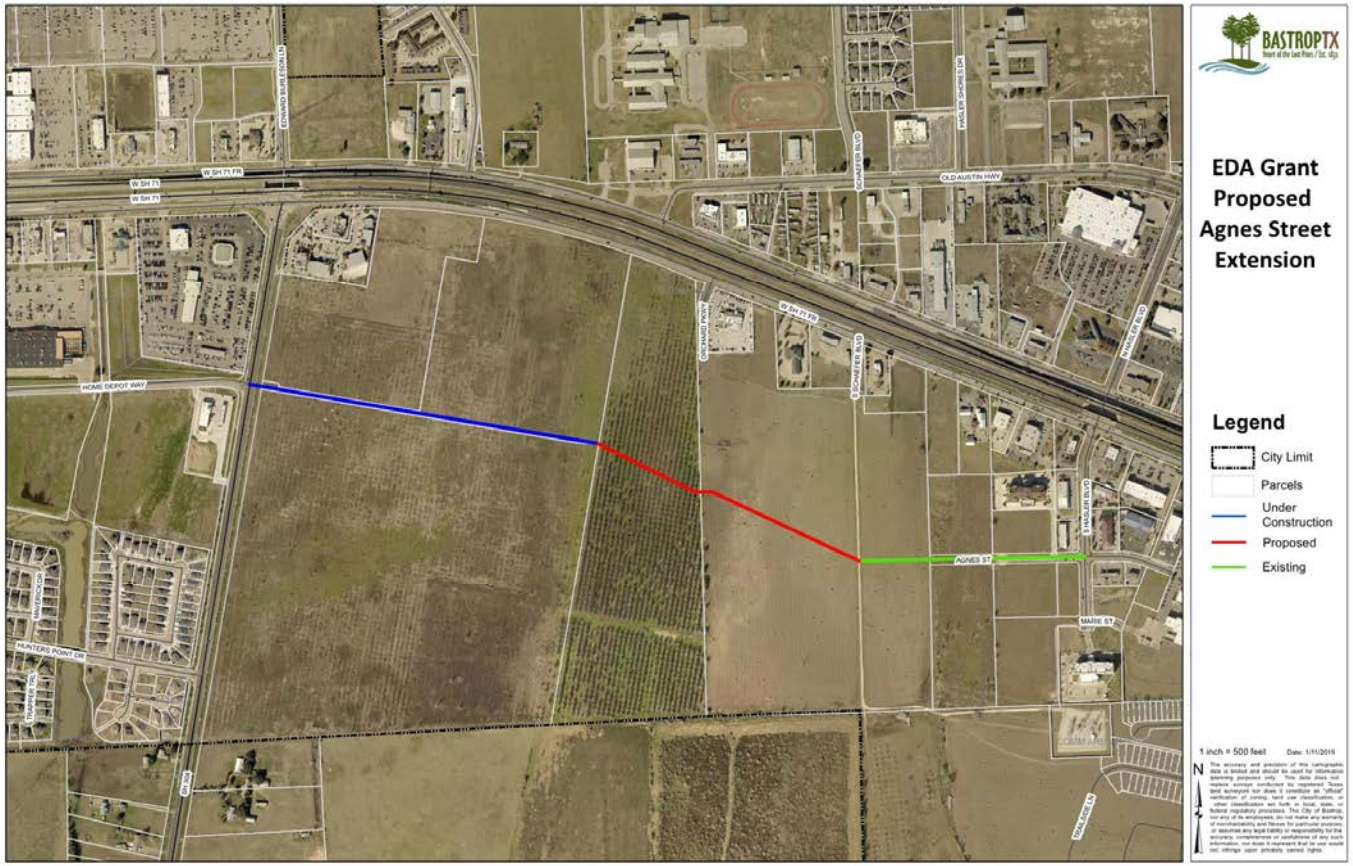
CAMPO 2045 Regional Transportation Plan Update

- Agnes Street Extension
- Jessica Place Extension
- Rehabilitation of the Historic Old Iron Bridge

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Agnes Street Extension

- New arterial road connecting SH304 to Hasler Blvd
- Approximately 1,500 LF of proposed roadway
- Property owners have previously agreed to donate the required rights-of-way
- Critical East/West Connection south of SH 71



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Jessica Place Extension

- New arterial road connecting Blakey Lane to Jessica Place
- Approximately 2,000 LF of proposed roadway
- Critical East/West Connection north of SH 71
- Foundation for grid layout



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Rehabilitation of Historic Old Iron Bridge

- Bridge is currently closed
- Due to deterioration of the gusset plates - link the structural trusses
- Provides multimodal transportation and recreation opportunities



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Schedule

Date	Action item
October 16, 2019	TAC Workshop on Project Selection Criteria
October 21, 2019	TAC Concurrence on criteria
November 2019	Local Government webinar regarding RTP project call
November 1, 2019 - December 4, 2019	RTP Call for Projects Application Intake
November 2019	1st round of public outreach (existing conditions)
December 16, 2019	TAC informational item regarding RTP project applications received
December 2019 – January 2020	Constrained Plan and Compiled RTP Report Completion (draft plan)
January 13, 2020	TPB Presentation on Project List
January 27, 2020	TAC information presentation on draft plan of constrained project list
February 10, 2020	TPB informational item regarding constrained project list
February - March 2020	2nd Round Public Outreach – Constrained Plan – Comment Period
March 9, 2020	Informational item for TPB
March 23, 2020	TAC recommendation
April 6, 2020	TPB Action

- TAC = Technical Advisory Committee
- RTP = Regional Transportation Plan
- TPB = Transportation Policy Board

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STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 5B

TITLE:
Discuss Live Streaming Challenges in City Council Chambers

STAFF REPRESENTATIVE:
Colin Guerra, Chief Storyteller, Multimedia Department
James K. Altgelt, Assistant City Manager of Public Safety & Community Support

BACKGROUND/HISTORY:
The very first in-house recording of a Bastrop City Council meeting was conducted by the Information Technology (IT) Department on September 8, 2015. It was recorded on a handheld camcorder and uploaded to the City's newly established Youtube channel. In the months that followed, the IT Department purchased a multifaceted system produced by Rushworks, a media solutions company located in Flower Mound, Texas. This system is called the V-DESK. The first regular meeting recorded utilizing the Rushworks multicamera system (V-DESK) was conducted on December 8, 2015. During the past four (4) years, through the creation of the Multimedia Department, there have been many evolutions to the design and functions of this process. These modifications ranged from minor to significant, but the core system has remained largely the same.

Between late 2015 and mid-2018, the V-DESK system was housed in a rolling case that plugged into the audio/video system of the Council Chambers in the back of the room by the staff tables. In mid-2018, construction began on the "multimedia booth" that now houses the presentation system, live broadcast system, and soundboard. Soon after completion of the booth, the Council Chambers Audio Visual (A/V) system was completely redone and moved from the large roll-down projector screen to the six (6) high-definition televisions and a completely new audio/speaker system. Some elements remain from the former system, such as the dais microphones. While this was a great improvement to the sound system within the City Council Chambers and is a much more nuanced and dynamic system than we had before, the implementation of this new audio system did not start off calibrated correctly for interfacing with the V-DESK system.

As with any multifaceted system that involves both analog and digital technologies, extensive troubleshooting, adjustments, and improvements have taken place. Throughout 2019, the new A/V system has evolved in its integration to the recording and live broadcasting system (V-DESK). Sometimes these changes enhanced the performance of the system and then sometimes the changes failed to enhance the system's performance. In October of 2019, after remotely troubleshooting our system, a technician from Rushworks came to Bastrop to evaluate our system. During this visit, adjustments were made to the overall system that solved our issues with the bad/distorted audio on the live feeds. At this time, the Rushworks consultant informed

us that we would never have “perfect” audio, as we have observed from some other cities who also broadcast their meetings using Rushworks gear. This will remain the case until we move from an analog microphone system to a digital microphone system. We are currently using the City of San Angelo, Texas as a benchmark. The City of San Angelo uses a brand new Rushworks system for their council meetings and do not experience the same issues that we do because of their digital system.

Unfortunately, having an analog system continues to be problematic. Just prior to our November 12th Council Meeting, Facebook changed requirements for its Live Stream security settings. We let Rushworks know about this issue. They were already on top of it and offered to remotely update our system to send Facebook the appropriate signal. They fixed the Facebook issue, but now our video goes out and the audio is recorded out-of-sync. We are actively working to resolve this issue with Rushworks. They have determined one (1) component is that our four (4) year old system is no longer compatible with the new Facebook Live standards. They are sending us a new digital conversion box in an attempt to fix this issue before next meeting. This may work as a temporary fix until we can look at making a more permanent switch to a complete digital system. It is just another obstacle in a constant battle against ever changing Facebook standards, equipment failure, end-user errors, and other unforeseen issues that arise when operating such a dynamic system.

When a Council Meeting is up and running, we are simultaneously operating the live room (which is always our top priority), to be sure audio levels, presentation slides, etc., are optimal, sending a live signal to Spectrum Channel 10, sending a separate signal to AT&T u-Verse Channel 99, sending a live stream to our BTXN.TV website, sending the Facebook live, as well as capturing the recording of the meeting which will be processed and uploaded for posterity. These are six (6) different processes, all requiring different settings and levels, and all hopefully working in harmony. When there is an issue, it is finding the proverbial “needle in the haystack” amongst these different processes.

Another important factor to consider is the many variables that our end-users bring to this equation through the methods in which they watch the live videos. We are viewed on iPhones, iPads, computers, TVs, laptops, etc. We are aware of at least one (1) Spectrum DVR cable-box that we have been informed “does not receive an audio feed” that Spectrum has said there will not be a solution for. We are always responsive to users who contact us during meetings and often can troubleshoot their issue or find an alternative way of viewing that works better for their scenario.

We hope you have a better understanding now of the types of issues that can arise during any of our meetings. To date, we have pressed forward with sending out our live broadcast, even if some elements of the system were not operating at 100%. As the Mayor noted in a previous meeting, the videos of recorded meetings that we publish are free from static and other distortions. We publish all video recordings of our meetings within 72-hours of the completion of the meeting. Prior to publishing the video, we can enhance the sound levels for a better end-user experience. Live production will always have the potential for issue, which we attempt to negate as thoroughly as possible.

Because of the current issues that we are working through to meet the latest Facebook streaming standards, we did not broadcast the November 21, 2019 Planning & Zoning Commission Meeting

to Facebook Live. We chose rather to make a Facebook post directing our audience to the www.BTXN.tv live stream. We received feedback from multiple sources that this was a good work-around solution and a good user-experience was had, other than a period of about 15 minutes when there was some flickering to the feed.

Currently, we are in the process of obtaining quotes for a completely digital system for the City Council sound system, which primarily deals with the microphones and the sound board. Having a digital system is becoming the industry standard for all sound solutions; especially for meeting and conference applications. The team at Rushworks opined that the transition to a digital system will significantly enhance the quality of our productions. Once we have the cost to fully convert our system to digital, we may come to Council with a budget amendment or work it through the budget process for funding in FY 2021.

FUNDING SOURCE: N/A

ATTACHMENT:

- PowerPoint Presentation

CITY OF BASTROP

MULTIMEDIA DEPARTMENT

CITY PROCESS

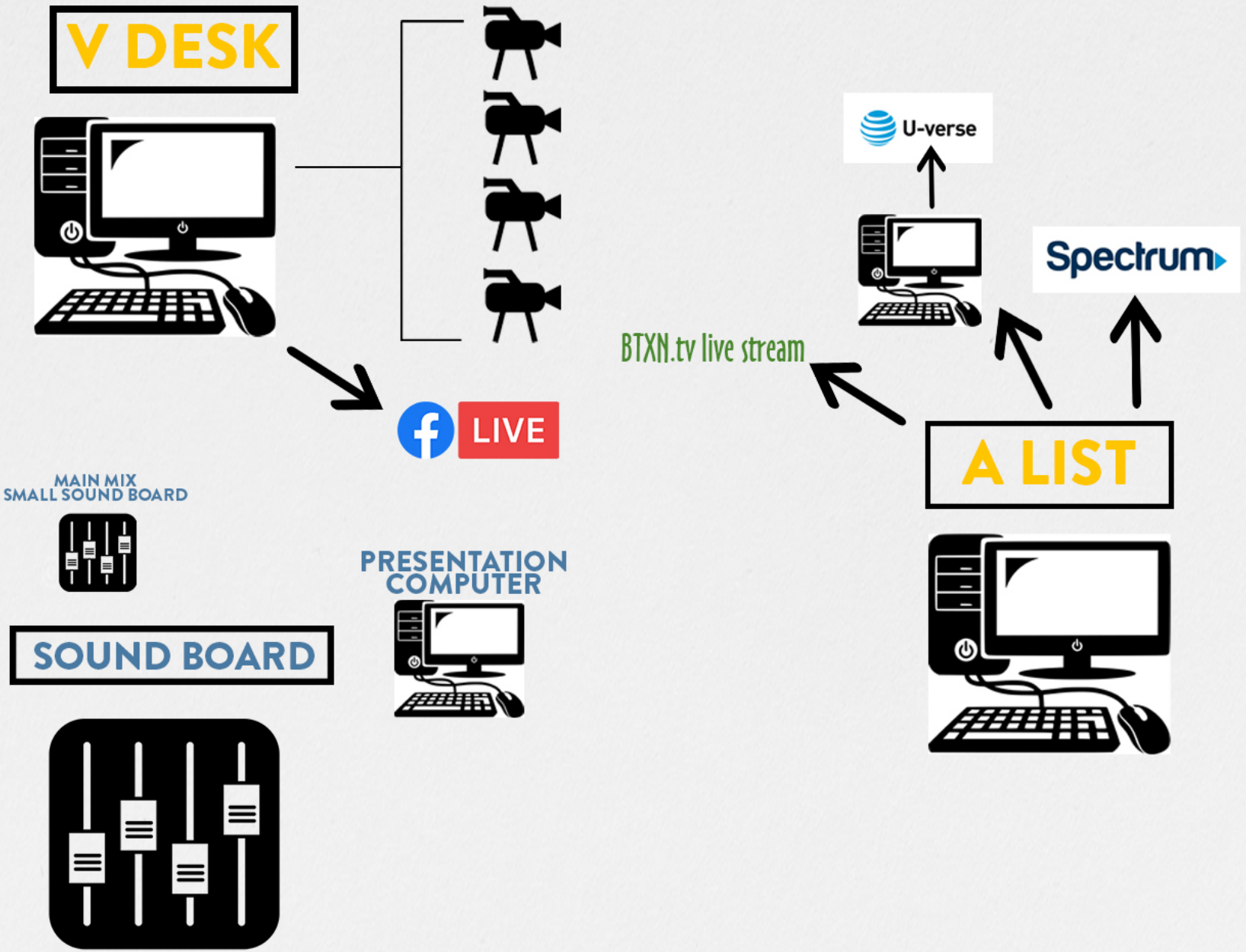
Live Broadcasting, Recording, and Publishing

Bastrop City Council Meeting



LIVE BROADCAST SYSTEM OVERVIEW

Broadcast System Schematic



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Recording & Streaming Equipment













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MULTIMEDIA DEPARTMENT

CITY OF BASTROP

MULTIMEDIA DEPARTMENT

CITY PROCESS

Live Broadcasting, Recording, and Publishing

Bastrop City Council Meeting

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 5C

TITLE:
Receive presentation of the FY 2019 Workplan and Accomplishments.

STAFF REPRESENTATIVE:
Lynda Humble, City Manager

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 6A

TITLE:
Receive Monthly Development Update.

STAFF REPRESENTATIVE:
Lynda Humble, City Manager

BACKGROUND/HISTORY:
The Planning and Development Department's mission is preserving the past, while facilitating growth and quality of life in harmony with the vision for the City of Bastrop's future. The purpose of the department is to maximize community strengths and minimize weaknesses; protect property rights and enhance property values; anticipate growth and provide adequate public facilities and services; balance economic growth with quality of life issues; and avoid unmanageable concentrations or dispersal of population.

POLICY EXPLANATION:
Regular update for City Council and community regarding planning and development related items.

ATTACHMENT:
- PowerPoint presentation



Monthly Development Update

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Planning and Development

Mission and Purpose

Mission:

Preserving the past while facilitating growth and quality of life in harmony with the vision for the City of Bastrop's future.

Purpose:

To maximize community strengths and minimize weaknesses; protect property rights and enhance property values; anticipate growth and provide adequate public facilities and services; balance economic growth with quality of life issues; and avoid unmanageable concentrations or dispersal of population.

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November Activity Matrix

	November	FYTD
Counter Visits	110	286
Permits Issued	25	92
Permit Applications	27	153
Pre-Application Meetings	11	182
Pre-Development Meetings	1	3

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New Certificate of Occupancy

- Seton Ascension Hospital
- The Preserve at Hunters Crossing Building 1

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Ongoing Commercial Projects

- 365 Mini Storage – 510 HWY 71 W
  - Estimated Completion December 2019 – 65% complete



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Ongoing Commercial Projects

- Lost Pines Professional Building – 711 Old Austin Highway
  - Estimated Completion November 2019 – 95% complete



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Residential Projects

- Pecan Park
  - 282 lots
- Piney Creek Bend
  - 77 lots
- The Preserve at Hunter's Crossing
  - 140 units

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Training and Certifications

- Texas APA Conference in Waco
- Fire Plans Examiner – Building Official



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BUILDING BASTROP

HONORING OUR AUTHENTIC PAST.
PLANNING FOR OUR SUSTAINABLE FUTURE.

Questions or Comments?

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Heart of the Lost Pines / Est. 1832

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 7

TITLE:

CITIZEN COMMENTS

At this time, three (3) minute comments will be taken from the audience on any topic. To address the Council, please submit a fully completed request card to the City Secretary prior to the beginning of the Citizens' Comment portion of the Council meeting. 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 Staff for research and possible future action.

To address the Council concerning any item on the agenda, please submit a fully completed request card to the City Secretary prior to the start of the meeting.

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.

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 8A

TITLE:
Consider action to approve City Council minutes from November 12, 2019, Regular Meeting and November 13, 2019 Special Meeting.

STAFF REPRESENTATIVE:
Lynda Humble, City Manager
Ann Franklin, City Secretary

BACKGROUND/HISTORY:
N/A

POLICY EXPLANATION:
Section 551.021 of the Government Code provides as follows:

(a) A governmental body shall prepare and keep minutes or make a tape recording of each open meeting of the body.
(b) The minutes must:
1. State the subject of each deliberation; and
2. Indicate the vote, order, decision, or other action taken.

FUNDING SOURCE:
N/A

RECOMMENDATION:
Consider action to approve City Council minutes from November 12, 2019, Regular Meeting and November 13, 2019 Special Meeting.

ATTACHMENTS:
- November 12, 2019, DRAFT Regular Meeting Minutes.
- November 13, 2019, DRAFT Special Meeting Minutes.

BASTROP CITY COUNCIL

November 12, 2019

The Bastrop City Council met in a Regular Meeting on Tuesday, November 12, 2019, at 5:30 p.m. at the Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present were Mayor Schroeder, Mayor Pro Tem Nelson and Council Members Jackson, Ennis, Rogers and Peterson. Officers present were City Manager Lynda Humble, City Secretary Ann Franklin and City Attorney Alan Bojorquez.

EXECUTIVE SESSION

The City Council met at 5:32 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 Section 551.072 of the Texas Government Code to deliberate the acquisition of property located on MLK Drive.

10B. City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Government Code to confer with City Attorney regarding fire inspections of childcare facilities and schools.

10D. City Council shall convene into closed executive session pursuant to Section 551.072 of the Texas Government Code to deliberate the acquisition of property and easements associated with the construction of Wastewater Treatment Plant #3

10E. City Council shall convene into closed executive session pursuant to Section 551.086 of the Texas Government Code to discuss competitive matters related to Bastrop Power & Light (BP&L).

10F. City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Government Code to discuss with City Attorney pending litigation styled as Carolyn Smith, The Village at Hunters Crossing LLC and Lirtex Properties, LLC v. the City of Bastrop, et. al.

The Bastrop City Council reconvened at 6:43 p.m. into open (public) session.

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

CALL TO ORDER
At 6:43 p.m. Mayor Schroeder called the meeting to order with a quorum being present.

PLEDGE OF ALLEGIANCE
Zonai Cook, Jacob Almendarez, Sophia Zhao, And Kaden Simpson, Student Leaders of the Mina Physical Education Possee led the pledges

INVOCATION
Mayor Connie Schroeder gave the invocation.

ITEMS FOR INDIVIDUAL CONSIDERATION

9B. Consider action to approve Resolution No. R-2019-100 of the City Council of the City of Bastrop, Texas, adopting a wholesale wastewater agreement with West Bastrop Village Municipal Utility District of Bastrop County and West Bastrop Village, Ltd.; attached as Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.
This item was pulled from the agenda.

9C. Consider action to approve Resolution No. R-2019-99 of the City Council of the City of Bastrop, Texas, adopting a wholesale water agreement with West Bastrop Village Municipal Utility District of Bastrop County and West Bastrop Village Ltd.; attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.
This item was pulled from the agenda.

PRESENTATIONS

4A. Mayor's Report

4B. Councilmembers' Report

4D. Proclamation celebrating the life and contributions of Anne Beck.
The proclamation was read into record by Mayor Schroeder and received by Anne Beck's Husband, Marvin Beck and Daughter, Deandra Beck.

WORK SESSION/BRIEFINGS

5A. Receive presentation and hold discussion with NewGen Strategies and Solutions regarding the City's Water and Wastewater Rate Ordinance and established rates.
Presentation was made by Chris Ekrut, Chief Financial Officer, NewGen Strategies and Solutions.

SPEAKER

Larry Dickens
47 Loop 150 W.
Bastrop TX. 78602
512.304.006

ITEMS FOR INDIVIDUAL CONSIDERATION CONTINUED

9H. Consider action to approve the first reading of Ordinance No. 2019-58 of the City Council of the City of Bastrop, Texas, amending the Bastrop Code of Ordinances, Article 13.02 "Water and Wastewater Rates and Charges", Sections 13.02.002 Wastewater Service Charge, 13.02.004 Water Service Charges, and 13.02.008 Billing, Discontinuance of Service; Amending Appendix A, Fee Schedule, Article A13.02 "Water and Wastewater Rates and Charges", Sections A13.02.002

Wastewater Service Charge, and A13.02.004 Water Service Charge, as attached in Exhibit A; providing for: findings of fact, enactment, repealer, severability, providing for an effective date, codification, proper notice and meeting, and move to include on the November 26, 2019 agenda for a second reading.
This item was pulled from the agenda.

9AA. Consider action to approve Resolution No. R-2019-117 of the City Council of the City of Bastrop, Texas authorizing a contract with SevenArrows Land Staff, LLC for land acquisition services and approving Task Order #1 in the amount of Forty-Six Thousand and 00/100 Dollars ($46,000.00); as attached as Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.
A motion was made by Council Member Rogers to approve Resolution No. R-2019-117, seconded by Council Member Ennis, motion was approved on a 5-0 vote.

9J. Consider action to approve Resolution No. R-2019-111 of the City Council of the City of Bastrop, Texas, authorizing proceeding with issuance of Certificates of Obligation and further directing the publication of notice of intention to issue City of Bastrop, Texas Combination Tax and Revenue Certificates of Obligation, Series 2020.
Presentation was made by Bart Fowler, McCall Parkhurst & Horton.

A motion was made by Council Member Jackson to approve Resolution No. R-2019-111, seconded by Council Member Peterson motion was approved on a 5-0 vote.

9I. Consider action to approve the first reading of Ordinance No. 2019-44 of the City Council of the City of Bastrop, Texas amending the Bastrop City Code of Ordinances, Chapter 1, titled “General Provisions”, Article 1.02, titled “Administration,” Section 1.02.002, Article 1.04, titled “Boards, Committees and Commissions,” Sections 1.04.001,1.04.002, and adding 1.04.003; Article 1.05, titled “Housing Authority,” Section 1.05.002, Article 1.10, titled “Parks,” Section 1.10.001, Article 1.12, titled “Libraries,” Division 2, titled “Library Board,” Section 1.12.062, Article 1.15, titled “Code of Ethics,” Division 3, titled “Implementation,” Section 1.15.013, Article 1.16, titled “Art in Public Places,” Section 1.16.002 and 1.16.003, Article 1.17, titled "Main Street Advisory Board", Section 1.17.001; Chapter 3, titled “Building Regulations,” Article 3.02, titled “Construction Standards Board of Adjustments and Appeals,” Sections 3.02.001, 3.02.002, and 3.02.003; Chapter 15, titled “Cemeteries,” Article 15.01, titled, “Fairview Cemetery,” Section. 15.01.002; unifying appointments, terms, number of members, residency requirements, and the filling of vacancies for city boards and commissions attached as Exhibit A; providing for findings of fact; enactment; dissolution; repealer; severability; providing an effective date, proper notice and meeting; and move to include on the November 26, 2019 agenda for a second reading.
Presentation was made by Chief Financial Officer, Tracy Waldron.

SPEAKER

Debbie Moore
1306 Church St.
Bastrop, TX 79602

225.802.4702

A motion was made by Council Member Rogers to approve the first reading of Ordinance No. 2019-44 and move to include on the November 26, 2019 agenda for a second reading with the copy of Council proposed changes, seconded by Council Member Jackson, motion was approved on a 5-0 vote.

9K. Consider action to approve Resolution No. R-2019-116 of the City Council of the City of Bastrop, Texas approving the Bastrop Public Library to accept up to Ten Thousand Three and 20/100 Dollars ($10,003.20) in rebates from the Universal Services Administrative Co. for internet service provided by FiberLight to the Bastrop Public Library from July 1, 2019, through June 30, 2020.
Presentation was made by Director, Bastrop Public Library, Becca Sexton.

A motion was made by Council Member Rogers to approve Resolution No. R-2019-116, seconded by Council Member Ennis, motion was approved on a 5-0 vote.

9N. Conduct a public hearing and consider action to approve the first reading of Ordinance 2019-59 of the City Council of the City of Bastrop, Texas, Rezoning 65.926 acres out of the Nancy Blakey Survey, Abstract 98, from GR, General Retail to Bastrop Grove Planned Development District with a base residential use, located south of Agnes Street and east of State Highway 304, within the City Limits of Bastrop, Texas; as shown in Exhibits A, B, & C; including a severability clause; and establishing and effective date, and move to include on the November 26, 2019 Consent Agenda.
Presentation was made by City Manager, Lynda Humble and Peter Verdicchio, SEC Planning.

Public hearing was opened.

Public hearing was closed.

A motion was made by Council Member Peterson to approve the first reading of Ordinance No. 2019-59 and move to include on the November 26, 2019 agenda for a second reading, seconded by Council Member Ennis, motion was approved on a 5-0 vote.

Mayor Schroeder recessed the Council Meeting at 8:38 p.m.

Mayor Schroeder called the meeting back to order at 8:45 p.m.

9G. Consider action to approve Resolution No. R-2019-114 of the City Council of the City of Bastrop, Texas approving the Third Amendment to Consent Agreement for the Colony Municipal Utility District No. 1 and Successor Districts to be Created by Division of the Colony Municipal Utility District No. 1 as attached in Exhibit A; Authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.
Presentation was made by Assistant City Manager of Development Services, Trey Job.

A motion was made by Council Member Peterson to approve Resolution No. R-2019-114, seconded by Council Member Rogers, motion was approved on a 5-0 vote.

9Y. Consider action to approve Ordinance 2019-62 of the City Council of the City of Bastrop, Texas abandoning, vacating, and closing a 0.211 acre portion of Adams Street roadway being out of Building Block 12 (west of water street) in the City of Bastrop, Bastrop County, Texas, and which is more particularly described and depicted in Exhibit A, which is attached hereto and incorporated herein for all purposes; authorizing the City Manager to execute a deed to convey said right-of-way to adjacent owners; and providing for findings of fact, repealer, and severability; establishing an effective date; and proper notice and meeting.
Presentation was made by City Manager, Lynda Humble.

A motion was made by Council Member Ennis to approve the first reading of Ordinance No. 2019-62 and move to include on the November 26, 2019 agenda for a second reading, seconded by Council Member Peterson, motion was approved on a 4-0 vote. Mayor Schroeder recused herself.

9Z. Consider action to approved Resolution No. R-2019-118 of the City Council of the City of Bastrop authorizing a contract to purchase of 0.211 acres, a portion of Building Block 12, West of Water Street, in the amount of One and 00/100 Dollar ($1.00) from the Bastrop Christian Church, attached as Exhibit A, and approving a License Agreement for Parking during Special Events with Bastrop Christian Church, as attached as Exhibit B; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date
Presentation was made by City Manager, Lynda Humble.

A motion was made by Council Member Jackson to approve Resolution No. R-2019-118 with clarification from City Attorney, seconded by Council Member Peterson, motion was approved on a 4-0 vote. Mayor Schroeder recused herself.

9W. Consider action to approve the first reading of Ordinance No. 2019-62 of the City Council of the City of Bastrop, Texas amending the Bastrop City Code of Ordinances, Chapter 4, “Business Regulations,” adding Article 4.13 “Mobile Food Trucks,” and providing for findings of fact, enactment, enforcement, a repealer, and severability; establishing an effective date; and proper notice and meeting, and place on the November 24, 2019 agenda for a second reading.
Presentation was made by City Manager, Lynda Humble.

SPEAKER

Henry Conner
315 Cedar Street
Bastrop, TX 78602
512.718.8770

A motion was made by Mayor Pro Tem Nelson to pull this item for a workshop, seconded by Council Member Ennis, motion was approved on a 5-0 vote.

9D. Consider action to approve Resolution No. R-2019-115 of the City Council of the City of Bastrop, Texas awarding a contract for Preliminary Engineering Design of the Gills Branch Drainage Mitigation Project to Halff Associates, Inc. in the amount of Two Hundred Ten Thousand Seven Hundred Ten Dollars and 00/100 cents ($210,710.00) as attached in Exhibit A; Authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.
This item was pulled from the agenda.

9E. Consider action to approve Resolution No. R-2019-112 of the City Council of the City of Bastrop, Texas awarding a contract for design of a Drainage Master Plan to Halff Associates, Inc. in the amount of Two Hundred Twenty-six Thousand Dollars and 00/100 cents ($226,000.00) as attached in Exhibit A; Authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date
This item was pulled from the agenda.

9O. Consider action to approve the second reading of Ordinance No. 2019-50 of the City Council of the City of Bastrop, Texas amending the 2036 Comprehensive Plan by amending Chapter 5, of the Transportation Master Plan, as attached in Exhibit A; and providing for findings of fact, adoption, enforcement, a repealer and severability; establishing an effective date; proper notice and meeting.
A motion was made by Mayor Pro Tem Nelson to approve the second reading of Ordinance No. 2019-50, seconded by Council Member Ennis, motion was approved on a 5-0 vote.

9P. Consider action to approve the second reading of Ordinance No. 2019-51 of the City Council of the City of Bastrop, Texas adopting the Bastrop Building Block (B3) Code, as attached in Exhibit A; providing for findings of fact, adoption, repealer, severability, and enforcement; establishing an effective date; proper notice and meeting.
Presentation was made by City Manager, Lynda Humble.

A motion was made by Council Member Ennis to approve the second reading of Ordinance No. 2019-51, seconded by Council Member Rogers, motion was approved on a 5-0 vote.

9Q. Consider action to approve the second reading of Ordinance No. 2019-52 of the City Council of the City of Bastrop, Texas adopting the Authentic Bastrop Pattern Book, as attached in Exhibit A; providing for findings of fact, adoption and amendments, a repealer, severability, and enforcement; establishing an effective date; proper notice and meeting.
A motion was made by Council Member Jackson to approve the second reading of Ordinance No. 2019-52, seconded by Council Member Rogers, motion was approved on a 5-0 vote.

9R. Consider action to approve the second reading of Ordinance No. 2019-53 of the City Council of the City of Bastrop, Texas adopting the Bastrop Building Block Technical Manual("B3TM"), as attached in Exhibit A; providing for findings of fact, adoption and amendments, a repealer, severability, and enforcement; establishing an effective date.
Presentation was made by City Manager, Lynda Humble.

A motion was made by Council Member Jackson to approve the second reading of Ordinance No. 2019-53, seconded by Council Member Ennis, motion was approved on a 5-0 vote.

9S. Consider action to approve the second reading of Ordinance No. 2019-54 of the City Council of the City of Bastrop, Texas adopting a development manual in compliance with Bastrop Building Block (B3) Code – enacting purpose, authority and jurisdiction, as attached in Exhibit A; establishing a repealing clause; providing severability; providing an effective date.
A motion was made by Council Member Peterson to approve the second reading of Ordinance No. 2019-54, seconded by Council Member Rogers, motion was approved on a 5-0 vote.

9T. Consider action to approve the second reading of Ordinance No. 2019-55 of the City Council of the City of Bastrop, Texas adopting the 2036 Comprehensive Plan as attached in Exhibit A; providing for findings of fact, adoption, enforcement, a repealer and severability; establishing an effective date; proper notice and meeting.
A motion was made by Mayor Pro Tem Nelson to approve the second reading of Ordinance No. 2019-55, seconded by Council Member Rogers, motion was approved on a 5-0 vote.

9U. Consider action to approve the second reading of Ordinance 2019-57 of the City Council of the City of Bastrop, Texas adopting Schedules of Uniform Submittal Dates for 2019/2020 for Neighborhood Regulating Plans as shown as Exhibit A, in order to comply with Texas Local Government Code Chapter 212, which requires Neighborhood Regulating Plans to be reviewed within thirty (30) days of submittal or deemed approved; and providing for findings of fact, enactment, enforcement, a repealer, and severability; establishing an effective date; and proper notice and meeting.
A motion was made by Council Member Ennis to approve the second reading of Ordinance No. 2019-57, seconded by Council Member Peterson, motion was approved on a 5-0 vote.

9V. Consider action to approve the second reading of Ordinance No. 2019-49 of the City Council of the City of Bastrop, Texas amending Construction Standards Technical Manual dated January 2012, amending Chapter 1 – Section II References, Abbreviations and Definitions and adding Street Typical Street Cross-Sections, as attached in Exhibit A; providing for findings of fact, adoption, enforcement, a repealer and severability; establishing an effective date; proper notice and meeting.
Presentation was made by City Manager, Lynda Humble and Assistant City Manager of Development Services, Trey Job.

A motion was made by Mayor Pro Tem Nelson to approve the second reading of Ordinance No. 2019-49, seconded by Council Member Peterson, motion was approved on a 5-0 vote.

9BB. Consider action to approve Resolution No. R-2019-119 of the City Council of the City of Bastrop, Texas authorizing a contract with SimpleCity Design for on-call consulting

services, as attached in Exhibit A; authorizing the City Manager to execute necessary documents; providing for a repealing clause; and establishing an effective date.
Presentation was made by City Manager, Lynda Humble.

EXECUTIVE SESSION CONTINUED

The City Council met at 10:21 p.m. in a closed/executive session pursuant to the Texas Government Code, Chapter 551, et seq, to discuss the following:

10C. City Council shall convene into closed executive session pursuant to Section 551.072 of the Texas Government Code to deliberate the acquisition of outstanding easements on Main Street.

The Bastrop City Council reconvened at 11:08 p.m. into open (public) session.

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

ITEMS FOR INDIVIDUAL CONSIDERATION CONTINUED

9BB Continued

9BB. Consider action to approve Resolution No. R-2019-119 of the City Council of the City of Bastrop, Texas authorizing a contract with SimpleCity Design for on-call consulting services, as attached in Exhibit A; authorizing the City Manager to execute necessary documents; providing for a repealing clause; and establishing an effective date.
This item was pulled from the agenda.

STAFF AND BOARD REPORTS

ADJOURNMENT

Adjourned at 11:09 p.m. without objection.

APPROVED: ATTEST:

_____ _____
Mayor Connie B. Schroeder City Secretary Ann Franklin

The Minutes were approved on November 26, 2019, by Council Member motion, Council Member second. The motion was approved on a vote.

BASTROP CITY COUNCIL
November 13, 2019

The Bastrop City Council met in a Regular Meeting on Tuesday, November 13, 2019, at 6:30 p.m. at the Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present were Mayor Schroeder, Mayor Pro Tem Nelson and Council Members Jackson, Ennis, Rogers and Peterson. Officers present were City Manager Lynda Humble, City Secretary Ann Franklin and City Attorney Erin Higginbotham
.

CALL TO ORDER
At 6:30 p.m. Mayor Schroeder called the meeting to order with a quorum being present.

4C. City Manager's Report

STAFF AND BOARD REPORTS

6A. Receive presentation on the Quarterly Investment Report for the period ending September 30, 2019.
Presentation was made by Chief Financial Officer, Tracy Waldron.

CITIZEN COMMENTS - NONE

CONSENT AGENDA

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

8A. Consider action to approve City Council minutes from October 22, 2019, Joint Council and Planning and Zoning; October 22, 2019, Regular meeting; October 24, 2019, Board and Commission Orientation; and November 5, 2019, Joint City Council and Construction Standards Board.

8B. Consider action to approve the second reading of Ordinance No. 2019-48 of the City Council of the City of Bastrop, Texas, amending the budget for the Fiscal Year 2019 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.

ITEMS FOR INDIVIDUAL CONSIDERATION

9A. Consider action to approve Resolution No. R-2019-110 of the City Council of the City of Bastrop, Texas regarding the Bastrop Central Appraisal District (CAD) election voting for the 2020-2021 Board of Directors; establishing a repealing clause; and providing an effective date.
A motion was made by Council Member Jackson to approve Resolution No. R-2019-110 to apply the City of Bastrop's allocated 210 votes for Emanuel, Roderick, seconded by Council Member Peterson, motion was approved on a 5-0 vote.

9F. Consider action to approve Resolution No. R-2019-113 of the City Council of the City of Bastrop, Texas awarding a contract for the City of Bastrop Streets, Pavement and Preventative Maintenance Project to Angel Brothers Enterprises, Ltd. in the amount of One Million One Hundred Eighty-nine Thousand One Hundred Thirty-nine Dollars and Eighty Cents ($1,189,139.80) as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

This item was pulled from the agenda.

9L. Consider action to approve the first reading of Ordinance No. 2019-56 of the City Council of the City of Bastrop, Texas repealing and replacing Chapter Six, Health and Sanitation, as attached in Exhibit A; and repealing and replacing Chapter Eight Offenses and Nuisances, as attached in Exhibit B; and providing for findings of fact, adoption, repealer, severability, and enforcement; establishing an effective date; and proper notice and meeting, and move to include on the November 26, 2019 agenda for a second reading.

Presentation was made by Assistant Chief of Police, Clint Nagy.

A motion was made by Council Member Peterson to approve the first reading of Ordinance No. 2019-56 and move to include on the November 26, 2019 agenda for a second reading, seconded by Council Member Ennis, motion was approved on a 5-0 vote.

9M. Consider action to approve the first reading of Ordinance No. 2019-61 of the City Council of the City of Bastrop, Texas adopting the International Building Code (2018), amending Chapter 3, “Building Regulations”, Section 3.04.001, Building Code Adopted; adopting the National Electric Code (2017), amending Section 3.05.031, Electrical Code Adopted; adopting International Plumbing Code (2018), amending Section 3.06.031, Plumbing Code Adopted; adopting International Mechanical Code (2018), amending Section 3.07.001, Mechanical Code Adopted; adopting International Fuel Gas Code (2018), amending Section 3.08.001, Fuel Gas Code; adopting International Residential Code (2018), amending Section 3.09.001, Residential Code; adopting International Energy Conservation Code (2018), amending Section 3.10.001, Energy Conservation Code; adopting International Green Construction Code (2018), amending Section 3.14.001, International Green Construction Code; adopting the International Swimming Pool and Spa Code (2018), amending Section 3.15.001, Swimming Pool Code Adopted; repealing Section 3.15.002, Screening and fencing, adopting International Existing Building Code (2018), amending Section 3.13.001, Existing Building Code Adopted; and adopting the International Fire Code (2018), amending Chapter 5, “Fire Prevention and Protection”, Section 5.02.001, Fire Code Adopted, repealing Article 5.03, Life Safety Code, repealing Article 5.04-5.06 Reserved, repealing Article 5.07 Fire Lanes, repealing Article 5.08 Reserved, as attached in Exhibit A; and providing for findings of fact, adoption and amendment, repealer, severability, and enforcement; establishing an effective date; and proper notice and meeting, and move to include on the November 26, 2019 agenda for a second reading.

Presentation was made by Fire Chief, Andres Rosales.

A motion was made by Council Member Rogers to approve the first reading of Ordinance No. 2019-61 and move to include on the November 26, 2019 consent agenda for a second reading, seconded by Council Member Jackson, motion was approved on a 5-0 vote.

9X**.** Consider action to approve the first reading of Ordinance No. 2019-60 of the City Council of the City of Bastrop, Texas amending the Bastrop City Code of Ordinances, Chapter 13, "Utilities," adding Article 13.12 "Impact Fees," and providing for findings of fact, enactment, enforcement, a repealer, and severability; establishing an effective date; and proper notice and meeting.
Presentation was made by City Manager, Lynda Humble.

A motion was made by Mayor Pro Tem Nelson to approve the first reading of Ordinance No. 2019-60 and move to include on the November 26, 2019 agenda for a second reading, seconded by Council Member Rogers, motion was approved on a 5-0 vote.

EXECUTIVE SESSION

The City Council met at 7:14 p.m. in a closed/executive session pursuant to the Texas Government Code, Chapter 551, et seq, to discuss the following:

10B. City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Government Code to confer with City Attorney regarding fire inspections of childcare facilities and schools.

The Bastrop City Council reconvened at 7:53 p.m. into open (public) session.

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

ADJOURNMENT

Adjourned at 7:54 p.m. without objection.

APPROVED: ATTEST:

_____ _____
Mayor Connie B. Schroeder City Secretary Ann Franklin

The Minutes were approved on December 10, 2019, by Council Member motion, Council Member second. The motion was approved on a vote.

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 8B

TITLE:
Consider action to approve the second reading of Ordinance No 2019-59 of the City Council of the City of Bastrop, Texas, Rezoning 65.926 acres out of the Nancy Blakey Survey, Abstract 98, from GR, General Retail to Bastrop Grove Planned Development District with a base residential use, located south of Agnes Street and east of State Highway 304, within the City Limits of Bastrop, Texas; as shown in Exhibits A, B, & C; including a severability clause; and establishing and effective date.

STAFF REPRESENTATIVE:
Lynda Humble, City Manager/Interim Director of Planning and Development

ITEM DETAILS:

Site Address:	South of Agnes Street and east of State Highway 304 (Exhibit A)
Total Acreage:	65.926 acres
Legal Description:	65.926 acres out of Nancy Blakey Survey, Abstract 98
Property Owner:	Holt Dunlop - Waymaker Ventures
Agent Contact:	Amy Neskar, PE, BGE, Inc.
Existing Use:	Vacant/Undeveloped
Existing Zoning:	GR – General Retail
Future Land Use:	Transitional Residential

BACKGROUND/HISTORY:
This zoning request was presented at the August 27, 2019 Planning & Zoning Commission Meeting. This request was tabled at the request of the applicant in order to address the following issues: (1) access to SH 304 at Colorado, (2) additional housing types, and (3) orienting residents to the retail areas to provide a more walkable interaction between land uses including a higher density housing type as a transition to adjacent commercial projects.

The applicant has revised their zoning request to address the above referenced the concerns, which is a Planned Development District with Single Family-7 base zoning. The request includes 337 residential and multi-family lots and eleven open space lots providing 5.36 acres of open space (Exhibit C) for the proposed development. A 100-foot LCRA easement runs across the property from east to west. A total of 3.54 acres of the proposed open space is within the LCRA easement.

The proposed single-family and multi-family lot standards for the proposed Planned Development District are as follows:

Lot Standard	Number of Lots	% of Total Lots	Minimum Dimension (feet)	Lot Size (square feet)	Dwelling Unit Ranges
35' Lot	48	14.25	35' by 110'*	3,850	1,000 – 2,500 square feet
40' Lot	254	75.37	40' by 110'*	4,400	1,000 – 3,000 square feet
50' Lot	17	5.04	50' by 110'*	5,500	1,400 – 3,300 square feet
Multi-Family	18	5.34			600 – 2,000 square feet
*15% of the lots will have a minimum lot depth of 95'.					

Future Land Use Plan

The subject property is designated as Transitional Residential on the Future Land Use Plan. The Transitional Residential character area is for lands to be developed with higher densities and a variety of housing types. The character area supports high-density single-family detached, single-family attached (duplexes, triplexes, townhouses) and multifamily (apartments), and institutional residential uses such as nursing homes and assisted living facilities. Variation in form, scale, and density is allowed but appropriate transitions must be provided between land uses. In some cases, Transitional Residential uses may be included as part of a larger planned development within areas otherwise designated as Neighborhood Residential. Likewise, Transitional Residential character areas may also include associated amenities such as parks, trails, open spaces, and public uses such as schools, fire stations, and more.

The proposed development provides three lot types for single-family detached residential and limited multi-family. The Future Land Use Plan suggests this property is appropriate for higher densities including attached single-family residential up to multifamily residential.

Streets and Connectivity

The planned development is proposing two connections to SH 304 and one connection to Agnes St. Colorado Street will be limited to right-in-right-out onto SH 304. The development includes three street types, a collector street with 60' of ROW and 40' of pavement, a residential street with 50' of ROW and 30' of pavement, and an alley loaded residential street with 50' ROW and 24' of pavement.

Utilities

The development will connect to the existing water and wastewater lines along Agnes Street. New water lines, wastewater lines, and storm water lines will be constructed to serve the property. All water lines will be required to provide adequate fire protection facilities, such as appropriate line sizes and fire hydrants. A Preliminary Utility Schematic (Attachment 7) has been provided to show how the development would be served. If approved, a full set of construction plans meeting all City of Bastrop standards would be reviewed and approved by the City prior to construction. Bluebonnet Electric will provide electric service to the property.

Drainage

The proposed development is adjacent to a drainage channel that runs along the eastern boundary of the subject property. All construction within the development will be required to mitigate any adverse impacts up or downstream, as well as convey stormwater within the residential lots to mitigate any flooding.

PUBLIC NOTIFICATION:

Notifications were mailed to 15 property owners within two hundred feet (200') of the subject property (Attachment 1) on October 15, 2019. At the time of this report, one (1) written comment has been received in favor of the request (from the mail notice for the August 27, 2019 meeting) and none (0) in opposition (Attachment 2).

POLICY EXPLANATION:

Zoning requests are reviewed by the Planning & Zoning Commission and a recommendation is provided. The zoning application and P&Z recommendations are then forwarded to City Council for final approval. Further policy explanation is included in Exhibit C.

PLANNING & ZONING RECOMMENDATION:

At the regular meeting on October 31, 2019, after holding a public hearing, the Commission recommended approval of Bastrop Grove Residential Planned Development District by a vote of 6-0.

RECOMMENDATION:

Consider action to approve the second reading of Ordinance No. 2019-59 of the City Council of the City of Bastrop, Texas, Rezoning 65.926 acres out of the Nancy Blakey Survey, Abstract 98, from GR, General Retail to Bastrop Grove Planned Development District with a base residential use, located south of Agnes Street and east of State Highway 304, within the City Limits of Bastrop, Texas; as shown in Exhibits A, B, & C; including a severability clause; and establishing and effective date.

ATTACHMENTS:

- Ordinance
- Exhibit A: Location Map
- Exhibit B: Metes and Bounds Description
- Exhibit C: Bastrop Grove Residential Planned Development District
- Attachment 1: Surrounding Property Notification
- Attachment 2: Property Owner Response(s)
- Attachment 3: Preliminary Utility Plan

ORDINANCE 2019-59

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, REZONING 65.926 ACRES OUT OF THE NANCY BLAKEY SURVEY, ABSTRACT 98, FROM GR, GENERAL RETAIL, TO BASTROP GROVE RESIDENTIAL PLANNED DEVELOPMENT DISTRICT WITH A BASE RESIDENTIAL USE, LOCATED SOUTH OF AGNES STREET AND EAST OF STATE HIGHWAY 304, WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AS SHOWN IN EXHIBITS A, B & C; INCLUDING A SEVERABLILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, WayMaker Ventures (hereinafter referred to as "Applicant") submitted a request to rezone 65.926 acres out of the Nancy Blakey Survey, Abstract 98, within the City limits of Bastrop, Texas, hereinafter referred to as "the Property"; and

WHEREAS, a location map is attached hereto as Exhibit "A" (the "Property) and a metes and bounds description is attached hereto as Exhibit "B"; and

WHEREAS, the Property is currently zoned as GR, General Retail; and

WHEREAS, the Applicant is seeking a Planned Development District with a base residential use for 377 residential and multi-family units, which includes three different single-family detached lot sizes and one multi-family lot size; and

WHEREAS, the Bastrop Grove Residential Planned Development District attached as Exhibit C establishes the development standards, which include street connections, lot sizes, uses and open space provisions; and

WHEREAS, the Future Land Use Designation for this Property is Transitional Residential, which allows residential uses of varying sizes and product types as well as associated amenities that are related to and support neighborhood residential land uses; and

WHEREAS, pursuant to Section 10.4 of the City's Zoning Ordinance and Texas Local Government Code Section 211, notice of the rezoning was given to all property owners located within two hundred (200) feet of the Property, and the Planning and Zoning Commission of the City of Bastrop held a public hearing on the rezoning request on October 31, 2019; and

WHEREAS, after notice and hearing, the Planning and Zoning Commission has recommended approval of the proposed request by a vote of 6-0; and

WHEREAS, the City Council of the City of Bastrop held a public hearing on November 12, 2019 to consider the Applicant's request; and

WHEREAS, after consideration of public input received at the hearing, the information provided by the Applicants, and all other information presented, City Council finds that it is in the public interest to approve the rezoning.

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

Section 1: The Property, situated on 65.926 acres of the Nancy Blakey Survey, Abstract 98, located south of Agnes Street and east of State Highway 304, city limits of Bastrop, Texas as more particularly shown and described on attachments Exhibit A & B, shall be rezoned to Bastrop Grove Residential Planned Development District, with development standards as attached in Exhibit C.

Section 2: 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 ACKNOWLEDGED on First Reading on the 12th day of November 2019.

READ and APPROVED on the Second Reading on the 26th day of November 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

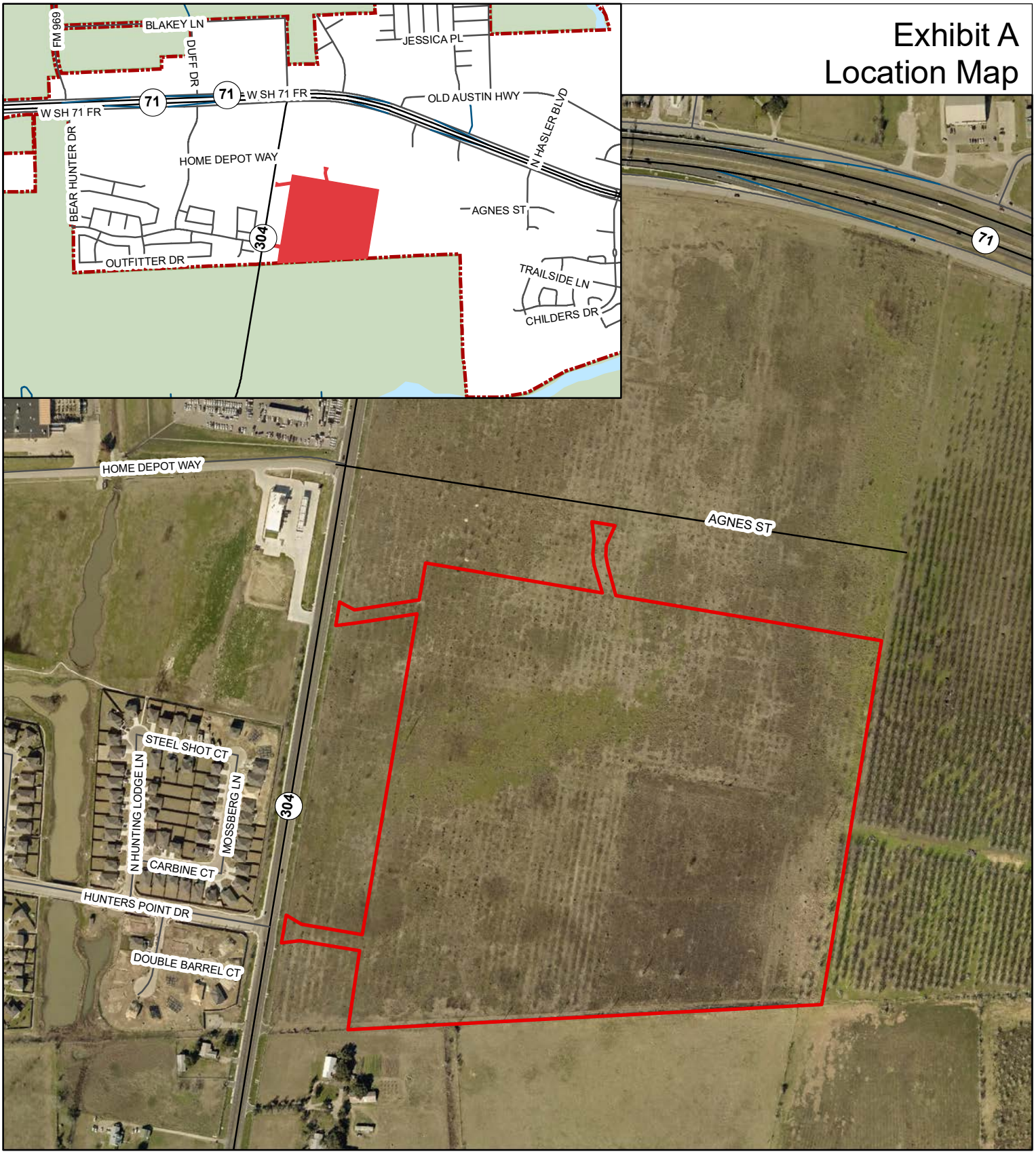
ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A
Location Map



The Grove
Planned Development District

BASTROPTX
Heart of the Lost Pines
Est. 1832

0 145 290 580
Feet

1 inch = 500 feet

N

Date: 7/10/2019

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

EXHIBIT ___

WAYMAKER
65.926 ACRES
JOB NO. 5980-00

METES & BOUNDS DESCRIPTION

FIELD NOTES FOR 65.926 ACRES OF LAND OUT OF THE NANCY BLAKEY SURVEY, ABSTRACT NUMBER 98, BASTROP COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF A CALLED 152.561 ACRE TRACT OF LAND AS DESCRIBED IN AN INSTRUMENT TO MC BASTROP 71, LP RECORDED UNDER VOLUME 2097, PAGE 241 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP TEXAS; SAID 65.926 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod found for the southeast corner of said 152.561, same being the southwest corner of a called 43.112 acre tract of land described in an instrument to John Alan Nixon recorded under Volume 1908, Page 825 of the Bastrop County Deed Records, lying on the North line of the remainder of a called 115.00 acre tract described as First Tract in an instrument to Jo Ann Griesenbeck Cantrell, et ux recorded under Volume 445, Page 684 of the Bastrop County Deed Records;

THENCE, South 86°58'19" West, with the south line of said 152.561 acre tract, the north line of said 115.00 acre tract and the north line of a called 5.021 acre tract of land described in an instrument to Network Funding, L.P. recorded under Volume 1987, Page 551 of the Official Public Records of Bastrop County, Texas, a distance of 1,820.74 feet to a 1/2-inch iron rod with cap stamped "BGE INC" set for the southwest corner of the herein described tract, from which a concrete nail found for the southwest corner of said 152.561 acre tract and the northwest corner of said 5.021 acre tract bears South 86°58'19" West, a distance of 307.53 feet;

THENCE, North 09°40'25" East, over and across said 152.561 acre tract, a distance of 1,816.88 feet to a 1/2-inch iron rod with cap stamped "BGE INC" set for the northwest corner of the herein described tract;

THENCE, South 80°20'05" East, continuing over and across said 152.561 acre tract, a distance of 1,776.11 feet to a 1/2-inch iron rod with cap stamped "BGE INC" set for the northeast corner of the herein described tract, lying on the east line of said 152.561 acre tract and the west line of said 43.112 acre tract, from which a 5/8-inch iron rod found marking the southeast corner of a called 30.970 acre tract of land described in an instrument to Seton Family of Hospitals recorded under Document Number 201716541 bears North 09°40'14" East, a distance of 318.45 feet;

THENCE, South 09°40'14" West, with the east line of said 152.561 acre tract and the west line of said 43.112 acre tract, a distance of 1,416.80 feet to the **POINT OF BEGINNING** and containing 65.926 acres of land, more or less.

I hereby certify that these notes were prepared by BGE from a survey made on the ground under my supervision on June 15, 2018 and are true and correct to the best of my knowledge. Bearing orientation is based on the Texas State Plane Coordinate System, NAD-83, Texas Central Zone 4203. A survey plat of even date was prepared by the undersigned in conjunction with this metes and bounds description.



6-19-18
Date

Robert A. Harper RPLS No. 6582
BGE, Inc.
7000 North Mopac, Suite 330
Austin, Texas 78731
Telephone: (512) 879-0400
TBPLS Licensed Surveying Firm No. 10106502

Date: June 19, 2018
Project No.: 5980-00

Bastrop Grove
Residential
Planned Development District

Submitted on November 7, 2019
by
WMV Bastrop 71, LLC
and
BGE, Inc.

Bastrop Grove Planned Development District

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Section 2 – Supplemental Regulations 8
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Chapter 1 – Zoning

Section 1 – SF-7 – Single Family Residential 7 District Base Zoning

1.1 General Purpose and Description

The Bastrop Grove Residential Planned Development District is a master planned neighborhood to be comprised of a mix of lots smaller than the minimum standards currently offered in the Bastrop Code of Ordinances. The Single-Family 7 (SF-7) district will act as the base-zoning district for any standard not listed in this document.

1.2 Permitted Uses

A Single-family detached dwellings
B Two-family residence (duplex)
C Multiple-family dwelling greater than two (2) units per building

1.3 Height Regulations

A Maximum Height: Two and one-half (2 ½) stories for the main building. Overall height must be less than thirty-five (35') feet.
B One story for accessory buildings without garages

1.4 Area Regulations

A Size of Lots
  i) Minimum Lot Area – three thousand eight hundred fifty (3,850) square feet
  ii) Minimum Lot Width – Thirty-five feet (35') as measured at the building setback line
  iii) Minimum Lot Depth – One hundred ten feet (110'), with fifteen percent (15%) of lots at ninety-five (95') minimum
  iv) A minimum of five percent (5%) of the total number of residential lots will have a lot width of fifty feet (50') as measured at the building setback line
B Size of Yards (See Figure #2)
  i) Minimum Front Yard – Fifteen feet (15')
  ii) Minimum Interior Side Yard – Five feet (5')
  iii) Minimum Exterior (Corner) Side Yard – Fifteen feet (15')
  iv) Minimum Rear Yard – Fifteen feet (15'); twenty feet (20') on residential properties abutting nonresidential uses; five feet (5') on lots with alley-loaded garages
C Front yard setbacks on single-family lots wider than forty feet (40') will be required to be staggered by an additional five feet (5') every third adjoining lot on the same block
D Building Separation (Multiple-family dwelling units) – One story, fifteen feet (15'); two stories, twenty feet (20')
E Maximum Lot Coverage – Sixty percent (60%) by main buildings and accessory buildings
F Maximum Impervious Cover – Sixty percent (60%)
G Parking Regulations
  i) Single-Family Dwelling Units
    1. A minimum of two (2) uncovered spaces between the front building line and right-of-way on the same lot as the main structure.
    2. On-site parking is not allowed to be located within the right-of-way and back of curb.
  ii) Alley-Loaded Dwelling Units
    1. A minimum of two (2) covered spaces behind the rear building line on the same lot as the main structure.

iii) Multiple-Family Dwelling Units
1. A minimum of two (2) covered spaces for each unit behind the front building line on the same lot as each dwelling unit

H Dwelling Unit Ranges
i) Single-Family Dwelling Units
1. Thirty-five (35) foot lot – One thousand (1,000) to three thousand five hundred (3,500) square feet
2. Forty (40) foot lot – One thousand (1,000) to four thousand (4,000) square feet
3. Fifty (50) foot lot – One thousand four hundred (1,400) to four thousand three hundred (4,300) square feet

ii) Multiple-Family Dwelling Units – Six hundred (600) to three thousand (3,000) square feet

1.5 Parks and Open Space Requirements

Parks and open spaces within the subdivision will intend to provide walkable and bike-able routes, space for active and passive recreation, playscape items, and shade trees in accordance with the City of Bastrop's approved plant list.

A Park areas – Development to include a minimum of 1 acre of park per 100 lots.
i) Parks within the Planned Development to be maintained by the Homeowner's Association
ii) Acreage within easements will be counted at 50% credit, while unencumbered acreage will be counted at 100%
iii) Open space lots to include minimum one three-quarters (0.75) acre open space lot and one-three (3) acre contiguous open space lot
iv) Improvement within the park acreage (such as trails or dog parks) will be detailed in the preliminary plat
v) Open space lots should not exceed a maximum of 60% on-site impervious cover

B One (1) tree will be required every forty (40) linear feet of street frontage

1.6 Street Widths

Collector streets shall have a minimum dedicated right-of-way of sixty (60') feet and a minimum paving width curb to curb of thirty-eight (38') feet. Local streets shall have a minimum dedicated right-of-way of fifty (50') feet and a minimum paving width curb to curb of thirty (30') feet. See Figure #1.

A Streets abutting the parkway shall have a minimum dedicated right-of-way of fifty (50') feet and a minimum paving width curb to curb of twenty-four (24') feet.
i) Parking will not be permitted on both sides of the roadway, except for the following provision;
1. A bump out can be provided to allow sections of eight (8') feet parallel parking spaces.

1.7 Special Requirements

A Recreational Vehicles, travel trailers or mobile homes, may not be used for on-site dwelling purposes.
B Electrical fencing and barbed wire are prohibited as perimeter fencing
C Open storage is prohibited.
D Swimming pools shall be enclosed by a security fence not less than six feet (6') in height. All swimming pools security fences shall be constructed so as not to have openings, holes or gaps larger than two inches (2") in dimension, except for doors and gates. All doors and gates shall be equipped with self-closing, self-latching devices.
E All residential structures shall have roof slopes with a minimum 4:12 pitch.
F Sidewalks are required on both sides of the street.

G At least 50% of the driveways will be paired on alternate lot lines to allow for additional street parking. Each lot will include a total four (4) parking spaces, two spaces in the garage and two spaces in the driveway.

H Residential lots with 5-foot setbacks will need to comply with regulations listed in the currently adopted City of Bastrop fire code.

I All drainage easements within the subdivision will be maintained by the Property Owner's Association.

J All drainage designs and calculations shall comply with all standards and processes outlined in the City of Bastrop Drainage Manual at the time of preliminary plat submittal.

K Utility design will comply with the City of Bastrop design standards at the time of preliminary plat submittal.

L A minimum of five percent (5%) of the total number of dwelling units will consist of multiple-family dwelling units.

M The northern entrance into the property along TX-304 will be a right-in-right-out access driveway.

N Other regulations – as established in the Development Standards, Sections 1 and 2, except as stated here.

Chapter 2 – Development Standards

Section 1 – Exterior Construction Requirements

1.1 Exterior Construction Standards:

A. *Definitions:* For the purpose of this section the following definitions shall apply:

1. *Masonry exterior construction* shall include all construction of stone material (including artificial stone), brick material, concrete masonry units, or concrete panel construction, which is composed of solid, cavity, faced, or veneered-wall construction.

   The types of allowable masonry construction are listed below:

   a. *Stone Material:* Masonry construction using stone material may consist of granite, marble, limestone, slate, river rock, and other hard and durable naturally occurring all weather stone. Cut stone and dimensioned stone techniques are acceptable.

   b. B*rick Material:* Brick material used for masonry construction shall be hard fired (kiln fired) clay or slate material that meets the latest standard contained within the building code. Unfired or underfired clay, sand, or shale brick are not allowed.

   c. *Concrete Masonry Units:* Concrete masonry units used for masonry construction shall meet the latest standard contained within the building code. Concrete masonry units shall have an indented, hammered, split face finish or other similar architectural finish, and be integrally colored. Lightweight concrete block or cinder block construction is not acceptable as an exterior finish.

   d. *Concrete Panel Construction:* Concrete finish, pre-cast panel or tilt wall construction shall be painted, fluted, or exposed aggregate. Smooth or untextured concrete finishes are not acceptable unless painted.

   e. *Plaster Finishes:* Plaster (stucco) shall have a minimum overall thickness of 7/8".

2. *Siding* shall include fiber cement (e.g. Hardiplank) or wood products excluding vertical panels.

B. Masonry exteriors and siding like hardiplank are acceptable exterior construction materials.

1.2 Construction Standards:

A. *Construction standards:* The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all new, altered or repaired construction occurring within the City.

1. R*esidential Zoning Districts:*

a. Concrete, excluding 'siding' as defined above, or metal exterior construction is not permitted on any structural exterior wall in any residential use zoning district

b. Exemptions:

(1) An accessory building two hundred and forty (240) square feet or less are excluded from this prohibition.

(2) On temporary construction buildings with a permit issued by the City Building Official.

c. *Residential Design Standards:*

(1) *Similarity Restrictions.* Except as provided in subsection (i) below, no new dwelling that is similar in appearance to a neighboring dwelling is permitted. The standards to determine such similarity are set forth below and shown by example in the figure contained in this section.

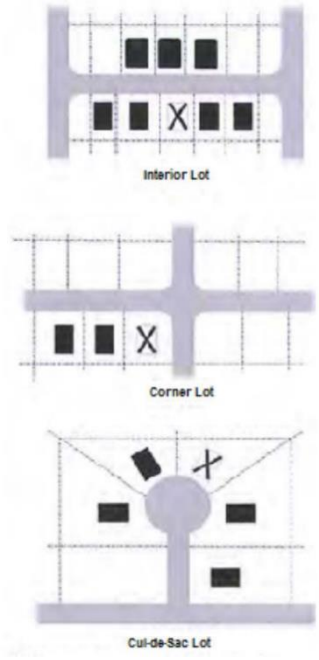
(i) *Differences in Appearance.*

(a) Differences in bulk and massing shall be reviewed for the lots on either side of the proposed dwelling on the same side of the street, as shown in the following figure.

(b) Where lots are interrupted by an intervening street, public parkland, or similar feature of at least 50 feet in width, no review shall be necessary.

(c) The proposed building shall be considered different from any vacant lot for which no Building Permit has been issued without requiring further documentation.

(d) X-Home under Construction, should be different than the ■homes.



(ii) *Differentiation.* The proposed dwelling shall differ from other applicable dwellings in at least two of the four criteria listed below (see Figures 9-12).

(a) The dwelling differs in the number of full, stories.

- Single-story; or
- Two-story

(b) The dwelling has a different type of garage.

- Front-loaded garage (one or two-car);
- Side-loaded garage; or
- Detached garage.

(c) The dwelling has a different roof type

- Gable;
- Hip;
- Gambrel;
- Mansard; or
- All of the above roof types are rotated 90 degrees.

(d) The dwelling has different variations in the front facade.

- The garage is set back a minimum of 4 feet from the front facades.
- A covered, open-walled porch at least 6 feet in depth extends a minimum of 33% of the width of the front facade; or
- Other articulation of the front facade at least 4 feet in depth extends at least 33% of the width of the front facade.

(iii) *Application Review.*

(a) Acceptable documentation may include photographs of the other structures in question (no building elevations are required).

(b) A subdivision or phase thereof may be reviewed as a whole for conformity with this requirement, provided that adequate documentation to ensure conformity is submitted with the plat. Such documentation is not required to be recorded as part of the plat.

(c) The Building Official shall review the submitted documentation and any previously approved Building Permits and make a determination. Where the Building Official finds that a dwelling for which a Building Permit is being requested is similar in appearance based on the standards above, the Building Permit shall be denied.

Section 2 – Supplemental Regulations

2.1 Setbacks

All setback measurements shall be made in accordance with Figures 4, 5, and 6.

2.2 Front Yard

A On all corner lots, the front yard setback shall be observed along the frontage of both intersecting streets, unless approved specifically otherwise on a final plat. Where single-family lots have: double frontage, extending from one street to another, or are on a corner, a required front yard shall be provided on both streets unless a side or rear yard building line has been established along one frontage on the plat, in which event only one required front yard need be observed. The side and/or rear yards in the case of single-family uses shall be identified and the front of the structure shall not face the side or rear yard (see Figure 7). For lots on a corner, the property line having the narrowest dimension shall be considered the front.

B The front yard shall be measured from the property line to the front face of the building, covered porch, covered terrace or attached accessory building. Eaves and roof extensions or a porch without posts or columns may project into the required front yard for a distance not to exceed four feet (4'), and subsurface structures, platforms or slabs may not project into the front yard to a height greater than thirty inches (30") above the average grade of the yard (see Figure 3).

C Minimum lot widths for lots with predominate frontage on the curved radius of a dedicated cul-de-sac street shall be forty feet (40’), measured at the front building line.

D Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

E Roof overhangs up to four feet (4’) and A/C units are specifically allowed within the interior side yard.

2.3 Side Yards

A. Every part of a required side yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, and other architectural features not to exceed twelve inches (12") into the required side yard, and roof eaves projecting not to exceed thirty-six inches (36") into the required side yard. Air conditioning compressors and similar equipment are permitted in the side yard.

B. Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

2.4 Rear Yards

A. Minor building elements – including decks, patios, and terraces – may encroach into the required rear yard setback.

2.5 Sight Visibility

Visual clearance shall be provided in all zoning districts so that no fence, wall, architectural screen, earth mounding or landscaping three feet (3') or higher above the street center line obstructs the vision of a motor vehicle driver approaching any street, alley, or driveway intersection as follows:

A. At a street intersection, clear vision must be maintained for a minimum of twenty-five feet (25') across any lot measured from the corner of the property line in both directions (see Figure 8).

B. At an intersection with an alley, this clearance must be maintained for ten feet (10') (see Figure 8).

C. Shrubs and hedges three feet (3') or less in height, as measured from the centerline of the street, may be located in the visual clearance areas of all districts.

2.6 Fencing and Screening

A. Fences that abut open space must have open, metal decorative fencing.
B. Fences for rear property lines along the right-of-way must have open, metal decorative fencing.
C. Chain link, woven wire mesh or similar materials are not considered decorative fencing.
D. If a screening wall has been constructed between nonresidential and residential uses, a fence will not be required on the residential property.
    1. If a fence is constructed for the residential use prior to the development of the nonresidential use, the fence is encouraged to be removed once the screening wall for the nonresidential use is constructed.
E. One (1) two-inch caliper tree will be required to be planted in the rear lot of any residential property abutting a nonresidential use.

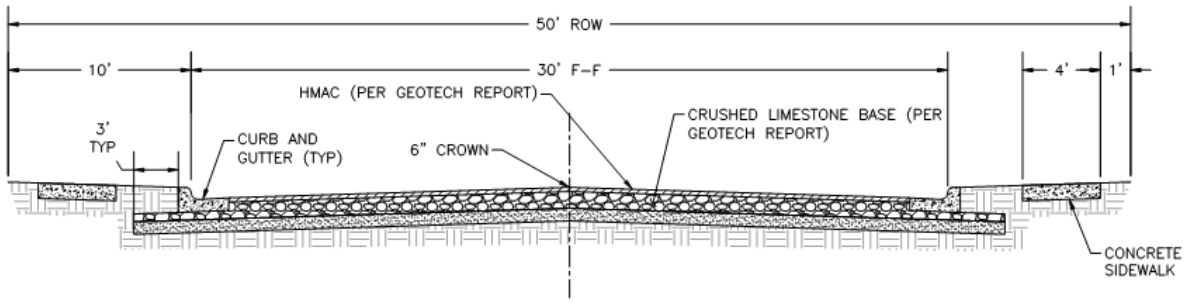
2.7 Street Lighting

The installation of street lights and associated facilities shall be coordinated with Bluebonnet Electric Cooperative. Lighting design shall comply with the City of Bastrop lighting standards at the time of preliminary plat submittal.

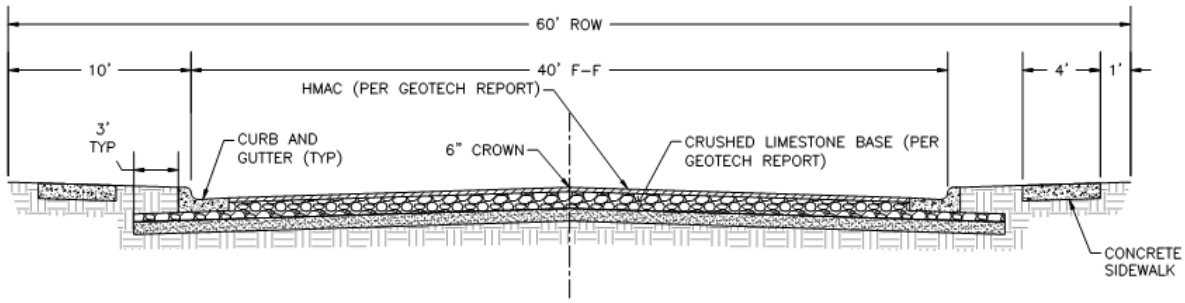
Appendix A – Figures

FIGURE #1

Typical Street Sections



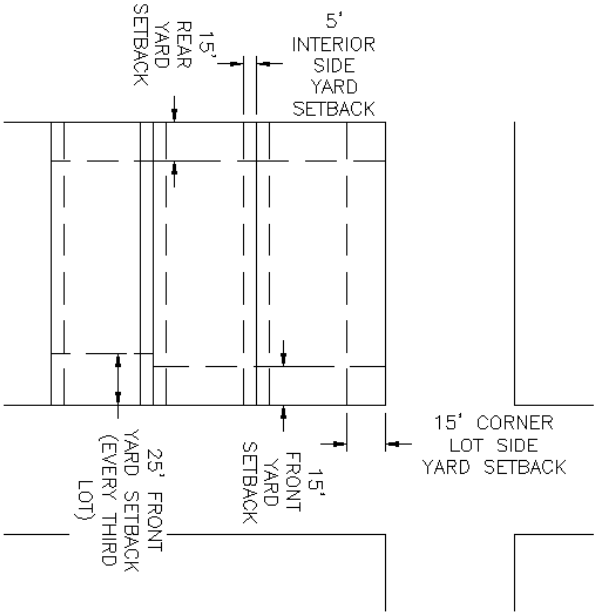
MINOR OR LOCAL STREET
TYPICAL SECTION
N.T.S.



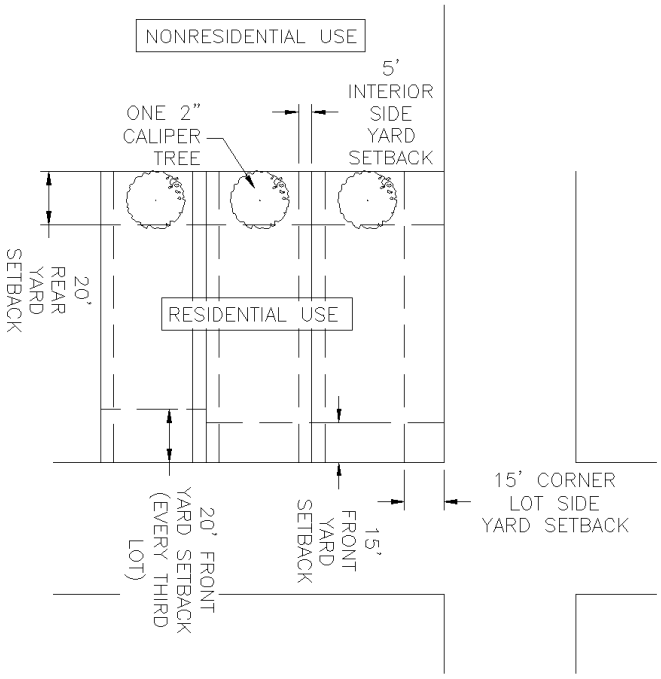
COLLECTOR TYPICAL SECTION
N.T.S.

FIGURE #2

Lot Setback Exhibits



TYPICAL YARD SETBACK EXHIBIT
(1:50 SCALE)



TYPICAL YARD SETBACK EXHIBIT
(RESIDENTIAL USE ABUTTING NONRESIDENTIAL USE)
(1:50 SCALE)

FIGURE #3

Front Yard Measurement Exhibit

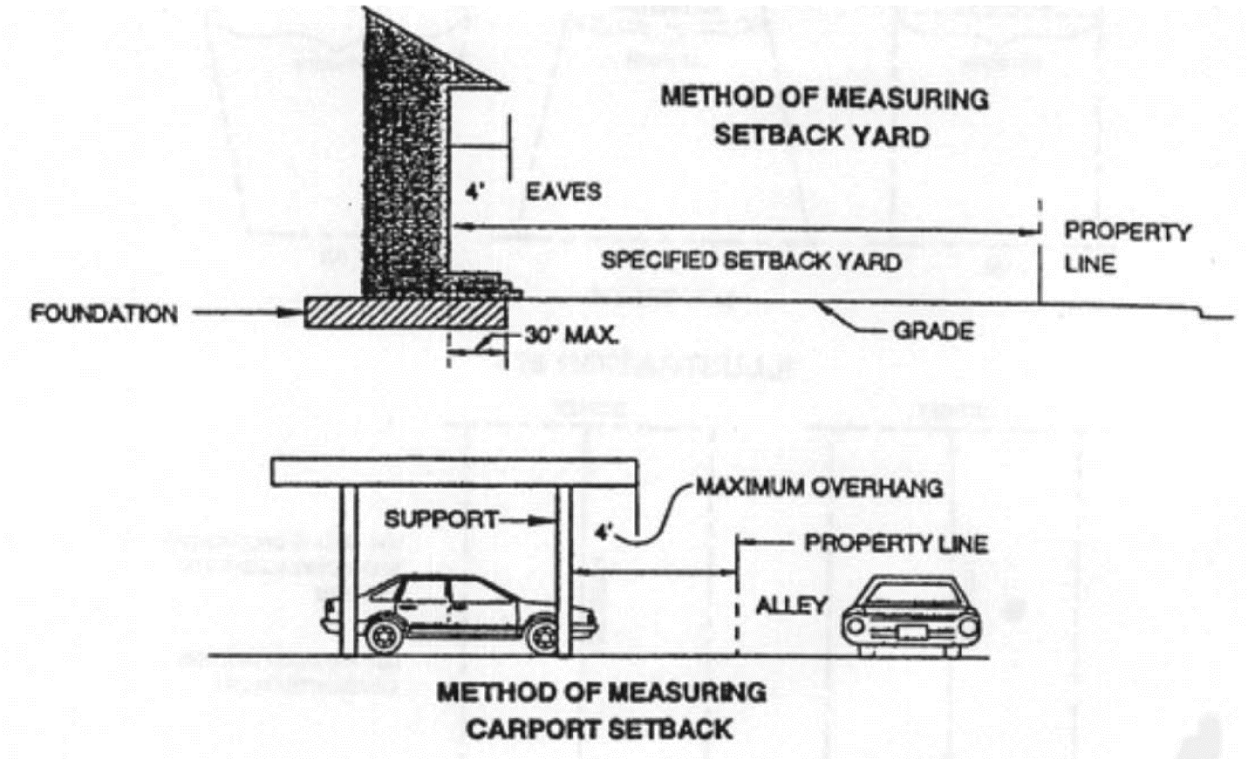


FIGURE #4

Lot Width Exhibit

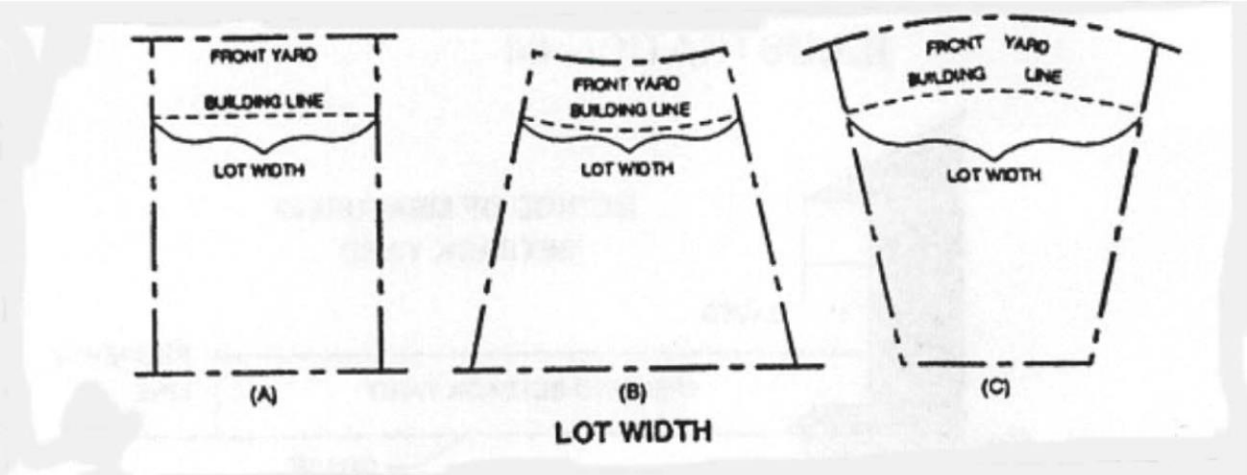


FIGURE #5

Lot Area & Depth Exhibit

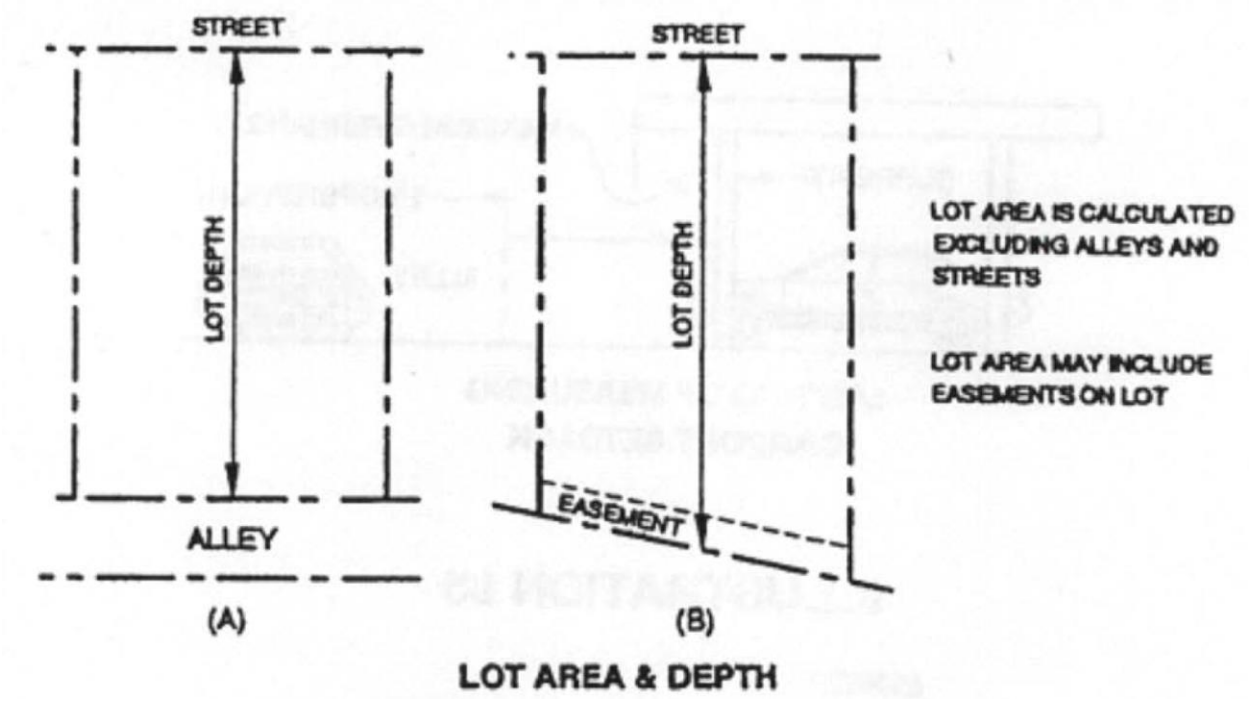


FIGURE #6

Lot Yard Exhibit

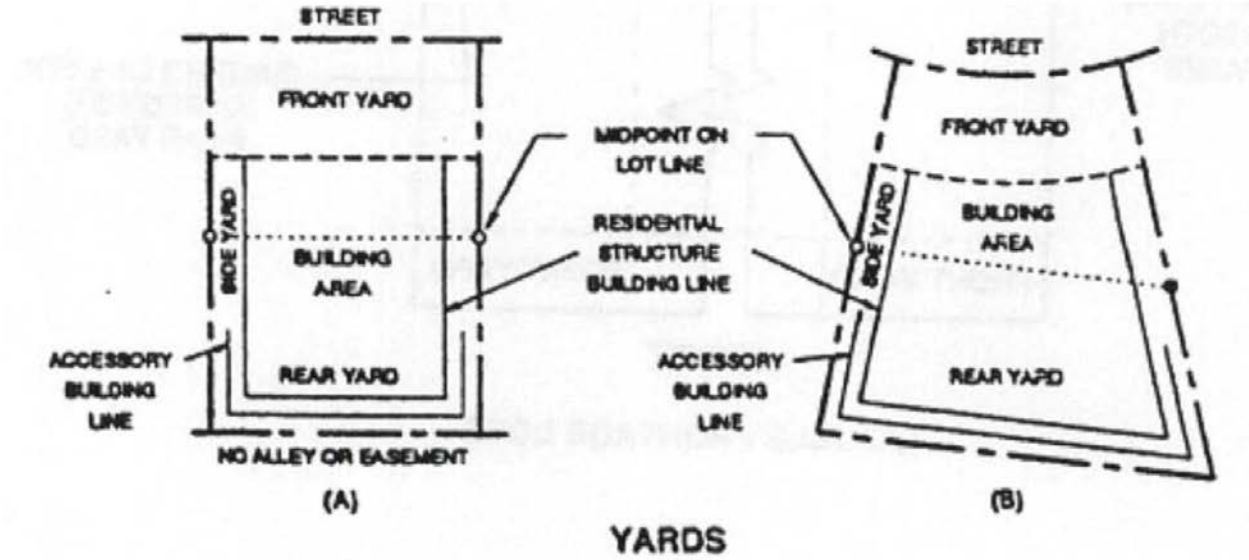


FIGURE #7

Corner Lot Exhibit

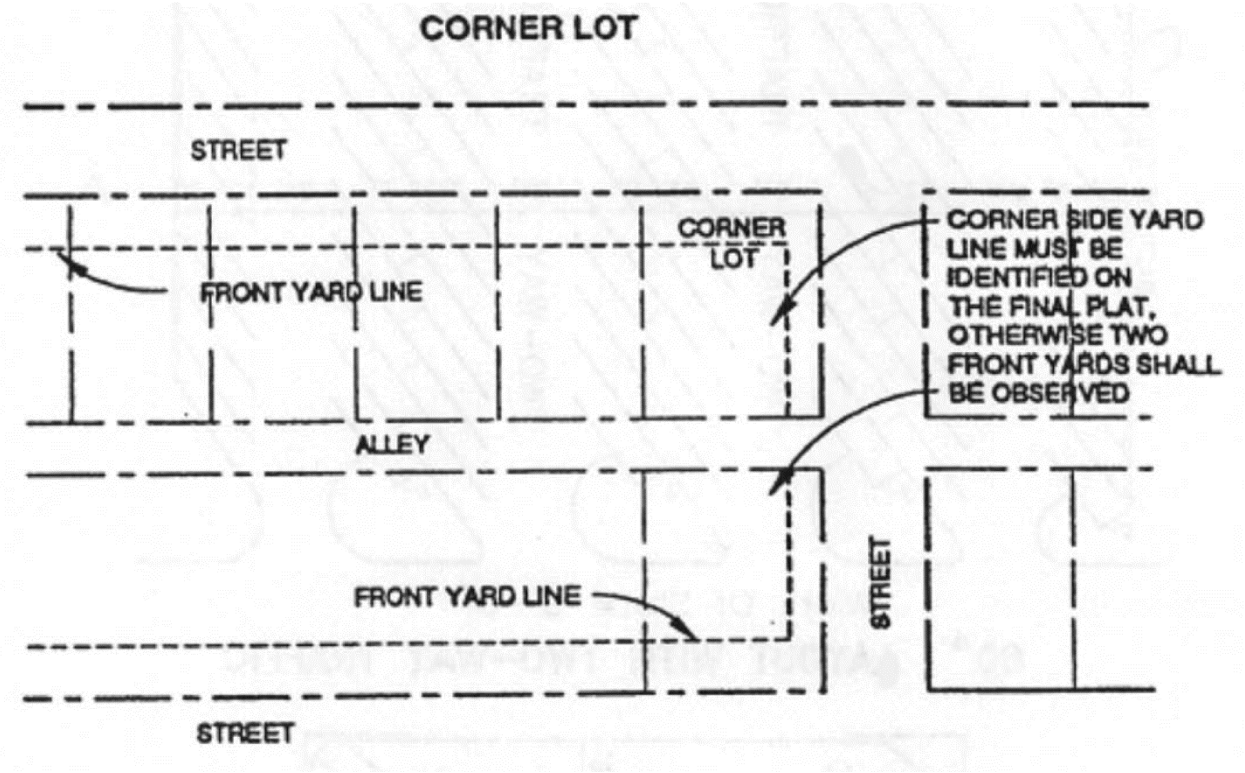


FIGURE #8

Fence & Sight Requirements for Corner Lots

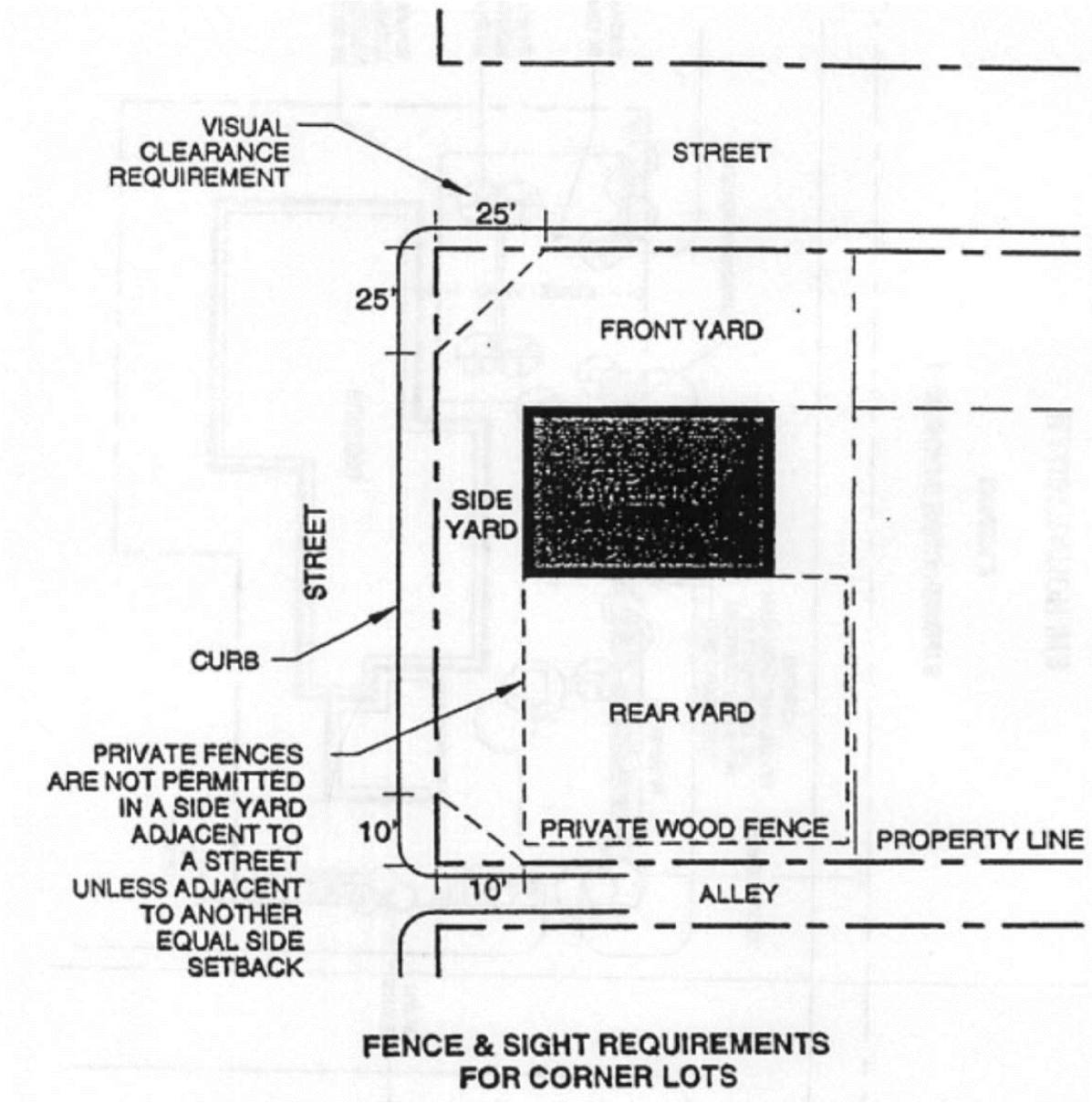


FIGURE #9

Example 40’ Lot Elevation



FRONT ELEVATION - A



FRONT ELEVATION - B

FIGURE #10

Example 40’ Lot Elevation



FRONT ELEVATION - A



FRONT ELEVATION - B

FIGURE #11

Example 40’ Lot Elevation



FRONT ELEVATION - A



FRONT ELEVATION - B

FIGURE #12

Example 40’ Lot Elevation



FRONT ELEVATION - A



FRONT ELEVATION - B

AGNES STREET (FUTURE)

EXISTING ZONING GENERAL RETAIL

EXISTING ZONING GENERAL RETAIL

EXISTING ZONING GENERAL RETAIL

EXISTING ZONING GENERAL RETAIL

PROPOSED STREET INTERSECTION (RIGHT-IN/RIGHT-OUT ACCESS)

ROADWAY STUB

STATE HIGHWAY 304 (120' ROW)

100' LCRA ELECTRIC TRANSMISSION EASEMENT VOL. C, PAGE 417 BASTROP COUNTY COURT MINUTES

COLORADO STREET (60' ROW)

BLACK BUFFALO ROAD (60' ROW)

BUFFALO ROAD (60' ROW)

FRESHWATER DRIVE (60' ROW)

BLACKTAIL DRIVE (60' ROW)

MINNOW LANE (60' ROW)

SMALLMOUTH ROAD (60' ROW)

LARGEMOUTH LANE (60' ROW)

BASS DRIVE (60' ROW)

BLUEGILL LANE (60' ROW)

BULLHEAD ROAD (60' ROW)

FLATHEAD STREET (60' ROW)

SUNFISH LANE (60' ROW)

RED SHINER ROAD (60' ROW)

CATFISH LANE (60' ROW)

HUNTERS POINT DRIVE (60' ROW)

30' PAVEMENT WIDTH

24' PAVEMENT WIDTH

40' PAVEMENT WIDTH

20' ALLEY WIDTH (TYP.)

10' PUBLIC UTILITY EASEMENT (TYP.)

PUE

GREEN SPACE/FUTURE PARK

GREEN SPACE/ FUTURE PARK

TOWER FALL ZONE AREA (TYP.)

EXISTING LCRA TRANSMISSION TOWER (TYP.)

EXISTING ZONING COMMERCIAL-1

DRAINAGE EASEMENT TO BE DEDICATED BY THE PROPERTY OWNER TO THE POA BY SEPARATE INSTRUMENT

DEDICATED R.O.W.

ROADWAY STUB

CITY OF BASTROP ETJ

CITY OF BASTROP ETJ

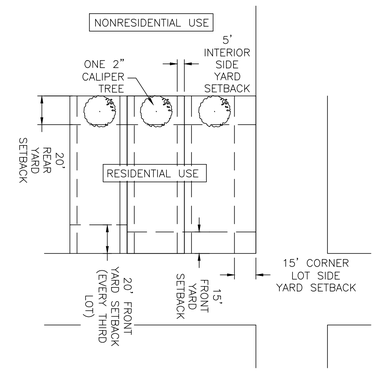
BLUEBONNET ELECTRIC COOPERATIVE VOLUME 1790, PAGE 606, O.P.R.B.C.T.

25' PUBLIC UTILITY EASEMENT VOLUME 649, PAGE 649, O.P.R.B.C.T.

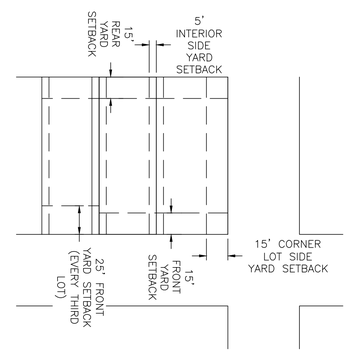
25' TEMPORARY CONSTRUCTION EASEMENT VOLUME 1961, PAGE 649, O.P.R.B.C.T.

BLUEBONNET ELECTRIC COOPERATIVE VOLUME 1790, PAGE 632, O.P.R.B.C.T.

BLUEBONNET ELECTRIC COOPERATIVE VOLUME 1790, PAGE 612, O.P.R.B.C.T.



TYPICAL YARD SETBACK EXHIBIT
(RESIDENTIAL USE ABUTTING NONRESIDENTIAL USE)
(1:50 SCALE)



TYPICAL YARD SETBACK EXHIBIT
(1:50 SCALE)

LEGEND

- SINGLE-FAMILY RESIDENTIAL
- MULTIPLE-FAMILY RESIDENTIAL
- ALLEYWAY
- OPEN SPACE
- LOCAL STREET CENTERLINE
- COLLECTOR STREET CENTERLINE
- PUE — PROPOSED PUBLIC UTILITY EASEMENT

LOT COUNT		
	NO. OF LOTS	PERCENT OF TOTAL
35' LOTS	48	14.25%
40' LOTS	254	75.37%
50' LOTS	17	5.04%
MULTIFAMILY	18	5.34%
TOTAL	337	100%

FOR REVIEW PURPOSES ONLY

N

0 50' 100' 200'
SCALE: 1" = 100'

CONCEPTUAL PLAN

BASTROP GROVE

BGE, Inc.
101 WEST LOUIS HENNA BLVD, SUITE 400
AUSTIN, TX 78728
TEL: 512-879-0400 • www.bgeinc.com
TBPE Registration No. F-1046

G:\TXC\Projects\WayMaker\Bastrop\03_CADD\05_Exhibits\Conceptual Plan.dwg



330 LOTS = 3.30 ACRES OF PARKLAND REQUIRED

- UNENCUMBERED PARK – 1.82 ACRES
- PARK IN TRANSMISSION EASEMENT – 3.54 ACRES
- PUE PUBLIC UTILITY EASEMENT
- PROPOSED STREET LIGHTING
- PROPOSED 2" CALIPER TREE

NOTES:

1. LOCATION OF ALL TRAILS, PARK BENCHES, TREES, AND PLAYSCAPES ARE PRELIMINARY. A DETAILED PLAN WILL BE INCLUDED WITH THE LANDSCAPE PLAN SUBMITTAL.

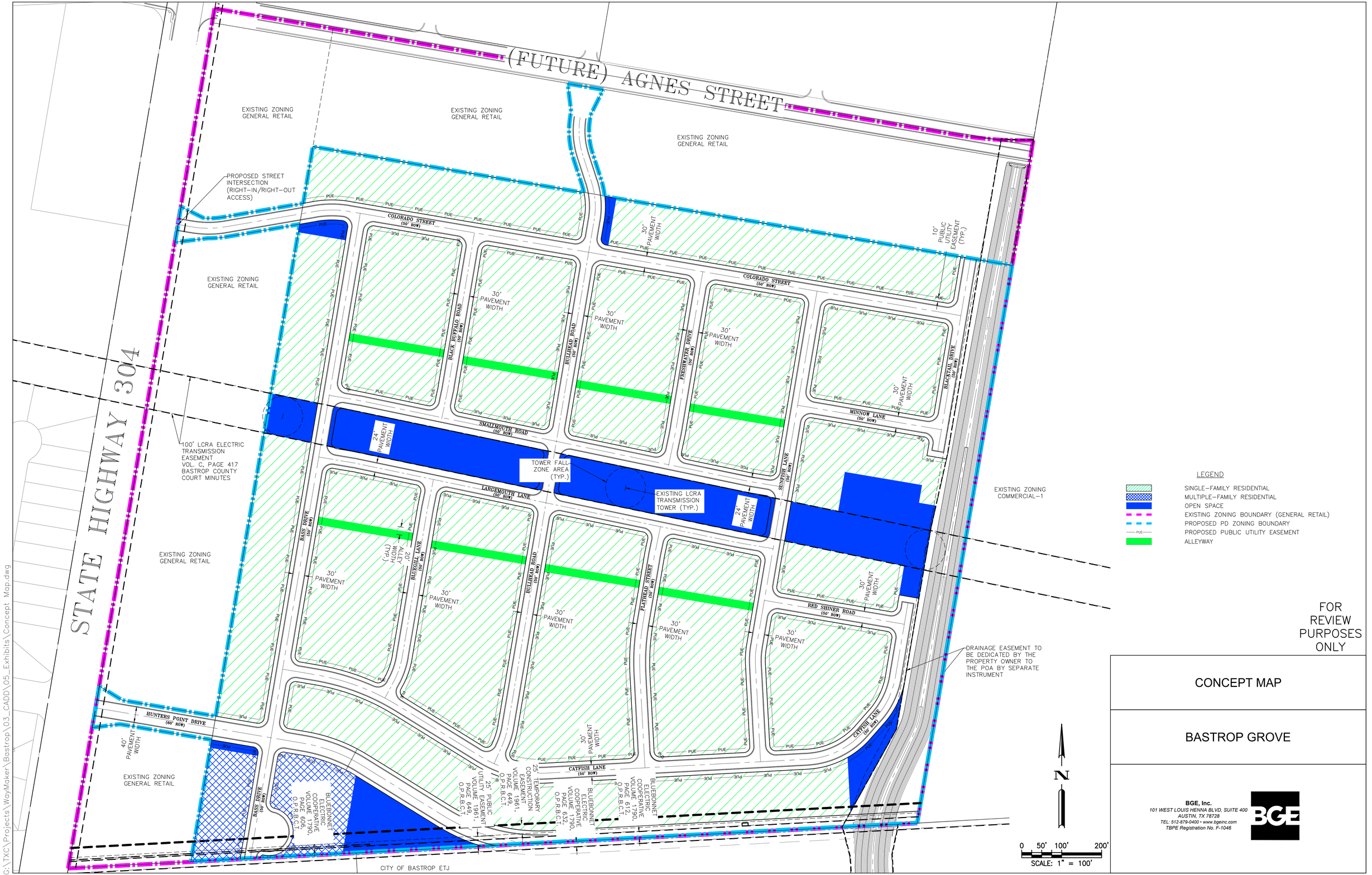
2. VERTICAL IMPROVEMENTS AND PARK IMPROVEMENTS ARE ANTICIPATED WITHIN THE UNENCUMBERED PARK AREA.

BASTROP GROVE

PARK AND OPEN SPACE EXHIBIT

BGE, Inc.
101 WEST LOUIS HENNA BLVD. SUITE 400
AUSTIN, TX 78728
TEL: 512-879-0400 • www.bgeinc.com
TBPE Registration No. F-1046

Plotted by: Kelly Gilbert, Plotted on: 11/15/2021 10:10:59 AM
G:\2019\19-0000\19-0000 Bastrop Grove\Drawings\Exhibits\Park Exhibit\19-0000 Park Exhibit.dwg



FOR REVIEW PURPOSES ONLY

CONCEPT MAP

BASTROP GROVE

BGE, Inc.
101 WEST LOUIS HENNA BLVD, SUITE 400
AUSTIN, TX 78728
TEL: 512-879-0400 • www.bgeinc.com
TBPE Registration No. F-1046

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Notice of Pending Rezoning Approval
City of Bastrop
Planning & Zoning Commission And City Council

Dear Property Owner:

The **Planning & Zoning Commission** will conduct a public hearing on **Thursday, October 31, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 12, 2019 at 6:30 p.m.** in the **City Hall Council Chambers** located at **1311 Chestnut Street**, **Bastrop, Texas** on the request to approve or disapprove an ordinance for a Planned Development District, with a residential base use, to allow a residential development on 65.926 acres, out of the Nancy Blakey Survey, Abstract 98, located south of Agnes Street and east of State Highway 304, an area currently zoned General Retail, within the City Limits of Bastrop.

Applicant:	BGE Inc./John Kim, P.E.
Owner:	WayMaker Ventures/Holt Dunlop
Address:	South of Agnes Street and east of State Highway 304
Legal Description:	65.926 acres, out of the Nancy Blakey Survey, Abstract 98

The site location map is attached for reference.

As a property owner within 200 feet of the above referenced property, you are being notified of the upcoming meetings per the Bastrop Code of Ordinances. For more information on this project, you can contact the Planning & Development offices at (512) 332-8840, plan@cityofbastrop.org, or visit the office at 1311 Chestnut Street, Bastrop, Texas.

For additional information, please visit or call the Planning & Development offices.

✂----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200': (please check one)

- ☐ I am in favor of the request.
- ☐ I am opposed to the request.
- ☐ I have no objection to the request.

Property Owner Name: _____
Property Address: _____
Phone (optional): _____
Mailing Address:_____
Email (optional): _____
Property Owner's Signature: _____

Comments: (Optional)

Please provide reply to the address below, via fax (512) 332-8829, or email: plan@cityofbastrop.org

RE: RZNE_The Grove_10-31-2019

Re-notification of Pending Rezoning Approval
City of Bastrop
Planning & Zoning Commission MEETING TIME CHANGE
And City Council

Dear Property Owner:

The **Planning & Zoning Commission** will conduct a meeting to provide a recommendation on **Thursday, October 31, 2019 at 4:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 12, 2019 at 6:30 p.m.** in the **City Hall Council Chambers** located at **1311 Chestnut Street**, **Bastrop, Texas** on the request to approve or disapprove an ordinance for a Planned Development District, with a residential base use, to allow a residential development on 65.926 acres, out of the Nancy Blakey Survey, Abstract 98, located south of Agnes Street and east of State Highway 304, an area currently zoned General Retail, within the City Limits of Bastrop.

Applicant:	BGE Inc./John Kim, P.E.
Owner:	WayMaker Ventures/Holt Dunlop
Address:	South of Agnes Street and east of State Highway 304
Legal Description:	65.926 acres, out of the Nancy Blakey Survey, Abstract 98

Please note that the meeting time for the Planning & Zoning Commission meeting has change to earlier on October 31, 2019 to 4:00 p.m.

The public hearing will still be at 6:30 p.m. on November 12, 2019 at City Council.

The site location map is attached for reference.

As a property owner within 200 feet of the above referenced property, you are being notified of the upcoming meetings per the Bastrop Code of Ordinances. For more information or comments on this project, you can contact the Planning & Development offices at (512) 332-8840, plan@cityofbastrop.org, or visit the office at 1311 Chestnut Street, Bastrop, Texas.

For additional information, please visit or call the Planning & Development offices.

✂----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the request.
- ☐ I am opposed to the request.
- ☐ I have no objection to the request.

Property Owner Name: _____

Property Address: _____

Mailing Address (if different than property address): _____

Phone (optional): _____ Email (optional): _____

Property Owner's Signature: _____

Additional Comments (Optional): _____

_____

RE: RZNE_The Grove_10-31-2019 P&Z Time Change to 4:00 pm

Notice of Pending Rezoning Approval
City of Bastrop
Planning & Zoning Commission And City Council

BASTROPTX
Heart of the Lost Pines
Est. 1832

Dear Property Owner:

The **Planning & Zoning Commission** will conduct a public hearing on **Thursday, July 25, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, August 13, 2019 at 6:30 p.m.** in the **City Hall Council Chambers** located at **1311 Chestnut Street, Bastrop, Texas** on the request to approve or disapprove an ordinance for a Planned Development District, with a base district of Single Family-7, to allow a residential development on 65.926 acres, out of the Nancy Blakey Survey, Abstract 98, located south of Agnes Street and east of State Highway 304, an area currently zoned General Retail, within the City Limits of Bastrop.

Applicant:	BGE Inc./Amy Neskar, P.E.
Owner:	WayMaker Ventures/Holt Dunlop
Address:	South of Agnes Street and east of State Highway 304
Legal Description:	65.926 acres, out of the Nancy Blakey Survey, Abstract 98

The site location map is attached for reference.

As a property owner within 200 feet of the above referenced property, you are being notified of the upcoming meetings per the Bastrop Code of Ordinances CUP Regulations. For more information on this project, you can contact the Planning & Development offices at (512) 332-8840, plan@cityofbastrop.org, or visit the office at 1311 Chestnut Street, Bastrop, Texas.

For additional information, please visit or call the Planning & Development offices.

PROPERTY OWNER'S RESPONSE

As a property owner within 200': (please check one)

- [x] I am in favor of the request.
- [ ] I am opposed to the request.
- [ ] I have no objection to the request.

Property Owner Name: MC Bastrop 71, LP
Property Address: South of Hwy 71 and east of Hwy 304
Phone (optional): _____
Mailing Address: [redacted] 8214 Westchester Dr, Ste 550, Dallas, TX 75225
Email (optional): _____
Property Owner's Signature: _____

Comments: (Optional)

Please provide reply to the address below, via fax (512) 332-8829, or email: plan@cityofbastrop.org

RE: RZNE_The Grove

rcvd 7/17/19 Olk

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 8C

TITLE:
Consider action to approve the second reading of Ordinance No. 2019-44 of the City Council of the City of Bastrop, Texas amending the Bastrop City Code of Ordinances, Chapter 1, titled "General Provisions", Article 1.02, titled "Administration," Section 1.02.002, Article 1.04, titled "Boards, Committees and Commissions," Sections 1.04.001,1.04.002, and adding 1.04.003; Article 1.05, titled "Housing Authority," Section 1.05.002, Article 1.10, titled "Parks," Section 1.10.001, Article 1.12, titled "Libraries," Division 2, titled "Library Board," Section 1.12.062, Article 1.15, titled "Code of Ethics," Division 3, titled "Implementation," Section 1.15.013, Article 1.16, titled "Art in Public Places," Section 1.16.002 and 1.16.003, Article 1.17, titled "Main Street Advisory Board", Section 1.17.001; Chapter 3, titled "Building Regulations," Article 3.02, titled "Construction Standards Board of Adjustments and Appeals," Sections 3.02.001, 3.02.002, and 3.02.003; Chapter 15, titled "Cemeteries," Article 15.01, titled, "Fairview Cemetery," Section. 15.01.002; unifying appointments, terms, number of members, residency requirements, and the filling of vacancies for city boards and commissions attached as Exhibit A; providing for findings of fact; enactment; dissolution; repealer; severability; and providing an effective date, proper notice and meeting.

STAFF REPRESENTATIVE:
Tracy Waldron, Chief Financial Officer

BACKGROUND/HISTORY:
The City Council, at a meeting held on September 26, 2017, discussed proposed changes to the Boards & Commissions Ordinance. The changes were being proposed after a review of the various board showed inconsistencies with number of members, term limits, and residency requirements. Staff originally took the recommendations discussed at this meeting and incorporated them into a draft ordinance.

After a review of the ordinances in collaboration with Bojorquez Law Firm, the decision was made to create an ordinance that amends all the sections of the Code of Ordinance with the updates recommended by City Council.

In preparation of the September 17, 2019 workshop discussion, the following was prepared in the draft ordinance:

1. Residency Requirements – the recommendation was made to allow residency in the city limits or its extraterritorial jurisdiction on each board or commission unless overwise controlled and mandated by state or federal law or exception stated in the code.
    - At the September 17th meeting the recommendation was made to allow no more than two members from the ETJ – this has been updated in the draft ordinance.

2. Number of members on each board or commission - the recommendation was made to have 7 members on each board or commission and shall be assigned a “place” unless overwise controlled and mandated by state or federal law or exception stated in the code.

3. Terms - Two consecutive terms of three (3) years with a year abstained for that same board. They would be eligible for appointment on a different board. Term limits would encourage new ideas and allow for broader citizen participation on each board over time.
    - At the September 17th meeting there was consensus by Council to provide language in the code to allow the Mayor to reappoint if needed.

4. There were two (2) boards that Mayor Schroeder did not appoint members, which included the Vision Task Force and North Area Form Based Codes. Council agreed to dissolve these two committees through the appropriate action.
    - This dissolution has been incorporated into the Ordinance as a whereas statement

5. Board and Commission appointments are being aligned with the City’s fiscal year. This ordinance is being updated to reflect the current schedule of providing notices of vacancies in July and appointments being approved in September for ratification effective October 1st of each year.

6. Attendance of Board & Commission Members should be updated monthly to the City Secretary. If attendance by a specific member becomes an issue, it will be addressed according to policy during the year with timely communication between the Staff Liaison, City Secretary, and Mayor.

The recommendations made by City Council on September 17, 2019 have been incorporated in this draft ordinance.

This ordinance was approved on first reading at the November 12, 2019 meeting with the following changes:

- Sec. 1.02.002(b)(1) A member who fails to achieve this required attendance level or who misses three (3) consecutive, regularly scheduled meetings shall provide the City Secretary, within two (2) weeks following the absence.
- Sec. 1.02.002(b)(5) The City Secretary will notify the Mayor and Council Liaison if a member is out of compliance with the attendance requirements set forth in (b)(1).

The request for Zoning Board of Adjustment members to be alternates for the Planning and Zoning Commission is being addressed in a separate ordinance on the November 26, 2019 agenda because that board was not included in this original ordinance.

POLICY EXPLANATION:
The City Charter states the act of amending or repealing an existing ordinance shall be done by City Council through approval of an ordinance.

FUNDING SOURCE:
N/A

RECOMMENDATION:
Consider action to approve the second reading of Ordinance No. 2019-44 of the City Council of the City of Bastrop, Texas amending the Bastrop City Code of Ordinances, Chapter 1, titled “General Provisions”, Article 1.02, titled “Administration,” Section 1.02.002, Article 1.04, titled “Boards, Committees and Commissions,” Sections 1.04.001,1.04.002, and adding 1.04.003; Article 1.05, titled “Housing Authority,” Section 1.05.002, Article 1.10, titled “Parks,” Section 1.10.001, Article 1.12, titled “Libraries,” Division 2, titled “Library Board,” Section 1.12.062, Article 1.15, titled “Code of Ethics,” Division 3, titled “Implementation,” Section 1.15.013, Article 1.16, titled “Art in Public Places,” Section 1.16.002 and 1.16.003, Article 1.17, titled "Main Street Advisory Board", Section 1.17.001; Chapter 3, titled “Building Regulations,” Article 3.02, titled “Construction Standards Board of Adjustments and Appeals,” Sections 3.02.001, 3.02.002, and 3.02.003; Chapter 15, titled “Cemeteries,” Article 15.01, titled, “Fairview Cemetery,” Section. 15.01.002; unifying appointments, terms, number of members, residency requirements, and the filling of vacancies for city boards and commissions attached as Exhibit A; providing for findings of fact; enactment; dissolution; repealer; severability; and providing an effective date, proper notice and meeting.

ATTACHMENTS:

- Ordinance 2019-44



ORDINANCE NO. 2019-44

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE BASTROP CITY CODE OF ORDINANCES, CHAPTER 1, TITLED "GENERAL PROVISIONS," ARTICLE 1.02, TITLED "ADMINISTRATION," SECTION 1.02.002, ARTICLE 1.04, TITLED "BOARDS, COMMITTEES AND COMMISSIONS," SECTIONS 1.04.001, 1.04.002, AND ADDING 1.04.003; ARTICLE 1.05, TITLED "HOUSING AUTHORITY," SECTION 1.05.002, ARTICLE 1.10, TITLED "PARKS," SECTION 1.10.001, ARTICLE 1.12, TITLED "LIBRARIES," DIVISION 2, TITLED "LIBRARY BOARD," SECTION 1.12.062, ARTICLE 1.15, TITLED "CODE OF ETHICS," DIVISION 3, TITLED "IMPLEMENTATION," SECTION 1.15.013; ARTICLE 1.16, TITLED "BASTROP ART IN PUBLIC PLACES," SECTION 1.16.002 AND 1.16.003; ARTICLE 1.17, TITLED "MAIN STREET ADVISORY BOARD," SECTION 1.17.001; CHAPTER 3, TITLED "BUILDING REGULATIONS," ARTICLE 3.02, TITLED "CONSTRUCTION STANDARDS BOARD OF ADJUSTMENTS AND APPEALS," SECTIONS 3.02.001, 3.02.002, AND 3.02.003; CHAPTER 15, TITLED "CEMETERIES," ARTICLE 15.01, TITLED, "FAIRVIEW CEMETERY," SECTION. 15.01.002; UNIFYING APPOINTMENTS, TERMS, NUMBER OF MEMBERS, RESIDENCY REQUIREMENTS, AND THE FILLING OF VACANCIES FOR CITY BOARDS AND COMMISSIONS; PROVIDING FOR FINDINGS OF FACT, ENACTMENT, DISSOLUTION, REPEALER, SEVERABILITY, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Bastrop, Texas (the "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 Local Government Code; and

WHEREAS, the City is authorized by Texas Local Government Code § 51.001 to adopt or amend any ordinance is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and

WHEREAS, Article III, Section 3.01 of the Bastrop City Charter gives the City Council the authority to provide for boards and commissions, and to appoint the members of all such boards and commissions; and

WHEREAS, the City currently has several boards and commissions, with requirements for each board and commission codified in various sections of the Bastrop City Code; and

WHEREAS, the City Council has determined that unifying and simplifying the requirements for its boards and commissions is in the best interest of the City and its citizens; and

WHEREAS, the City Council has determined that formally dissolving the Bastrop Vision Task Force and the Form Based Code North SideTask Force, which once played active roles in shaping the City of Bastrop but are no longer active, is in the best interest of the City and its citizens; and

WHEREAS, the City Council intends to amend these requirements when the Cultural Arts Master Plan is adopted.

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

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. ENACTMENT

Chapter 1, Article 1.02, Section 1.02.002, Article 1.04, Sections 1.04.001, 1.04.002, and 1.04.003; Article 1.05, Section 1.05.002, Article 1.10, Section 1.10.001, Article 1.12, Division 2, Section 1.12.062, Article 1.15, Division 3, Section 1.15.013, Article 1.16, Section 1.16.002 and 1.16.003; Article 1.17, Section 1.17.001; Chapter 3, Article 3.02, Sections 3.02.001, 3.02.002, and 3.02.003; Chapter 15, Article 15.01, Section. 15.01.002 of the Code of Ordinances of the City of Bastrop are amended to read as described and attached here to as Exhibit “A.”

SECTION 3. DISSOLUTION

The Bastrop Vision Task Force, which was recognized as a formal advisory body of the City of Bastrop in Resolution 2015-R-29, adopted on December 8, 2015, and the Form Based Code North Side Task Force, which was established by the Bastrop City Council on May 26, 2013, are hereby dissolved.

SECTION 4. REPEALER

In the case of any conflict between the other provisions of this Ordinance and any existing Ordinance of the City, the provisions of this Ordinance will control.

SECTION 5. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstances 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 6. ENFORCEMENT

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. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

SECTION 8. PROPER NOTICE AND MEETING

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

READ & APPROVED on First Reading on the 12th day of November 2019.

READ & ADOPTED on the Second Reading on the 26th day of November 2019.

APPROVED:

by: _____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A

City of Bastrop, TX

CODE OF ORDINANCES

Chapter 1 – General Provisions

ARTICLE 1.02- ADMINISTRATION

Sec. 1.02.002 – Form of government.

(a) Title 28, chapters 1-10, Revised Civil Statutes of the State of Texas 1925, and amendments thereto, relating to cities and towns, are hereby adopted by the city, and the government of the city and its affairs shall hereafter be guided thereby. The City Council having determined that there exist six hundred (600) inhabitants or more within the city, and having adopted this section by a two-thirds (2/3) vote of the Council, the City Secretary is hereby directed to file notice of said adoption with the county clerk as the law provides.

(b) *Uniform advisory bodies' attendance requirements.* In order to ensure the effectiveness and proper operation of the city's appointed, advisory bodies, the City Council requires all members of city advisory bodies, to maintain a suitable attendance record for such civic service. Because regular attendance is vital to effective service, the City Council requires attendance as follows:

(1) Members of all advisory bodies are required to attend a minimum of two-thirds (66%), of the duly called regular meetings of the member's advisory body during any twelve (12) consecutive month (i.e., cumulative 'rolling') period. A member who fails to achieve this required attendance level or who misses three (3) consecutive, regularly scheduled meetings shall provide the ~~City Manager~~ City Secretary, within two (2) weeks following the absence, a letter identifying which of the reasons noted below reflects the basis for the absence in subsections (A)—(C) or, alternatively, a written request that the Council excuse the absence pursuant to subsection (D) below:

(A) Medical circumstances involving the member, or the member's immediate family;

(B) Urgent family matters that are not medical in nature;

(C) Required attendance at events/meetings of the member's primary employment; or

(D) Any other "absence" excused by the City Council, upon the Council's receipt of a written explanation and request made by the absentee member that the Council make an exception and excuse same.

Absences caused by circumstances noted in subsections (A) through (C), or otherwise excused by the Council pursuant to subsection (D), above, shall not count toward the 66% attendance requirement set forth in subsection (1) above, unless the Council determines otherwise, on a case-by-case basis.

(2) Each advisory body chair shall follow the rules and procedures set forth by City Council in accordance with Section 3.13 of this Code and this section, and ensure that each advisory body member is aware of this uniform attendance requirement.

Commented [EH1]: My notes say to reference city's rules and procedures and this is the section that talks about city council's rules and procedures

(3) For purposes of calculating attendance percentages, as required herein, the term "duly called regular meetings" includes only the standard and routine meetings of the advisory bodies, and specifically does not include specially called workshops or other specially convened meetings of the advisory bodies.

(4) The city staff member or department director assigned as the staff liaison to the advisory body is responsible for accurately recording member attendance at all advisory bodies' meetings. Chairs are not responsible for recording attendance, nor shall they be responsible for and/or asked or authorized to determine whether an absence by a board member is "excused" or falls within the city's attendance requirements.

(5) The city staff member or department director assigned as the staff liaison to each advisory body shall provide the attendance records monthly for their respective advisory body to the City Secretary. The City Secretary will notify the Mayor and Council Liaison if a member is out of compliance with the attendance requirements set forth in (b)(1).

Commented [EH2]: Are we sure this is supposed to be the Mayor not the City Manager? My notes say that the Mayor relies on the CM and CM relies on staff for reports. But I may have misheard this.

(c) *Uniform quorum determination.*

(1) The City Council does hereby establish a uniform rule for determining whether a quorum of any advisory body is present and/or had been convened.

(2) In this subsection, the following terms shall be defined as follows:
Vacancy and vacancies. A vacancy exists on an advisory body when a person has not been appointed to a place or an appointed member has ceased service, and no alternate member is serving in the vacant place, and the City Council has not taken action to fill the position.

(3) Appointed members are required to comply with the city's ethics article, with regards to appearances before boards and city bodies.

(4) Except as otherwise required by state law, or in circumstances otherwise set forth herein below, a simple majority of the total membership, excluding vacancies, of each advisory body shall constitute a quorum for purposes of convening a meeting, and/or conducting the business of the advisory body.

(d) *Uniform training.*

Commented [EH3]: This appears to be redundant of section (4) I don't think we need it.

(1) The City Council does hereby establish uniform training requirements for advisory body members, said training shall be provided by the city at no cost to the members of the advisory bodies. The following types of information shall be provided to appointees to the city's advisory bodies at the training sessions:

(A) Attendance requirements for service on a city advisory body.

(B) Duties, responsibilities and roles of members on the respective city advisory bodies.

(C) Open meeting and public information laws.

(D) State and local conflicts of interest and ethics laws.

(E) City polices and regulations, as applicable.

(2) The city shall conduct the above-referenced training sessions once a year or as needed, at dates that the City Manager determines to be best for the various members of the city's advisory bodies. Members are required to attend as quickly as possible after appointment, but in no event shall new appointment fail to attend within one year of their initial appointment. In addition, all advisory body members are required to complete online open government training (open meetings and public information) within thirty (30) days of appointment. The city staff member or department director assigned as the staff liaison to each body is responsible for notifying the City Manager if any member has failed to attend the required training within a year of the member's appointment and/or to complete the state's required open government online training within thirty (30) days of appointment. The City Manager will report, periodically to the Council concerning the status of board training and attendance by members at same. Members who have failed to attend the city training or to obtain the online open government training required by state law, within the time frames set forth herein, shall be suspended from service on their appointed

boards and commissions until such time as they demonstrate to the City Secretary that all required training has been successfully completed.

ARTICLE 1.04- BOARDS, COMMITTEES AND COMMISSIONS

Sec. 1.04.001 - Appointments.

(a) Appointments to city boards shall be made pursuant to the following procedures:

(1) Annual Recruitment

a) In June of each year, the City Secretary will post notices of any advisory body position with terms expiring at the end of the current fiscal year or are currently vacant in established places or new places becoming available for appointment to city advisory bodies at City Hall and any other media sources selected.

b) In July of each year, the city will hold a Volunteer Fair to inform the community of opportunities to service on city advisory bodies, and other volunteer opportunities within the community.

c) Applications to be considered for an advisory body position with a term starting October 1st must be received no later than August 15th. Applications received after August 15th will be held by the City Secretary and considered if a position becomes available mid-term.

d) By the end of August each year, the Mayor will review the applications to serve on the city's advisory bodies received by the City Secretary. City Council will conduct interviews of the qualified applicants

e) In September of each year, the Mayor will select his/her desired appointees and, subject to the concurrence of the Council, appoint those persons selected by him/her to the available advisory body seats, with ratification effective October 1st.

f) Unless otherwise controlled by state or local law, any appointee may be removed for cause or no cause, at the will of the Council.

(2) Mid-Term Appointments

(a) If an advisory board position becomes vacant mid-term, the Mayor will review the applications on file with the City Secretary and/or may

Commented [EH4]: We've already discussed the unform attendance requirement, why do we need these sections here? I would recommend removing and making this section just about appointments.

Commented [EH5]: Mayor's notes say she wants this section to include a deadline for applications.

Commented [TW6]: The City Council conducts the interviews together not just the Mayor.

instruct the City Secretary to post notice of the vacancy and solicit applications to fill the vacancy.

(b) The mayor may conduct interviews of the applicants, if necessary, and, subject to the concurrence of the City Council, appoint individuals to fulfill the term of the vacant advisory body seat.

(c) The mayor will strive to fill all advisory body seats vacated mid-term within 90 days.

(3) In November of each year, the City will recognize those appointed to serve on the various boards at a Volunteer Banquet.

Commented [EH7]: This is for just those that are appointed not everyone that applies, right? This seems like a weird place to put this, but I'll leave it.

Sec. 1.04.002 - Membership, terms

Unless otherwise controlled and mandated by state or federal law and/or City Charter, the following overarching provisions shall apply to the city's boards, commissions, task forces, committees and advisory bodies ("board(s)," "body" or "advisory bodies"):

(1) Board members shall be appointed by the mayor and confirmed by the Council, for terms of three (3) years. No board member shall serve more than two (2) consecutive terms on a particular advisory body. An individual that has previously served two consecutive terms on a particular advisory body, must wait one full year before being reappointed to the same advisory body. The Mayor, upon a finding of good cause, has the authority to waive this one-year waiting period.

(2) All city advisory bodies shall consist of seven (7) members and each seat shall be assigned a "place."

(3) Advisory body members' terms of service shall be "staggered~~,~~" three (3) year terms, so that the entire membership of the board will not be subject to replacement at any single point in time. If necessary, to establish initial staggering of the membership Place 1 and Place 2 shall initially serve a three (3) year term, Place 3 and Place 4 shall initially serve a two (2) year term, and Place 5, Place 6 and Place 7 shall initially serve one (1) year terms.

(4) In the event of a vacancy, an individual appointed to fill the vacant place will serve only the remaining term of the individual who is being replaced by the appointee, so that the staggering of terms shall remain intact.

(5) All advisory body members shall reside within the city limits or the City's Extraterritorial Jurisdiction (ETJ). No more than two members of a particular advisory body can be from the ETJ. Upon a showing of good cause, the Mayor may waive the residency requirement.

Commented [EH8]: This is repetitive we say this above.

Commented [EH9]: Mayor's notes made it seem like there might need to be an exception to this.

(7) Each advisory body will have a City Council Member assigned as Council Liaison. This will facilitate the transfer of information from the advisory bodies to the City Council.

Sec. 1.04.003 – Procedures

(a) Each advisory body will follow the rules and procedures set forth by City Council in accordance with Section 3.13 of this Code, including agenda order, unless specifically addressed by this Chapter.

Commented [EH10]: This seems repetitive of what we said above.

(b) The staff Liaison will be responsible for preparing and posting the agenda but will provide the advisory body chair an opportunity to review and comment on the agenda prior to posting.

ARTICLE 1.05- HOUSING AUTHORITY

Sec. 1.05.002 – Membership, terms and filling of vacancies.

~~(a)~~

(a) The city's housing authority should be governed by five (5) commissioners that serve two (2) year terms. One of the commissioners of the city's housing authority shall be a resident ("resident member") of a public housing project over which the city's housing authority has jurisdiction, in compliance with the Local Government Code, section 392.0331. Including the one resident of the public housing project over which the city's housing authority has jurisdiction, four (4) of the commissioners shall be residents of the city and one of the commissioners may reside within the city's extraterritorial jurisdiction (ETJ) (so that the total number of commissioners is five (5)), so long as the extraterritorial jurisdiction residence is also located within five (5) miles of the city's corporate limits.

(b) Each seat on the commission will be assigned a "place." Commission members' terms of service shall be "staggered," so that the entire membership of the commission will not be subject to replacement at any single point in time.

(c) The rules for filling vacancies are set forth in this chapter of the code, Section 1.04.002.

(d) Attendance requirements for the commissioners are set forth in this code, section 1.02.002(b), et seq.

ARTICLE 1.10- PARKS

Sec. 1.10.001- Parks board.

(a) Created*; composition; compensation; appointment.*

(1) There is hereby created a parks board of the city. The rules for appointment of members, the number of members comprising the board, the length of member terms, board residency requirements, and the rules for filling board vacancies are set forth in this chapter of the City Code, Section 1.04.002. In their discretion, the parks board may also identity and name one minor, who resides within the BISD jurisdiction, to serve on the board as an ex officio, nonvoting youth member of the board. The youth member shall be enrolled in grades 9 -12 and serve a term in length identified by the parks board at the time of the youth member's selection. The members shall be known to be interested in public parks and public recreation and the proper use of the leisure time of the people of the city.

(2) One member of the board shall be held by the superintendent of the city's state park, or his/her designee, who may reside either within the city limits or in any other area within the BISD's jurisdiction.

(b) *Attendance.* Attendance requirements for the board members are set forth in this Code, section 1.02.002(b), et seq.

ARTICLE 1.12- LIBRARIES

DIVISION 2. – LIBRARY BOARD

Commented [EH11]: If the library board is not going to be treated any differently that in the general section do we need this article at all?

Sec. 1.12.062- Membership.

(a) The rules for appointment of members, the number of members comprising the board, the length of member terms, board residency requirements, and the rules for filling board vacancies are set forth in this chapter of the City Code, Section 1.04.002.

(b) Attendance requirements for the board members are set forth in this code, section 1.02.002(b), et seq.

ARTICLE 1.15- CODE OF ETHICS

DIVISION 3. – IMPLEMENTATION

Sec. 1.15.013 – Board of Ethics.

(a) *Creation.* There is hereby created a Board of Ethics for the City of Bastrop. The rules for appointment of members, the length of member terms, board residency requirements, and the rules for filling board vacancies are set forth in this chapter of the City Code, Section 1.04.002.

(b) *Number*. The Board of Ethics shall consist of five (5) regular members, and one (1) alternate member.

Commented [EH12]: The mayor circled this. Did they want to keep 5, not 7.

(c) *Ineligibility*. The following shall disqualify a person from serving on the Board of Ethics:

(1) Current service as a city official;

(2) Separation from city service as a city official within two (2) years of the appointment;

(3) Familial relations within the third (3rd) degree of affinity (marriage) or consanguinity (blood or adoption); and/or

(4) Conviction of a felony, or crime of moral turpitude.

(d) *Alternates*. An alternate member of the Board of Ethics shall attend meetings only upon request by the City Secretary's Office. The role of an alternate is to participate in meetings of the Board of Ethics as a replacement for a regular member who is absent or abstaining.

(e) *Scope of authority*. The jurisdiction of the Board of Ethics shall be limited to implementation and enforcement of this article.

(f) *Amendments*. The Board of Ethics may recommend amendments to this article. A recommendation from the Board of Ethics is not required for the City Council to exercise its discretion in amending this article.

(g) *Officers*. At the first meeting of each fiscal year, if a meeting is called, the Board of Ethics shall select from among its members a Chairperson and Vice-Chairperson.

(*h*) *Removal*. The City Council may by a vote of two-thirds (⅔) remove a member of the Board of Ethics for cause. Justifications warranting removal for cause shall include neglect of duty, incompetence, gross ignorance, inability or unfitness for duty, or disregard of the Code of Ordinances.

ARTICLE 1.16 – BASTROP ART IN PUBLIC PLACES

Sec. 1.16.002 – Membership, appointment, vacancies and attendance.

(a) The rules for appointment of members, the number of members comprising the board, the length of member terms, board residency requirements, and the rules for filling board vacancies are set forth in this chapter of the City Code, Section 1.04.002.

(b) In the sole discretion of the Mayor and confirmed by City Council, a member of the board may reside outside of the corporate limits and the extraterritorial limits so long as the appointed individual provides exceptional expertise with regard to the board's responsibilities.

(c) Attendance requirements for the board members are set forth in the code, section 1.02.002(b), et seq.

Sec. 1.16.003 – Purpose, powers and duties.

(a) The BAIPP shall act as an advisory board to the City Council in matters related to the city's art in public places program, with the goal of increasing awareness and appreciation of art, as well as increase civic pride, through the display of art in the city.

(b) *Art selection guidelines*. The BAIPP shall assist the City Council with acquiring Works of Art by:

(1) Identifying and recommending suitable Works of Art to be displayed.

(2) Facilitating the preservation of Works of Art to be displayed.

(3) Assisting with the process and methodology for competitively selecting Works of Art for acquisition and/or display.

(c) *Procedure for initiating calls for projects of the BAIPP.*

(1) At least ninety (90) days prior to publication of any call to artists, for a BAIPP project, the BAIPP Board shall submit the proposed Call to the office of the City Manager for evaluation.

(2) Additionally, the City Manager may create an in-house team of staff advisors to assist in evaluating the specifics required for each BAIPP projects, such as site identification and preparation, material requirements specific to the project, if any, security issues, and insurance issues.

(3) The City Manager will also determine whether it is necessary to involve the City Council in any approval for the proposed project, at that time (i.e., prior to the call publication).

(4) The City Manager will notify the BAIPP of any additional information required and also will notify the BAIPP Chairperson and staff Liaison when the City Manager's office has finished its evaluation of the proposed project and it is ready for publication of the call to artists.

(d) Funding

(1) The BAIPP shall be responsible for developing a "proposed" yearly operating budget for the acquisition and display of new Works of Art in the City of Bastrop, as well as, any ongoing maintenance and/or replacement (repair) responsibilities for those Works of Art currently under the City's possession or control. This budget shall be submitted to the City Manager on or before June 1st of each calendar year.

ARTICLE 1.17 – MAIN STREET ADVISORY BOARD

Sec. 1.17.001 – Membership, terms and filling of vacancies.

(a) Residency requirements and vacancies are set forth in the Code, Section 1.04.002. The main street program board shall be composed of nine (9) regular voting members, whom shall be appointed by the mayor and confirmed by the City Council to serve for three-year terms. The Council may appoint additional ex-officio members and/or positions, who shall be identified to serve on the board.

(b) The bylaws of the board shall address procedural issues, such as but not limited to quorum counts and required attendance by members, which bylaws shall conform with the Council's attendance requirements for the board members as set forth in this code, section 1.02.002(b), et seq. The bylaws shall fully outline member responsibilities and provide guidance for the participation of the ex-officio members, as well as regular members. Such by-laws are necessary to maintain the City of Bastrop Main Street Program's Accreditation as both a National Main Street and Texas Main Street member. To maintain the above accreditation, the program must maintain an active board of directors and committees with current by-laws that are to govern operational aspects of the board.

Chapter 3 – Building Regulations

ARTICLE 3.02- CONSTRUCTION STANDARDS BOARD OF ADJUSTMENTS AND APPEALS

Sec. 3.02.001 – Established; appointment of members.

There is hereby established a board, to be called the construction standards board of adjustments and appeals. The rules for appointment of members, the number of members comprising the board, the length of member terms, board residency requirements, and the rules for filling board vacancies are set forth in Chapter 1 of the City Code, Section 1.04.002.

Sec. 3.02.002 – Composition.

The construction standards board of adjustments and appeals shall be composed of individuals with knowledge and experience in the technical codes, such as design professionals, contractors, and/or builders. At least five (5) members of the board shall represent the following construction trades: plumbing, electrical, mechanical, and/or general contractor. In addition, there should be one member at-large from the building industry and one member at-large from the public. A board member shall not act in a case in which he has a personal or financial interest.

Sec. 3.02.003 – Absence from meetings.

Attendance requirements for the board members are set forth in this code, section 1.02.002(b), et seq.

Chapter 15 – Cemeteries

ARTICLE 15.01- FAIRVIEW CEMETERY

Sec. 15.01.002 – City as permanent trustee for perpetual care and creation of cemetery advisory board.

(a) The city as owner and operator of Fairview Cemetery is hereby authorized to act as a permanent trustee for the perpetual care and upkeep of plots and graves in the cemetery and shall accept such trust as provided in this article.

(b) *Cemetery advisory board.*

(1) The rules for appointment of members, the number of members comprising the board, the length of member terms, board residency requirements, and the rules for filling board vacancies are set forth in Chapter 1 of the City Code, Section 1.04.002.

Commented [TW13]: Yes, the current board has 6 but we are changing that with this standardized ordinance.

(2) The role of the advisory board shall be to recommend rules to the City Council, as are necessary, concerning the use, care, control, management, restriction, and protection of the Fairview Cemetery. Any matter relating to the Fairview Cemetery shall be referred to the Bastrop Cemetery Advisory Board for their consideration and recommendation before the action is taken by the City Council, however, the advisory board's role shall be advisory only.

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 8D

TITLE:
Consider action to approve the first reading of Ordinance No. 2019-61 of the City Council of the City of Bastrop, Texas adopting the International Building Code (2018), amending Chapter 3, "Building Regulations", Section 3.04.001, Building Code Adopted; adopting the National Electric Code (2017), amending Section 3.05.031, Electrical Code Adopted; adopting International Plumbing Code (2018), amending Section 3.06.031, Plumbing Code Adopted; adopting International Mechanical Code (2018), amending Section 3.07.001, Mechanical Code Adopted; adopting International Fuel Gas Code (2018), amending Section 3.08.001, Fuel Gas Code; adopting International Residential Code (2018), amending Section 3.09.001, Residential Code; adopting International Energy Conservation Code (2018), amending Section 3.10.001, Energy Conservation Code; adopting International Green Construction Code (2018), amending Section 3.14.001, International Green Construction Code; adopting the International Swimming Pool and Spa Code (2018), amending Section 3.15.001, Swimming Pool Code Adopted; repealing Section 3.15.002, Screening and fencing, adopting International Existing Building Code (2018), amending Section 3.13.001, Existing Building Code Adopted; and adopting the International Fire Code (2018), amending Chapter 5, "Fire Prevention and Protection", Section 5.02.001, Fire Code Adopted, repealing Article 5.03, Life Safety Code, repealing Article 5.04-5.06 Reserved, repealing Article 5.07 Fire Lanes, repealing Article 5.08 Reserved, as attached in Exhibit A; and providing for findings of fact, adoption and amendment, repealer, severability, and enforcement; establishing an effective date; and proper notice and meeting.

STAFF REPRESENTATIVE:
Andres Rosales, Fire Chief

BACKGROUND/HISTORY:
On June 4, 2019, Staff met with the Construction Standards Board (CSB) to review and make recommendations for adoption of the 2018 International Building Codes (I-Codes) based on the Building Bastrop initiative. Building Bastrop was launched on August 15, 2018 to create a new set of tools that will support the community in a responsible manner for generations to come. When looking at the Policy Statement adopted by City Council on February 26, 2019, a key component is that the codes must be fiscally sustainable. The Building Bastrop Codes focus on the public realm (first 15' of a property), infrastructure, and life safety. The International Code Council (ICC) Building Codes (I-Codes) will regulate life safety. The I-Codes are standards used in the design, construction, and compliance process to ensure safe, sustainable, affordable, and resilient structures.

It is not uncommon for cities to update their codes every few years. Bastrop last updated these codes in 2014 when the 2009 I-Codes were adopted. There have been several updates to the I-Codes since 2009 and the latest release is the 2018 I-Codes.

The CSB has reviewed the I-Codes and is making a recommendation to City Council regarding the adoption of the 2018 I-Codes and local amendments. The CSB and Staff reviewed the 2018 I-Codes using the following purpose statement, as adopted by City Council on March 26, 2019, as the basis of our code review:

> *"Review national best practices and establish locally amended life safety expectations that protect our public and ensure the asset meets or exceeds its useful life."*

The I-Code review process provided the CSB, Staff, and the community a chance to evaluate the codes and opportunities to make local amendments. Adopting localized amendments will ensure that the I-Codes, as amended, protect life safety, are fiscally sustainable, and are authentic to Bastrop.

City Council unanimously approved the first reading of this ordinance during the November 12th City Council Meeting and requested that this item be placed on the Consent Agenda for the November 26th City Council Meeting.

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

The Texas Local Government Code, Chapter 214 authorizes the municipality to adopt local amendments and procedures for the administration and enforcement of the International Code Council codes (I-Codes).

CONSTRUCTION STANDARDS BOARD'S RECOMMENDATION:
At their October 28, 2019 Meeting, the CSB (on a vote of 3-0) recommended the adoption of the ICC Codes with the amendments from the Building Official, Bastrop Fire Department, Bastrop Power and Light, and their recommendation for not adopting the International Property Maintenance Code or International Wildland-Urban Interface Code at this time.

The CSB recommended local amendments were discussed at length at the Joint City Council/CSB Joint Meeting on November 5, 2019. A summary of the local amendment recommendations is included in the attachments.

RECOMMENDATION:

Consider action to approve the first reading of Ordinance No. 2019-61 of the City Council of the City of Bastrop, Texas adopting the International Building Code (2018), amending Chapter 3, "Building Regulations", Section 3.04.001, Building Code Adopted; adopting the National Electric Code (2017), amending Section 3.05.031, Electrical Code Adopted; adopting International Plumbing Code (2018), amending Section 3.06.031, Plumbing Code Adopted; adopting International Mechanical Code (2018), amending Section 3.07.001, Mechanical Code Adopted; adopting International Fuel Gas Code (2018), amending Section 3.08.001, Fuel Gas Code; adopting International Residential Code (2018), amending Section 3.09.001, Residential Code; adopting International Energy Conservation Code (2018), amending Section 3.10.001, Energy Conservation Code; adopting International Green Construction Code (2018), amending Section

3.14.001, International Green Construction Code; adopting the International Swimming Pool and Spa Code (2018), amending Section 3.15.001, Swimming Pool Code Adopted; repealing Section 3.15.002, Screening and fencing, adopting International Existing Building Code (2018), amending Section 3.13.001, Existing Building Code Adopted; and adopting the International Fire Code (2018), amending Chapter 5, “Fire Prevention and Protection”, Section 5.02.001, Fire Code Adopted, repealing Article 5.03, Life Safety Code, repealing Article 5.04-5.06 Reserved, repealing Article 5.07 Fire Lanes, repealing Article 5.08 Reserved, as attached in Exhibit A; and providing for findings of fact, adoption and amendment, repealer, severability, and enforcement; establishing an effective date; and proper notice and meeting.

ATTACHMENT(S):

- Ordinance 2019-61
- Ordinance 2019-61 (Red-Line Version)
- Summary of CSB Recommended Local Amendments
- PowerPoint Presentation

ORDINANCE 2019-61

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS ADOPTING THE INTERNATIONAL BUILDING CODE (2018), AMENDING CHAPTER 3, "BUILDING REGULATIONS", SECTION 3.04.001, BUILDING CODE ADOPTED; ADOPTING THE NATIONAL ELECTRIC CODE (2017), AMENDING SECTION 3.05.031, ELECTRICAL CODE ADOPTED; ADOPTING INTERNATIONAL PLUMBING CODE (2018), AMENDING SECTION 3.06.031, PLUMBING CODE ADOPTED; ADOPTING INTERNATIONAL MECHANICAL CODE (2018), AMENDING SECTION 3.07.001, MECHANICAL CODE ADOPTED; ADOPTING INTERNATIONAL FUEL GAS CODE (2018), AMENDING SECTION 3.08.001, FUEL GAS CODE; ADOPTING INTERNATIONAL RESIDENTIAL CODE (2018), AMENDING SECTION 3.09.001, RESIDENTIAL CODE; ADOPTING INTERNATIONAL ENERGY CONSERVATION CODE (2018), AMENDING SECTION 3.10.001, ENERGY CONSERVATION CODE; ADOPTING INTERNATIONAL GREEN CONSTRUCTION CODE (2018), AMENDING SECTION 3.14.001, INTERNATIONAL GREEN CONSTRUCTION CODE; ADOPTING THE INTERNATIONAL SWIMMING POOL AND SPA CODE (2018), AMENDING SECTION 3.15.001, SWIMMING POOL CODE ADOPTED; REPEALING SECTION 3.15.002, SCREENING AND FENCING, ADOPTING INTERNATIONAL EXISTING BUILDING CODE (2018), AMENDING SECTION 3.13.001, EXISTING BUILDING CODE ADOPTED; AND ADOPTING THE INTERNATIONAL FIRE CODE (2018), AMENDING CHAPTER 5, "FIRE PREVENTION AND PROTECTION", SECTION 5.02.001, FIRE CODE ADOPTED, REPEALING ARTICLE 5.03, LIFE SAFETY CODE, REPEALING ARTICLE 5.04-5.06 RESERVED, REPEALING ARTICLE 5.07 FIRE LANES, REPEALING ARTICLE 5.08 RESERVED, AS ATTACHED IN EXHIBIT A; AND PROVIDING FOR FINDINGS OF FACT, ADOPTION AND AMENDMENT, REPEALER, SEVERABILITY, AND ENFORCEMENT; ESTABLISHING AN EFFECTIVE DATE; AND 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 Local Government Code; and

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

WHEREAS, the Texas Local Government Code, Chapter 214, was amended by Senate Bill No. 365, an act of the 77th Texas Legislature, by adding Subchapter G, which provided for the adoption of the International Residential Code, the National Electrical Code, International Residential Code, International Building Code, as the municipal codes in the State of Texas; and

WHEREAS, the Texas Local Government Code, Chapter 214, authorizes a municipality to adopt local amendments to the International Residential Code, the National Electrical Code, International Building Code; and

WHEREAS, the Texas Local Government Code, Chapter 214, authorizes a municipality to adopt procedures for the administration and enforcement of the International Residential Code, the National Electrical Code, International Building Code; and

WHEREAS, the Texas Association of Builders (TAB), Texas Municipal League (TML), Texas Society of Architects, Texas Apartment Association, and the National Home Builders Association, as well as members of the Insurance Industry, are all in full support of the uniform building codes; and

WHEREAS, the International Conference of Building Officials, Southern Building Code Congress International, Inc., and Building Officials and Code Administrators International, Inc., has recommended that all municipalities in the State of Texas adopt standardize model construction codes in an effort to simplify the construction process, advance the safety of building systems, promote common code interpretation, facilitate the mobility of contractors, and reduce training and construction costs; and

WHEREAS, the City of Bastrop Building Official and Fire Chief and Construction Standards Board has reviewed the International Building Code, 2018 Edition, the National Electric Code, 2017 Edition, International Plumbing Code, 2018 Edition, International Mechanical Code, 2018 Edition, International Fuel Gas Code, 2018 Edition, International Residential Code, 2018 Edition, International Energy Conservation Code, 2018 Edition, and International Green Construction Code, 2018 Edition, International Swimming Pool and Spa Code, 2018 Edition, International Existing Building Code, 2018 Edition, International Fire Code, 2018 Edition, and all local amendments thereto, and finds that it is in the best interest of the City of Bastrop to adopt said Codes and amendments; and

WHEREAS, the City Council has determined that the adoption of the updated International Code Council (ICC) standards is necessary to facilitate proper inspection activities by the City relating to building standards within the corporate city limits of the City of Bastrop, Texas, in the extraterritorial jurisdiction of Bastrop, and for commercial buildings served by City utilities, relating to public safety, health, and general welfare; and

WHEREAS, the City Council seeks to apply up-to-date regulatory systems to projects to the extent reasonably possible and within the confines of the law; and

WHEREAS, the Council Council does hereby find and determine that the adoption of this Ordinance is in the best interest of the public health, safety, morals and general welfare of the City to adopt the construction and related codes as set forth herein.

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

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. ADOPTION AND AMENDMENT The City Council hereby adopts International Building Code (IBC), 2018 Edition, the National Electric Code (NEC), 2017 Edition, International Plumbing Code (IPC), 2018 Edition, International Mechanical Code (IMC), 2018 Edition, International Fuel Gas Code (IFGC), 2018 Edition, International Residential Code (IRC),

2018 Edition, International Energy Conservation Code (IECC), 2018 Edition, and International Green Construction Code, 2018 Edition, International Swimming Pool and Spa Code, 2018 Edition, International Existing Building Code, 2018 Edition, International Fire Code (IFC), 2018 Edition, and all local amendments thereto, as amended herein and by the International Code Council, as attached in Exhibit A.

SECTION 3. REPEALER In the case of any conflict between other provisions of this Ordinance and any existing Ordinance of the City, the provisions of this Ordinance will control.

SECTION 4. SEVERABILITY 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. ENFORCEMENT 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 6. EFFECTIVE DATE This Ordinance shall be effective immediately upon passage and publication.

SECTION 7. OPEN MEETINGS 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.

READ & ACKNOWLEDGED on First Reading on the 12th day of November 2019.

READ & APPROVED on the Second Reading on the 26th day of November 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A

City of Bastrop

CODE OF ORDINANCES

CHAPTER 3 – BUILDING REGULATIONS

ARTICLE 3.04 – BUILDING CODE

Section 3.04.001 – Adopted.

(a) The International Building Code (IBC) 2018 edition, with all appendices as published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.
(b) All portions of the existing code shall remain in effect unless specifically amended in this Chapter.
(c) The following amendments are being made to the International Building Code (IBC) 2018:
    (1) **[Amend]** Table 1004.5 Maximum Floor Area Allowances Per Occupant
        (a) Function of Space: Business Areas, Occupant Load Factor: 100 Gross

Section 3.04.003, Board of Appeals

The International Building Code (IBC) 2018 edition shall be and is hereby replaced with article 3.02 of the code of the city relating to the construction board of adjustments and appeals.

ARTICLE 3.05 – ELECTRICITY

DIVISION 2 – ELECTRICAL CODE

Section 3.05.031 – Adopted.

(a) The National Electrical Code, (NEC) 2017 edition, as published by the National Fire Protection Agency, is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amnded in this chapter.
(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

Section 3.05.032, References to Uniform Building Code or Standard Building Code.

All references to the Uniform Building Code or Standard Building Code in the administrative provisions shall mean the International Building Code (IBC) 2018 edition, as published by the International Code Council.

ARTICLE 3.06 – PLUMBING

Division 2. – PLUMBING CODE

Section 3.06.031 – Adopted.

(a) The International Plumbing Code, 2018 edition, with all appendices, published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.

(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.
(c) The following amendments are being made to the 2018 Plumbing Code:
    (1) **[Amend] 308.10 Thermal expansion tanks.** A thermal expansion tank shall be supported in accordance with the manufacturer's instructions. Residential expansion tanks up to 2.4 gallons may be supported by rigid pipe.
    (2) **[Amend] Table 605.4 Water Distribution Pipe.** Polyvinyle chloride (PVC) allowed as an approved material in table for ¾ inch and larger.

ARTICLE 3.07 – MECHANICAL CODE

Section 3.07.001 – Adopted.

(a) The International Mechanical Code (IMC), 2018 edition, with all appendices, as published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.
(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

ARTICLE 3.08 – FUEL GAS CODE

Section 3.08.001 – Adopted.

(a) The International Fuel and Gas Code (IFGC), 2018-edition, with all appendices, as published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.
(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

ARTICLE 3.09 – RESIDENTIAL CODE

Section 3.09.001- Adopted.

(a) The International Residential Code (IRC), 2018 edition, with all appendices, as published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.
(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.
(c) The following amendments are being made to the 2018 International Residential Code:
    (1) **[Amend] R302.13 Fire Protection of floors.** Crawl spaces require the underneath floor area 10 inches beyond the mechanical equipment on either side only to be fire assembly,5/8 gypsum or equivalent when a heating appliance is installed in the crawl space.
        (A) Instead of, crawl spaces now require the underneath of the floor to be fire assembly, 5/8-inch gypsum or equivalent when a heating appliance is installed in the crawl space.
    (2) **[Remove] N1104.1 Lighting Equipment (Mandatory).**
    (3) **[Amend] Table P2906.5 Water Distribution Pipe**. Polyvinyle chloride (PVC) allowed as an approved material in table for ¾ inch or larger.

ARTICLE 3.10 – ENERGY CONSERVATION CODE

Section 3.10.001 – Adopted.

(a) The International Energy Conservation Code (IECC), 2018 edition, with all appendices, as published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.
(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

Article 3.13 – EXISTING BUILDING CODE

Section 3.13.001 – Adopted.

(a) The International Existing Building Code 2018 edition, with all appendices, as published by the International Code Council, is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.
(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

ARTICLE 3.14 – INTERNATIONAL GREEN CONSTRUCTION CODE

Section 3.14.001 – Adopted.

(a) The International Green Construction Code (IGCC) 2018 edition, with all appendices, as published by the International Code Council (ICC), is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.
(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

ARTICLE 3.15 – SWIMMING POOLS

Section 3.15.001 - Adopted.

(a) The International Swimming Pool and Spa 2018 edition, with all appendices, as published by the International Code Council, is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.
(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

Section 3.15.002 – Repealed.

CHAPTER 5 – FIRE PREVENTION AND PROTECTION

ARTICLE 5.02 – FIRE CODE

Section 5.02.001 – Adopted.

(a) The International Fire Code (IFC), 2018 edition, with appendices B, C, D, E, F, G, H, I, and N as published by the International Code Council, is adopted by reference as though copied herein fully, except such portions as may be deleted, modified or amended in this chapter.

(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

(c) The following amendments are being made to the 2018 International Fire Code:

(1) **[Amend] 101.1** – These regulations shall be known as the Fire Code of the City of Bastrop, Texas, hereinafter referred to as "this code".

(2) **[Amend] 102.6** – The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and registered by the state or local jurisdiction as historic buildings where such buildings or structures and the proposed use therein do not constitute a distinct hazard to life or property, as determined by the fire code official. Fire protection in designated historic buildings shall be provided with an *approved* fire protection plan as required in Section 1103.1.1 and in accordance with NFPA 914.

(3) **[Amend] 103.3** – Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *fire code official* shall have the authority to appoint a deputy *fire code official,* other related technical officers, inspectors, and other employees. Where the terms "fire code official", "fire chief", "chief", "fire department", or "fire marshal" are used in the Fire Code, the provisions shall apply to any fire department employee in the execution of their assigned duties, as delegated and appointed by the fire chief.

(4) **[Add] 104.1.1 –** Authorized Personnel. The fire chief and members of the fire department assigned to enforce the Fire Code are authorized to issue municipal citations / summons for violations of the Fire Code.

(5) **[Amend] 104.3** - Where it is necessary to make an inspection to enforce the provisions of this code, or where the fire code official has reasonable cause to believe that there exists in a building or upon any premises any conditions or violations of this code which make the building or premises unsafe, dangerous or hazardous, the fire code official shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the Fire Code Official by this code. If such building or premises is occupied, the Fire Code Official shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the Fire Code Official shall first make a reasonable effort to locate the owner, the owner's authorized agent or other person having charge or control of the building or premises and request entry. If entry is refused, the Fire Code Official has recourse to every remedy provided by law to secure entry.

(A) No owner, occupant, or any other person having charge, care, or control of any building or premises shall fail, neglect, or refuse, after proper demand is made as herein provided, to properly permit entry therein by the Fire Chief or his authorized representative for the purpose of inspection or examination under such exigent circumstances affecting the safety of persons and/or property, or to take such prudent action to extinguish a fire or abate a fire hazard.

(4) **[Add] 104.3.2 -** Photographic Documentation. Members of the Fire Department making such examinations or inspections shall have the right, with proper credentials, and be authorized to take a reasonable number of photographs or

record video for evidence, as well as for records for use by the Fire Department to study hazards and scientific control for fire safety.

(5) **[Amend] 105.4.4** - Approved documents. Construction documents approved by the Fire Code Official are approved with the intent that such construction documents comply in all respects with this code. The issuance or granting approval of plans and specifications or other construction documents is not an approval of any violation of this Code or of any other ordinance of the jurisdiction. An approval presuming to give authority to violate or cancel the provisions of this Code is not valid. Review and approval by the fire department shall not relieve the applicant of the responsibility of compliance with this code. The issuance of an approval based on plans, specifications and other data shall not prevent the Fire Code Official from requiring the correction of errors in the plans, specifications or other data, or from preventing processes, building operations or uses being carried on when in violation of this code or any other code of this jurisdiction.

(6) **[Amend] 105.6** – Required Operational Permits. The Fire Code Official is authorized to issue operational permits for the operations set forth in Sections 105.6.1 through 105.6.51.

(7) **[Add] 105.6.51** Mobile Food Establishments. An operational permit is required for the operation and maintenance of a mobile food establishment. Small, light weight vendor push carts, as determined by the Fire Code Official, are not covered under this section. For permit to operate a Mobile Food Establishment see Section 319.

(8) **[Add] 105.7.9.1** Construction Documents. The construction documents for the following tanks shall be prepared by a professional engineer licensed by the State of Texas:

(A) Above ground storage tanks (AST) of 1320 gallons (5031 L) or larger used to store flammable liquids. (Class IA, 1B, IC)

(B) All underground tanks used for the storage and dispensing of flammable or combustible liquids.

(9) **[Add] 110.2.1** Removal of Occupants. A member of the Fire Department is authorized to require the removal of occupants at a location when actual occupancy exceeds the permitted or posted occupant load. A person commits an offense, as indicated in Section 109.4, if they refuse to obey an order to vacate.

(10) **[Amend] 110.4** Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a Permit or certificate used under the provisions of this code shall be guilty of a Class C Misdemeanor, punishable by a fine of up to $500 per infraction. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(11) **[Amend] 112.4** Failure to Comply. Any person who continues any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a Class C Misdemanor punishable by ~~liable to~~ a fine of not less than $25 dollars or more than $500 dollars.

(12) **[Amend] 307.1.1** Prohibited Open Burning. It shall be unlawful for any person within the city limits, in anyway, to intentionally, knowingly or carelessly burn or cause to be burned any combustibles, including but not limited to grass, weeds, timber, rubbish, leaves, or other natural or synthetic materials, garbage, trash, rubbish, litter, solid waste, hazardous waste or any such like substances on any street, alley, lot or premises. Such prohibited fires shall include bonfires and fires used for ceremonial purposes not in compliance herewith.

Exceptions:

(A) Burning conducted for the purposes of outdoor cooking and warming in a device approved for such purpose and in compliance with this code. No burning of waste or garbage shall be permitted in such devices.

(B) Firefighter training conducted under the supervision of the Fire Code Official, or designee.

(C) On-site land clearing on lots of greater than two acres upon which the owner intends to clear the lot itself of selected trees, brush and other natural plant growth and when approved by the Fire Code Official, or designee, and the onsite land clearing is conducted in compliance with state, federal and local laws and regulations. A permit shall be required and approved safety measures shall be employed in accordance with 105.6.

(D) Prescribed burning for the purpose of reducing the impact of wildland fire when authorized by the Fire Code Official. A permit shall be required and approved safety measures shall be employed in accordance with 105.6 and 307.2.

(13) **[Amend] 307.4** Location. When authorized by permits in accordance with section 105.6 and 307.2, unless otherwise approved by the Fire Code Official, the location for burning shall not be less than 100 feet from any structure and provisions shall be made to prevent the fire from spreading to within 100 feet of any structure. Such fires shall be constantly attended by a competent person with an approved means to extinguish the fire and reliable communication capabilities.

(14) **[Amend] 307.4.1** Bonfires. A bonfire shall not be conducted within 100 feet from any structure or combustible material unless the fire is contained in a barbecue pit or similarly approved container. Conditions that could cause a fire to spread within 100 feet shall be eliminated prior to ignition. A permit must be obtained to conduct a bonfire.

(15) **[Add] 308.5** Fire Hazard Prohibited. A person shall not construct, erect, install, maintain or use any incinerator, barbecue pit, grill, fire pit/ring, heating device, or so bum any combustible material as to constitute or cause a fire hazard by the use or burning thereof or as to endanger the life or property of any person thereof. The use or burning of any such devices under the following conditions shall constitute a fire hazard and is strictly prohibited:

(A) Within 20 linear feet of any combustible surface or material, including but not limited to decks, porches, balconies, walls, or verandas.

(B) Beneath any balcony, porch, roof overhang, deck, or veranda.

Exception: Single Family Residences (excluding duplexes and townhomes)

(16) **[Amend] 503.2.2** Authority. The Fire Code Official shall have the authority to require or permit modifications to the required access widths.

(17) **[Amend] 503.2.3** Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities by either asphalt or concrete surfaces.

Drivable grass surfaces, or other alternative drivable surfaces, are permitted when approved by the Fire Code Official or his designee and in accordance with all of the following conditions:

(A) Sealed documents indicating compliance with the provisions of 503.2.3 shall be submitted by a registered design professional for review.

(B) The surface shall be capable of supporting the imposed load of fire apparatus weighing at least 84,000 pounds.

(C) Red traffic reflectors shall be provided on each side of the surface every 15 feet to clearly mark its boundaries. Vegetation on and surrounding the surface shall be maintained such that said reflectors are visible at all times.

(D) Sod is not permitted to be placed over the drivable base.

(E) If the surface proposed is to be used as the aerial apparatus access road for the facility, concrete curbing, or other approved edging, shall be installed along both sides of the portion to be used as such for enhanced lateral stability.

(F) If sand or other free-flowing fill is used as a main structural component for the surface, concrete curbing or other approved edging shall be installed along both sides of the surface for material containment.

(G) The surface shall be maintained in proper working order at all times when utilized as a required fire lane. Should the surface become damaged or fall into disrepair, the Fire Code Official or his designee shall be authorized to require the repair and recertification of said surface at the expense of the owner or entity in charge of maintaining the surface.

(18) **[Amend] 503.2.4** Turning Radius. The required turning radius of a fire apparatus access road shall not be less than 25 feet inside or 50 feet outside. **Exception:** Radius less than 25 feet inside or 50 feet outside as approved by the Fire Code Official.

(19) **[Add] 503.7** Fire Code Official Authority to Designate and Enforce Fire Lanes. The Fire Code Official is hereby authorized to designate fire lanes on designated premises where such areas must be free of parked vehicles and other obstructions to provide ready access to buildings therein, in case of fire or other emergencies. The Fire Code Official's designation of such fire lanes does not prohibit the owner of such property of their responsibility to maintain the area. Further, owners of the private property or their designated representative may request that additional fire lanes be designated by the Fire Code Official.

(A) **503.7.1** Summons or Citation Issued for a Fire Lane Obstruction Violation. Any police officer, Fire Code Official, or city employee charged with enforcing the Code of Ordinances of the City of Bastrop may issue a citation, summons or notice to appear to any person, or property owner in

violation of this section. Said notice must specify the location of the fire lane in which such violation occurred and the date and time of such violation. For purposes of this section, a vehicle's owner includes those listed in Texas Occupation Code section 2308.002.

(B) **503.7.2** Removal of Vehicle by Fire Code Official. Any vehicle may be removed at the vehicle owners' expense upon the authorization of the Fire Code Official under the following conditions:

(i) When the vehicle violates city code of ordinances by standing or parking a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers, in a fire lane or fire zone, or

(ii) When a vehicle blocks the ingress/egress of a business, theater, night club, apartment complex, gymnasium or a place of assembly, or

(iii) When a vehicle's presence threatens the life safety of the public by impeding the ability of the fire apparatus and emergency medical equipment to respond to an emergency.

(iv) The Fire Code Official shall cause such vehicle to be removed by the towing service operating under a contract with the City of Bastrop.

(C) **503.7.3** Abandonment of Fire Lane. No owner, manager or person in charge of any premises served by a required fire lane shall abandon or close any such fire lane without the written permission of the Fire Code Official.

(20) **[Amend] 505.1** Address identification. New and existing buildings shall have approved address numbers**.** building and/or suite identification or be provided with approved building address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Address characters shall be not less than 8 inches high for commercial occupancies and 4 inches high for residential (Group R-3 occupancy), with a minimum stroke width of ½ inch. For buildings with individual suites, the suite numbers shall be a minimum of 4 inches high with a minimum stroke width of ½ inch. Where required by the Fire Code Official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

(21) **[Add] 505.3** Tenant identification. Each occupied tenant space provided with a secondary exit to the exterior or exit corridor shall be provided with tenant identification by business name and address. Letters and numbers shall be posted on the corridor side of the door, plainly legible and shall contrast with their background.

(22) **[Amend] 506.1 Where required.** Where access to or within a structure or an area is restricted because of secured openings or where immediate access

is necessary for life saving or firefighting purposes, the Fire Code Official is authorized to require a key box to be installed at an approved location. Additional key boxes may be required as determined by the Fire Code Official. The key box shall be manufactured by Knox Company, keyed for use by the Bastrop Fire Department, and shall contain keys necessary to gain access as required by the Fire Code Official.

(23) **[Add] 506.1.1.1** Electronic gates. Electric gates across fire access roadways shall be equipped with a Knox Key Switch. The Key Switch shall be located on a keypad pedestal or as approved by the Fire Code Official.

(24) **[Add] 506.1.1.2** Electrical Disconnect/Chain Access. In the event of a power failure, the gate shall open by means of an electrical power disconnect switch in a weatherproof box. The gate shall be capable of being physically disconnected from the operating mechanism from either side of the gate. Slider gate chains shall have access to cut and release the gate from the opener mechanism from either side. Swing gates shall have a pin in the swing arm mechanism secured by a Knox Padlock. The padlock shall be accessible from either side of the gate. Gates that are not in proper operating condition shall be chained and locked in an open position.

(25) **[Amend] 507.4** The Fire Code Official shall be notified prior to the water supply test. Water supply tests shall be conducted by the fire department prior to final approval of the water supply system.

(26) **[Amend] 507.5.1** Exception #2. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance shall be 500 feet.

(27) **[Amend] 507.5.1.1** Hydrant for standpipe systems and fire department connections (FDC). If a building is required to have an automatic sprinkler system installed in accordance with this code, or a standpipe system installed in accordance with Section 905, a fire hydrant shall be located within 100 feet of the Fire Department Connections as required in 912.8.

(28) **[Amend] 901.5** Installation Acceptance Testing. Fire detection and alarm systems, fire extinguishing systems, fire hydrant systems, fire standpipe systems, fire pump systems, private fire service mains and all other fire protection systems and appurtenances thereto shall be subject to acceptance tests as contained in the installation standards and as approved by the Fire Code Official. The Fire Code Official shall be notified before any required acceptance testing. A representative of the Fire Department shall witness all required acceptance tests for all these systems.

(29) **[Amend] 901.8 Removal of or tampering with equipmen**t. It shall be unlawful for any person to remove, tamper with or otherwise disturb any fire hydrant, fire detection and alarm system, fire suppression system or other fire appliance required by this code except for the purposes of extinguishing fire, training, recharging or making necessary repairs or where approved by the Fire Code Official. No person shall reset/restore an activated fire alarm system unless directed by the fire department.

(30) **[Amend] 903.2.11.3. Buildings 3 Stories or more in height.** An automatic sprinkler system shall be installed throughout buildings that have 3 or more stories above the lowest level of fire department vehicle access.

(31) **[Add] 907.2.6.4 Group I-4 Occupancies**. Group I-4 occupancies shall be equipped with a manual fire alarm system and automatic smoke detection system installed throughout the building.

(32) **[Amend] 912.5** Signs. The fire department connection shall be indicated by an approved sign. Such sign shall be a red 12 inch by 12 inch, all weather sign with 6 inch white reflective lettering, stating "FDC". The sign shall be mounted no less than 3 feet above the FDC connection, providing an unobstructed view from the fire department access roadway, to include consideration to future vegetative growth. If needed, an arrow can be used to identify the location of the FDC. Such sign shall be subject to the approval of the Fire Code Official. The Fire Code Official is permitted to require additional signage where necessary to facilitate rapid location of the FDC.

(33) **[Add] 912.8** Fire Department Connection Specifications. Sprinkler system and standpipe fire department hose connections shall be as follows:

(A) Fire Department Connections shall be a 5 inch "Storz" connection, unless the Fire Code Official determines there is a need for a different arrangement.

(B) The 5 inch "Storz" inlet shall be installed on a 30 degree elbow, angle pointing down.

(C) Located no more than 30 feet from a public street, approved fire lane, or access roadway.

(D) Within 100 feet of an approved fire hydrant measured as the hose would be laid along a fire department apparatus roadway.

(E) Minimum 30 inches (762 mm) at lowest point above finished grade and a maximum of 4 feet above finished grade measured from the bottom of the 5 inch "Storz".

(F) The Fire Code Official shall approve the location of freestanding fire department connections (remote connections). Freestanding FDC's must be physically protected against impact per the requirements of Section 312.

(G) Fire department connections for H occupancies will be freestanding (remote connections) and located as determined by the Fire Code Official.

(H) Fire Department Connections shall be equipped with locking caps, manufactured by the Knox Company, keyed for use by the Bastrop Fire Department.

(34) **[Add] 912.8.1** Fire Department Connection Signage. All FDC signage shall be made of all-weather material, red 12 inch by 12 inch, with 6 inch white reflective lettering, stating "FDC". The sign shall be mounted no less than 3 feet above the FDC connection, providing an unobstructed view from the fire department access roadway, to include consideration to future vegetative growth.

(35) **[Amend] Table 1004.5 Maximum Floor Area Allowances Per Occupant**

Function of Space	Occupant Load Factor (Floor Area in Square Feet Per Occupant)
Accessory storage areas, mechanical equipment room.	300 Gross
Agricultural Building	300 Gross
Aircraft Hangars	500 Gross
Airport Terminal Baggage Claim Baggage Handling Concourse Waiting Area	 20 Gross 300 Gross 100 Gross 15 Gross
Assembly Gaming Floors (Keno, Slots, etc.) Exhibit Gallery and Museum	 11 Gross 30 Net
Assembly with Fixed Seats	See Section 1004.4
Assembly without Fixed Seats Concentrated (Chairs Only – Not Fixed) Standing Space Unconcentrated (Tables and Chairs)	 7 Net 5 Net 15 Net
Bowling Centers, Allow 5 Persons for Each Lane including 15 Feet of Runway, and for Additional Areas	7 Net
Business Areas Concentrated Business Use Areas	100 Gross See Section 1004.8
Courtrooms – other than Fixed Seating Areas	40 Net
Day Care	35 Net
Dormitories	50 Gross
Educational Classroom Area Shops and Other Vocational Room Areas	 20 Net 50 Net
Exercise Rooms	50 Gross
Group H-5 Fabrication and Manufacturing Areas	200 Gross

Industrial Areas	100 Gross
Institutional Areas Inpatient Treatment Areas Outpatient Areas Sleeping Areas	 240 Gross 100 Gross 120 Gross
Kitchens, Commercial	200 Gross
Library Reading Rooms Stack Area	 50 Net 100 Gross
Locker Rooms	50 Gross
Mall Buildings – Covered and Open	See Section 402.8.2 of the adopted International Building Code
Mercantile Storage, Stock, Shipping Areas	60 Gross 300 Gross
Parking Garages	200 Gross
Residential	200 Gross
Skating Rinks, Swimming Pools Rink and Pool Decks	 50 Gross 15 Gross
Stages and Platforms	15 Net
Warehouses	500 Gross

(36) **[Amend]** Chapter 80 – Referenced Standards

(A) The National Fire Protection Association also adopts the following editions of referenced codes herein for purposes of review and inspections.

(i) 02 – 2016 Edition – Hydrogen Technologies Code
03 – 2018 Edition – Standard for Commissioning of Fire Protection and Life Safety Systems
04 – 2015 Edition – Standard for Integrated Fire Protection and Life Safety System Testing
10 – 2018 Edition – Standard for Portable Fire Extinguishers
11 – 2016 Edition – Standard for Low-, Medium-, and High-expansion Foam
12 – 2015 Edition – Standard on Carbon Dioxide Extinguishing Systems

12A – 2015 Edition – Standard on Halon 1301 Fire Extinguishing Systems
13 – 2016 Edition – Standard for the Installation of Sprinkler Systems
13D – 2016 Edition – Standard for the Installation of Sprinkler Systems in One- and Two-family Dwellings and Manufactured Homes
13R – 2016 Edition – Standard for the Installation of Sprinkler Systems in Low-rise Residential Occupancies
14 – 2016 Edition – Standard for the Installation of Standpipe and Hose Systems
15 – 2017 Edition – Standard for Water Spray Fixed Systems for Fire Protection
16 – 2015 Edition – Standard for the Installation of Foam-water Sprinkler and Foam-water Spray Systems
17 – 2017 Edition – Standard for Dry Chemical Extinguishing Systems
17A – 2017 Edition – Standard for Wet Chemical Extinguishing Systems
20 – 2016 Edition – Standard for the Installation of Stationary Pumps for Fire Protection
22 – 2018 Edition – Standard for Water Tanks for Private Fire Protection
24 – 2016 Edition – Standard for Installation of Private Fire Service Mains and Their Appurtenances
25 – 2017 Edition – Standard for the Inspection, Testing, and Maintenance of Water-based Fire Protection Systems
30 – 2018 Edition – Flammable and Combustible Liquids Code
30A – 2018 Edition – Code for Motor Fuel-dispensing Facilities and Repair Garages
30B – 2015 Edition – Code for the Manufacture and Storage of Aerosol Products
51B – 2014 Edition – Standard for Fire Prevention During Welding, Cutting, and Other Hot Work
54 – 2018 Edition – National Fuel Gas Code
55 – 2016 Edition – Compressed Gases and Cryogenic Fluids Code
58 – 2017 Edition – Liquefied Petroleum Gas Code
70 – 2017 Edition – National Electric Code
72 – 2016 Edition – National Fire Alarm and Signaling Code
501A – 2018 Edition – Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities
914 – 2019 Edition – Code for the Protection of Historic Structures
2001 – 2015 Edition – Standard on Clean Agent Fire Extinguishing Systems

2010 – 2015 Edition – Standard for Fixed Aerosol Fire Extinguishing Systems

ARTICLE 5.03 – LIFE SAFETY CODE REPEALED

Section 5.03.001 – Repealed.

ARTICLE 5.04 Repealed

ARTICLE 5.05 Repealed

ARTICLE 5.06 Repealed

ARTICLE 5.07 Repealed

ARTICLE 5.08 Repealed

ORDINANCE 2019-61

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS ADOPTING THE INTERNATIONAL BUILDING CODE (2018), AMENDING CHAPTER 3, "BUILDING REGULATIONS", SECTION 3.04.001, BUILDING CODE ADOPTED; ADOPTING THE NATIONAL ELECTRIC CODE (2017), AMENDING SECTION 3.05.031, ELECTRICAL CODE ADOPTED; ADOPTING INTERNATIONAL PLUMBING CODE (2018), AMENDING SECTION 3.06.031, PLUMBING CODE ADOPTED; ADOPTING INTERNATIONAL MECHANICAL CODE (2018), AMENDING SECTION 3.07.001, MECHANICAL CODE ADOPTED; ADOPTING INTERNATIONAL FUEL GAS CODE (2018), AMENDING SECTION 3.08.001, FUEL GAS CODE; ADOPTING INTERNATIONAL RESIDENTIAL CODE ~~FOR ONE AND TWO FAMILY DWELLINGS~~ (2018), AMENDING SECTION 3.09.001, RESIDENTIAL CODE ~~FOR ONE AND TWO FAMILY DWELLINGS~~; ADOPTING INTERNATIONAL ENERGY CONSERVATION CODE (2018), AMENDING SECTION 3.10.001, ENERGY CONSERVATION CODE; ~~ADOPTING INTERNATIONAL PROPERTY MAINTENANCE CODE (2018), AMENDING SECTION 3.11.001, PROPERTY MAINTENANCE CODE;~~ ADOPTING ~~INTERNATIONAL RESIDENTIAL CODE (2018) AND~~ INTERNATIONAL GREEN CONSTRUCTION CODE (2018), AMENDING SECTION 3.14.001, ~~RESIDENTIAL CODE~~INTERNATIONAL GREEN CONSTRUCTION CODE; ADOPTING THE INTERNATIONAL SWIMMING POOL AND SPA CODE (2018), AMENDING SECTION 3.15.001, SWIMMING POOL CODE ADOPTED; REPEALING SECTION 3.15.002, SCREENING AND FENCING, ADOPTING INTERNATIONAL EXISTING BUILDING CODE (2018), AMENDING SECTION 3.13.001, EXISTING BUILDING CODE ADOPTED; AND ADOPTING THE INTERNATIONAL FIRE CODE (2018), AMENDING CHAPTER 5, "FIRE PREVENTION AND PROTECTION", SECTION 5.02.001, FIRE CODE ADOPTED, REPEALING ARTICLE 5.03, LIFE SAFETY CODE, REPEALING ARTICLE 5.04-5.06 RESERVED, REPEALING ARTICLE 5.07 FIRE LANES, REPEALING ARTICLE 5.08 RESERVED, AS ATTACHED IN EXHIBIT A; ~~–~~AND PROVIDING FOR FINDINGS OF FACT, ADOPTION AND AMENDMENT, REPEALER, SEVERABILITY, AND ENFORCEMENT;

ESTABLISHING AN EFFECTIVE DATE; AND 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 Local Government Code; and

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

WHEREAS, the Texas Local Government Code, Chapter 214, was amended by Senate Bill No. 365, an act of the 77th Texas Legislature, by adding Subchapter G, which provided for the adoption of the International Residential Code, the National Electrical Code, International Residential Code, International Building Code, as the municipal codes in the State of Texas; and

WHEREAS, the Texas Local Government Code, Chapter 214, authorizes a municipality to adopt local amendments to the International Residential Code, the National Electrical Code, ~~International Residential Code,~~ International Building Code; and

WHEREAS, the Texas Local Government Code, Chapter 214, authorizes a municipality to adopt procedures for the administration and enforcement of the International Residential Code, the National Electrical Code~~, International Residential Code~~, International Building Code; and

WHEREAS, the Texas Association of Builders (TAB), Texas Municipal League (TML), Texas Society of Architects, Texas Apartment Association, and the National Home Builders Association, as well as members of the Insurance Industry, are all in full support of the uniform building codes; and

WHEREAS, the International Conference of Building Officials, Southern Building Code Congress International, Inc., and Building Officials and Code Administrators International, Inc., has recommended that all municipalities in the State of Texas adopt standardize model construction codes in an effort to simplify the construction process, advance the safety of building systems, promote common code interpretation, facilitate the mobility of contractors, and reduce training and construction costs; and

WHEREAS, the City of Bastrop Building Official and Fire Chief and Construction Standards Board has reviewed the International Building Code, 2018 Edition, the National Electric Code, 2017 Edition, International Plumbing Code, 2018 Edition, International Mechanical Code, 2018 Edition, International Fuel Gas Code, 2018 Edition, International Residential Code ~~For One And Two Family Dwellings~~, 2018 Edition, International Energy Conservation Code, 2018 Edition, ~~International~~

~~Property Maintenance Code, 2018 Edition, International Residential Code, 2018 Edition,~~ and International Green Construction Code, 2018 Edition, International Swimming Pool and Spa Code, 2018 Edition, International Existing Building Code, 2018 Edition, International Fire Code, 2018 Edition, and all local amendments thereto, and finds that it is in the best interest of the City of Bastrop to adopt said Codes and amendments; and

WHEREAS, the City Council has determined that the adoption of the updated International Code Council (ICC) standards is necessary to facilitate proper inspection activities by the City relating to building standards within the corporate city limits of the City of Bastrop, Texas, in the extraterritorial jurisdiction of Bastrop, and for commercial buildings served by City utilities, relating to public safety, health, and general welfare; and

WHEREAS, the City Council seeks to apply up-to-date regulatory systems to projects to the extent reasonably possible and within the confines of the law; and

WHEREAS, the Council Council does hereby find and determine that the adoption of this Ordinance is in the best interest of the public health, safety, morals and general welfare of the City to adopt the construction and related codes as set forth herein.

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

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. ADOPTION AND AMENDMENT

The City Council hereby adopts International Building Code (IBC), 2018 Edition, the National Electric Code (NEC), 2017 Edition, International Plumbing Code (IPC), 2018 Edition, International Mechanical Code (IMC), 2018 Edition, International Fuel Gas Code (IFGC), 2018 Edition, International Residential Code (IRC) ~~For One And Two Family Dwellings~~, 2018 Edition, International Energy Conservation Code (IECC), 2018 Edition~~, International Property Maintenance Code (IPMC), 2018 Edition, International Residential Code (IRC), 2018 Edition~~, and International Green Construction Code, 2018 Edition, International Swimming Pool and Spa Code, 2018 Edition, International Existing Building Code, 2018 Edition, International Fire Code (IFC), 2018 Edition, and all local amendments thereto, as amended herein and by the International Code Council, as attached in Exhibit A.

SECTION 3. REPEALER

In the case of any conflict between other provisions of this Ordinance and any existing Ordinance of the City, the provisions of this Ordinance will control.

SECTION 4. SEVERABILITY

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.

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SECTION 5. ENFORCEMENT

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 6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

SECTION 7. OPEN MEETINGS

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.

READ & ACKNOWLEDGED on First Reading on the 12th day of November 2019.

READ & APPROVED on the Second Reading on the 26th day of November 2019.

APPROVED:

by _____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A

City of Bastrop

CODE OF ORDINANCES

CHAPTER 3 – BUILDING REGULATIONS

ARTICLE 3.04 – BUILDING CODE

Section 3.04.001 – Adopted.

(a) The International Building Code (IBC) 2018 edition, with all appendices ~~2009 with the deletion of appendices A, B, D and H~~, as published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.

(b) All portions of the existing code shall remain in effect unless specifically amended in this Chapter.

(c) The following amendments are being made to the International Building Code (IBC) 2018:

(1) ~~[~~**Amend**~~]~~ ~~IBC Table 1004.5 To allow Occupant load calculations to remain as is for Business Type occupancies.~~Table 1004.5 Maximum Floor Area Allowances Per Occupant

~~(1)~~(a) Function of Space: Business Areas, Occupant Load Factor: 100 Gross

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Section 3.04.003, Board of Appeals

The International Building Code (IBC) 2018 ~~2009~~ edition shall be and is hereby replaced with article 3.02 of the code of the city relating to the construction board of adjustments and appeals.

ARTICLE 3.05 – ELECTRICITY

DIVISION 2 – ELECTRICAL CODE

Section 3.05.031 – Adopted.

(a) The National Electrical Code, (NEC) 2017 ~~2011~~, edition, as published by the National Fire Protection Agency, is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amnded in this chapter.

(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

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Section 3.05.032, References to Uniform Building Code or Standard Building Code.

All references to the Uniform Building Code or Standard Building Code in the administrative provisions shall mean the International Building Code (IBC) 2018 ~~2009~~ edition, as published by the International Code Council.

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ARTICLE 3.06 – PLUMBING

Division 2. – PLUMBING CODE

Section 3.06.031 – Adopted.

(a) The International Plumbing Code, 2018 ~~2009~~ edition, with all appendices, published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.

(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

(c) The following amendments are being made to the 2018 Plumbing Code:

~~(1)~~ **[Amend]** ~~IPC~~ **308.10** ~~**to read**~~ **Thermal expansion tanks.**~~-~~ A thermal expansion tank shall be supported in accordance with the manufacturer's instructions. Residential expansion tanks up to 2.4 gallons may be supported by rigid pipe.

(1)

[Amend] Table 605.4 Water Distribution Pipe. Polyvinyle chloride (PVC) allowed as an approved material in table for ¾ inch and larger. ~~Instead of, expansion tanks now must be attached to the wall, not hanging off pipework.~~

(2)

ARTICLE 3.07 – MECHANICAL CODE

Section 3.07.001 – Adopted.

(a) The International Mechanical Code (IMC), 2018 ~~2009~~ edition, with all appendices, as published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.

(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

ARTICLE 3.08 – FUEL GAS CODE

Section 3.08.001 – Adopted.

(a) The International Fuel and Gas Code (IFGC), 2018 ~~2009~~ edition, with all appendices, as published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.

(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

ARTICLE 3.09 – RESIDENTIAL CODE ~~**FOR ONE-AND TWO-FAMILY DWELLINGS**~~

Section 3.09.001- Adopted.

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(a) The International Residential Code ~~for One-and-Two-Family Dwellings~~ (IRC), 2018 ~~2009~~ edition, with all appendices, ~~with appendicdes E, G, H, K,~~ as published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.

(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

(c) The following amendments are being made to the 2018 International Residential Code:

(1) **[Amend] R302.13 Fire Protection of floors.**~~to read –~~ Crawl spaces require the underneath floor area 10 inches beyond the mechanical equipment on either side only to be fire assembly,5/8 gypsum or equivalent when a heating appliance is installed in the crawl space.

(A) Instead of, crawl spaces now require the underneath of the floor to be fire assembly, 5/8-inch gypsum or equivalent when a heating appliance is installed in the crawl space.

~~(d)~~(2) **[Remove] N1104.1 Lighting Equipment (Mandatory).** ~~– It has raised the lighting number to 90% for efficacy lamps.~~

~~(e)~~(3) **[Amend] ~~2009 IRC P2801.5.1 – To allow PVC to be listed as an approved material for ¾" and larger in Table 2009 IRC P2905.5 IPC 504.~~Table P2906.5 Water Distribution Pipe**. Polyvinyle chloride (PVC) allowed as an approved material in table for ¾ inch or larger.

ARTICLE 3.10 – ENERGY CONSERVATION CODE

Section 3.10.001 – Adopted.

(a) The International Energy Conservation Code (IECC), 2018 ~~2009~~ edition, with all appendices, as published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.

(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

~~**Section 3.11.001, Property Maintenance Code**~~

~~(a) The International Property Maintenance Code (IPMC), 2000 edition, as published by the International Code Council, Inc., is adopted by reference as though copied herein fully, except such portions as modified or amended in this chapter.~~

~~(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.~~

Article 3.13 – EXISTING BUILDING CODE

Section 3.13.001 – Adopted.

(a) The International Existing Building Code 2018 ~~2009~~ edition, with all appendices, as published by the International Code Council, is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.

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(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

ARTICLE 3.14 – ~~RESIDENTIAL CODE~~ INTERNATIONAL GREEN CONSTRUCTION CODE

Section 3.14.001 – Adopted.

(a) The ~~International Residential Code (IRC) and the~~ International Green Construction Code (IGCC) 2018 ~~2009~~ edition, with all appendices, as published by the International Code Council (ICC), is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.

(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

ARTICLE 3.15 – SWIMMING POOLS

Section 3.15.001 – ~~Swimming Pool Code~~ Adopted.

(a) The International Swimming Pool and Spa 2018 ~~2012~~ edition, with all appendices, as published by the International Code Council, is adopted by reference as though copied herein fully, except such portions as are deleted, modified or amended in this chapter.

(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

~~**Section 3.15.002 – Screening and fencing.**~~

~~See the zoning ordinance, B3TM and/or Bastrop Building Block (B3) Code for screening and fence requirements.~~

CHAPTER 5 – FIRE PREVENTION AND PROTECTION

ARTICLE 5.02 – FIRE CODE

Section 5.02.001 – Adopted.

(a) The International Fire Code (IFC), 2018 ~~2009~~ edition, with appendices B, C, D, E, F, G, H, I, and ~~J~~ N as published by the International Code Council, is adopted by reference as though copied herein fully, except such portions as may be deleted, modified or amended in this chapter.

(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.

(c) The following amendments are being made to the 2018 International Fire Code:

(1) **[Amend] 101.1** – These regulations shall be known as the Fire Code of the City of Bastrop, Texas, hereinafter referred to as "this code".

(2) **[Amend] 102.6** – The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and registered by the state or local jurisdiction as historic buildings where such

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buildings or structures and the proposed use therein do not constitute a distinct hazard to life or property, as determined by the fire code official. Fire protection in designated historic buildings shall be provided with an *approved* fire protection plan as required in Section 1103.1.1 and in accordance with NFPA 914.

(3) **[Amend] 103.3** – Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *fire code official* shall have the authority to appoint a deputy *fire code official*, other related technical officers, inspectors, and other employees. Where the terms "fire code official", "fire chief", "chief", "fire department", or "fire marshal" are used in the Fire Code, the provisions shall apply to any fire department employee in the execution of their assigned duties, as delegated and appointed by the fire chief.

(4) **[Add] 104.1.1 –** Authorized Personnel. The fire chief and members of the fire department assigned to enforce the Fire Code are authorized to issue municipal citations / summons for violations of the Fire Code.

(5) **[Amend] 104.3** - Where it is necessary to make an inspection to enforce the provisions of this code, or where the fire code official has reasonable cause to believe that there exists in a building or upon any premises any conditions or violations of this code which make the building or premises unsafe, dangerous or hazardous, the fire code official shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the Fire Code Official by this code. If such building or premises is occupied, the Fire Code Official shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the Fire Code Official shall first make a reasonable effort to locate the owner, the owner's authorized agent or other person having charge or control of the building or premises and request entry. If entry is refused, the Fire Code Official has recourse to every remedy provided by law to secure entry.

(A) No owner, occupant, or any other person having charge, care, or control of any building or premises shall fail, neglect, or refuse, after proper demand is made as herein provided, to properly permit entry therein by the Fire Chief or his authorized representative for the purpose of inspection or examination under such exigent circumstances affecting the safety of persons and/or property, or to take such prudent action to extinguish a fire or abate a fire hazard.

~~(2)~~(4) **[Add] 104.3.2 -** Photographic Documentation. Members of the Fire Department making such examinations or inspections shall have the right, with proper credentials, and be authorized to take a reasonable number of photographs or record video for evidence, as well as for records for use by the Fire Department to study hazards and scientific control for fire safety.

~~(3)~~(5) **[Amend] 105.4.4** - Approved documents. Construction documents approved by the Fire Code Official are approved with the intent that such construction documents comply in all respects with this code. The issuance or granting approval of plans and specifications or other construction documents is

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not an approval of any violation of this Code or of any other ordinance of the jurisdiction. An approval presuming to give authority to violate or cancel the provisions of this Code is not valid. Review and approval by the fire department shall not relieve the applicant of the responsibility of compliance with this code. The issuance of an approval based on plans, specifications and other data shall not prevent the Fire Code Official from requiring the correction of errors in the plans, specifications or other data, or from preventing processes, building operations or uses being carried on when in violation of this code or any other code of this jurisdiction.

~~(4)~~(6) **[Amend] 105.6** – Required Operational Permits. The Fire Code Official is authorized to issue operational permits for the operations set forth in Sections 105.6.1 through 105.6.51.

~~(5)~~(7) **[Add] 105.6.51** Mobile Food Establishments. An operational permit is required for the operation and maintenance of a mobile food establishment. Small, light weight vendor push carts, as determined by the Fire Code Official, are not covered under this section. For permit to operate a Mobile Food Establishment see Section 319.

~~(6)~~(8) **[Add] 105.7.9.1** Construction Documents. The construction documents for the following tanks shall be prepared by a professional engineer licensed by the State of Texas:

(A) Above ground storage tanks (AST) of 1320 gallons (5031 L) or larger used to store flammable liquids. (Class IA, 1B, IC)

(B) All underground tanks used for the storage and dispensing of flammable or combustible liquids.

~~(7)~~(9) **[Add] 110.2.1** Removal of Occupants. A member of the Fire Department is authorized to require the removal of occupants at a location when actual occupancy exceeds the permitted or posted occupant load. A person commits an offense, as indicated in Section 109.4, if they refuse to obey an order to vacate.

~~(8)~~(10) **[Amend] 110.4** Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a Permit or certificate used under the provisions of this code shall be guilty of a Class C Misdemeanor, punishable by a fine of up to $500 per infraction. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

~~(9)~~(11) **[Amend] 112.4** Failure to Comply. Any person who continues any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a Class C Misdemanor punishable by ~~liable to~~ a fine of not less than $25 dollars or more than $500 dollars.

~~(10)~~(12) **[Amend] 307.1.1** Prohibited Open Burning. It shall be unlawful for any person within the city limits, in anyway, to intentionally, knowingly or carelessly

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burn or cause to be burned any combustibles, including but not limited to grass, weeds, timber, rubbish, leaves, or other natural or synthetic materials, garbage, trash, rubbish, litter, solid waste, hazardous waste or any such like substances on any street, alley, lot or premises. Such prohibited fires shall include bonfires and fires used for ceremonial purposes not in compliance herewith.

Exceptions:

(A) Burning conducted for the purposes of outdoor cooking and warming in a device approved for such purpose and in compliance with this code. No burning of waste or garbage shall be permitted in such devices.

(B) Firefighter training conducted under the supervision of the Fire Code Official, or designee.

(C) On-site land clearing on lots of greater than two acres upon which the owner intends to clear the lot itself of selected trees, brush and other natural plant growth and when approved by the Fire Code Official, or designee, and the onsite land clearing is conducted in compliance with state, federal and local laws and regulations. A permit shall be required and approved safety measures shall be employed in accordance with 105.6.

(D) Prescribed burning for the purpose of reducing the impact of wildland fire when authorized by the Fire Code Official. A permit shall be required and approved safety measures shall be employed in accordance with 105.6 and 307.2.

~~(11)~~(13) **[Amend] 307.4** Location. When authorized by permits in accordance with section 105.6 and 307.2, unless otherwise approved by the Fire Code Official, the location for burning shall not be less than 100 feet from any structure and provisions shall be made to prevent the fire from spreading to within 100 feet of any structure. Such fires shall be constantly attended by a competent person with an approved means to extinguish the fire and reliable communication capabilities.

~~(12)~~(14) **[Amend] 307.4.1** Bonfires. A bonfire shall not be conducted within 100 feet from any structure or combustible material unless the fire is contained in a barbecue pit or similarly approved container. Conditions that could cause a fire to spread within 100 feet shall be eliminated prior to ignition. A permit must be obtained to conduct a bonfire.

~~(13)~~(15) **[Add] 308.5** Fire Hazard Prohibited. A person shall not construct, erect, install, maintain or use any incinerator, barbecue pit, grill, fire pit/ring, heating device, or so bum any combustible material as to constitute or cause a fire hazard by the use or burning thereof or as to endanger the life or property of any person thereof. The use or burning of any such devices under the following conditions shall constitute a fire hazard and is strictly prohibited:

(A) Within 20 linear feet of any combustible surface or material, including but not limited to decks, porches, balconies, walls, or verandas.

(B) Beneath any balcony, porch, roof overhang, deck, or veranda.

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Exception: Single Family Residences (excluding duplexes and townhomes)

~~(14)~~(16) **[Amend] 503.2.2** Authority. The Fire Code Official shall have the authority to require or permit modifications to the required access widths.

~~(15)~~(17) **[Amend] 503.2.3** Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities by either asphalt or concrete surfaces.

Drivable grass surfaces, or other alternative drivable surfaces, are permitted when approved by the Fire Code Official or his designee and in accordance with all of the following conditions:

(A) Sealed documents indicating compliance with the provisions of 503.2.3 shall be submitted by a registered design professional for review.
(B) The surface shall be capable of supporting the imposed load of fire apparatus weighing at least 84,000 pounds.
(C) Red traffic reflectors shall be provided on each side of the surface every 15 feet to clearly mark its boundaries. Vegetation on and surrounding the surface shall be maintained such that said reflectors are visible at all times.
(D) Sod is not permitted to be placed over the drivable base.
(E) If the surface proposed is to be used as the aerial apparatus access road for the facility, concrete curbing, or other approved edging, shall be installed along both sides of the portion to be used as such for enhanced lateral stability.
(F) If sand or other free-flowing fill is used as a main structural component for the surface, concrete curbing or other approved edging shall be installed along both sides of the surface for material containment.
(G) The surface shall be maintained in proper working order at all times when utilized as a required fire lane. Should the surface become damaged or fall into disrepair, the Fire Code Official or his designee shall be authorized to require the repair and recertification of said surface at the expense of the owner or entity in charge of maintaining the surface.

~~(16)~~(18) **[Amend] 503.2.4** Turning Radius. The required turning radius of a fire apparatus access road shall not be less than 25 feet inside or 50 feet outside.
Exception: Radius less than 25 feet inside or 50 feet outside as approved by the Fire Code Official.

~~(17)~~(19) **[Add] 503.7** Fire Code Official Authority to Designate and Enforce Fire Lanes. The Fire Code Official is hereby authorized to designate fire lanes on designated premises where such areas must be free of parked vehicles and other obstructions to provide ready access to buildings therein, in case of fire or other emergencies. The Fire Code Official's designation of such fire lanes does not prohibit the owner of such property of their responsibility to maintain the area. Further, owners of the private property or their designated representative may request that additional fire lanes be designated by the Fire Code Official.

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(A) **503.7.1** Summons or Citation Issued for a Fire Lane Obstruction Violation. Any police officer, Fire Code Official, or city employee charged with enforcing the Code of Ordinances of the City of Bastrop may issue a citation, summons or notice to appear to any person, or property owner in violation of this section. Said notice must specify the location of the fire lane in which such violation occurred and the date and time of such violation. For purposes of this section, a vehicle's owner includes those listed in Texas Occupation Code section 2308.002.

(B) **503.7.2** Removal of Vehicle by Fire Code Official. Any vehicle may be removed at the vehicle owners' expense upon the authorization of the Fire Code Official under the following conditions:

(i) When the vehicle violates city code of ordinances by standing or parking a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers, in a fire lane or fire zone, or

(ii) When a vehicle blocks the ingress/egress of a business, theater, night club, apartment complex, gymnasium or a place of assembly, or

(iii) When a vehicle's presence threatens the life safety of the public by impeding the ability of the fire apparatus and emergency medical equipment to respond to an emergency.

(iv) The Fire Code Official shall cause such vehicle to be removed by the towing service operating under a contract with the City of Bastrop.

(C) **503.7.3** Abandonment of Fire Lane. No owner, manager or person in charge of any premises served by a required fire lane shall abandon or close any such fire lane without the written permission of the Fire Code Official.

~~(18)~~(20) **[Amend] 505.1** Address identification. New and existing buildings shall have approved address numbers, building and/or suite identification or be provided with approved building address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Address characters shall be not less than 8 inches high for commercial occupancies and 4 inches high for residential (Group R-3 occupancy), with a minimum stroke width of ½ inch. For buildings with individual suites, the suite numbers shall be a minimum of 4 inches high with a minimum stroke width of ½ inch. Where required by the Fire Code Official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole

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or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

~~(19)~~(21) **[Add] 505.3** Tenant identification. Each occupied tenant space provided with a secondary exit to the exterior or exit corridor shall be provided with tenant identification by business name and address. Letters and numbers shall be posted on the corridor side of the door, plainly legible and shall contrast with their background.

~~(20)~~(22) **[Amend] 506.1 Where required.** Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life saving or firefighting purposes, the Fire Code Official is authorized to require a key box to be installed at an approved location. Additional key boxes may be required as determined by the Fire Code Official. The key box shall be manufactured by Knox Company, keyed for use by the Bastrop Fire Department, and shall contain keys necessary to gain access as required by the Fire Code Official.

~~(21)~~(23) **[Add] 506.1.1.1** Electronic gates. Electric gates across fire access roadways shall be equipped with a Knox Key Switch. The Key Switch shall be located on a keypad pedestal or as approved by the Fire Code Official.

~~(22)~~(24) **[Add] 506.1.1.2** Electrical Disconnect/Chain Access. In the event of a power failure, the gate shall open by means of an electrical power disconnect switch in a weatherproof box. The gate shall be capable of being physically disconnected from the operating mechanism from either side of the gate. Slider gate chains shall have access to cut and release the gate from the opener mechanism from either side. Swing gates shall have a pin in the swing arm mechanism secured by a Knox Padlock. The padlock shall be accessible from either side of the gate. Gates that are not in proper operating condition shall be chained and locked in an open position.

~~(23)~~(25) **[Amend] 507.4** The Fire Code Official shall be notified prior to the water supply test. Water supply tests shall be conducted by the fire department prior to final approval of the water supply system.

~~(24)~~(26) **[Amend] 507.5.1** Exception #2. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance shall be 500 feet.

~~(25)~~(27) **[Amend] 507.5.1.1** Hydrant for standpipe systems and fire department connections (FDC). If a building is required to have an automatic sprinkler system installed in accordance with this code, or a standpipe system installed in accordance with Section 905, a fire hydrant shall be located within 100 feet of the Fire Department Connections as required in 912.8.

~~(26)~~(28) **[Amend] 901.5** Installation Acceptance Testing. Fire detection and alarm systems, fire extinguishing systems, fire hydrant systems, fire standpipe systems, fire pump systems, private fire service mains and all other fire protection systems and appurtenances thereto shall be subject to acceptance tests as contained in the installation standards and as approved by the Fire Code Official. The Fire Code

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Official shall be notified before any required acceptance testing. A representative of the Fire Department shall witness all required acceptance tests for all these systems.

~~(27)~~(29) **[Amend] 901.8 Removal of or tampering with equipmen**t. It shall be unlawful for any person to remove, tamper with or otherwise disturb any fire hydrant, fire detection and alarm system, fire suppression system or other fire appliance required by this code except for the purposes of extinguishing fire, training, recharging or making necessary repairs or where approved by the Fire Code Official. No person shall reset/restore an activated fire alarm system unless directed by the fire department.

~~(28)~~(30) **[Amend] 903.2.11.3. Buildings ~~35 feet~~3 Stories or more in height.** An automatic sprinkler system shall be installed throughout buildings ~~with an overall height of 35 feet or more~~that have 3 or more stories above the lowest level of fire department vehicle access.

~~(29)~~(31) **[Add] 907.2.6.4 Group I-4 Occupancies**. Group I-4 occupancies shall be equipped with a manual fire alarm system and automatic smoke detection system installed throughout the building.

~~(30)~~(32) **[Amend] 912.5** Signs. The fire department connection shall be indicated by an approved sign. Such sign shall be a red 12 inch by 12 inch, all weather sign with 6 inch white reflective lettering, stating "FDC". The sign shall be mounted no less than 3 feet above the FDC connection, providing an unobstructed view from the fire department access roadway, to include consideration to future vegetative growth. If needed, an arrow can be used to identify the location of the FDC. Such sign shall be subject to the approval of the Fire Code Official. The Fire Code Official is permitted to require additional signage where necessary to facilitate rapid location of the FDC.

~~(31)~~(33) **[Add] 912.8** Fire Department Connection Specifications. Sprinkler system and standpipe fire department hose connections shall be as follows:

(A) Fire Department Connections shall be a 5 inch "Storz" connection, unless the Fire Code Official determines there is a need for a different arrangement.

(B) The 5 inch "Storz" inlet shall be installed on a 30 degree elbow, angle pointing down.

(C) Located no more than 30 feet from a public street, approved fire lane, or access roadway.

(D) Within 100 feet of an approved fire hydrant measured as the hose would be laid along a fire department apparatus roadway.

(E) Minimum 30 inches (762 mm) at lowest point above finished grade and a maximum of 4 feet above finished grade measured from the bottom of the 5 inch "Storz".

(F) The Fire Code Official shall approve the location of freestanding fire department connections (remote connections). Freestanding FDC's must

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be physically protected against impact per the requirements of Section 312.

(G) Fire department connections for H occupancies will be freestanding (remote connections) and located as determined by the Fire Code Official.

(H) Fire Department Connections shall be equipped with locking caps, manufactured by the Knox Company, keyed for use by the Bastrop Fire Department.

~~(32)~~(34) **[Add] 912.8.1** Fire Department Connection Signage. All FDC signage shall be made of all-weather material, red 12 inch by 12 inch, with 6 inch white reflective lettering, stating "FDC". The sign shall be mounted no less than 3 feet above the FDC connection, providing an unobstructed view from the fire department access roadway, to include consideration to future vegetative growth.

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~~(33)~~(35) **[Amend] Table 1004.5 Maximum Floor Area Allowances Per Occupant**

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Function of Space	Occupant Load Factor (Floor Area in Square Feet Per Occupant)
Accessory storage areas, mechanical equipment room.	300 Gross
Agricultural Building	300 Gross
Aircraft Hangars	500 Gross
Airport Terminal Baggage Claim Baggage Handling Concourse Waiting Area	 20 Gross 300 Gross 100 Gross 15 Gross
Assembly Gaming Floors (Keno, Slots, etc.) Exhibit Gallery and Museum	 11 Gross 30 Net
Assembly with Fixed Seats	See Section 1004.4
Assembly without Fixed Seats Concentrated (Chairs Only – Not Fixed) Standing Space Unconcentrated (Tables and Chairs)	 7 Net 5 Net 15 Net
Bowling Centers, Allow 5 Persons for Each Lane including 15 Feet of Runway, and for Additional Areas	7 Net

Business Areas Concentrated Business Use Areas	100 Gross See Section 1004.8
Courtrooms – other than Fixed Seating Areas	40 Net
Day Care	35 Net
Dormitories	50 Gross
Educational Classroom Area Shops and Other Vocational Room Areas	 20 Net 50 Net
Exercise Rooms	50 Gross
Group H-5 Fabrication and Manufacturing Areas	200 Gross
Industrial Areas	100 Gross
Institutional Areas Inpatient Treatment Areas Outpatient Areas Sleeping Areas	 240 Gross 100 Gross 120 Gross
Kitchens, Commercial	200 Gross
Library Reading Rooms Stack Area	 50 Net 100 Gross
Locker Rooms	50 Gross
Mall Buildings – Covered and Open	See Section 402.8.2 of the adopted International Building Code
Mercantile Storage, Stock, Shipping Areas	60 Gross 300 Gross
Parking Garages	200 Gross
Residential	200 Gross
Skating Rinks, Swimming Pools Rink and Pool Decks	 50 Gross 15 Gross

Stages and Platforms	15 Net
Warehouses	500 Gross

~~(34)~~(36) **[Amend]** Chapter 80 – Referenced Standards

(A) The National Fire Protection Association also adopts the following editions of referenced codes herein for purposes of review and inspections.

(i) 02 – 2016 Edition – Hydrogen Technologies Code
03 – 2018 Edition – Standard for Commissioning of Fire Protection and Life Safety Systems
04 – 2015 Edition – Standard for Integrated Fire Protection and Life Safety System Testing
10 – 2018 Edition – Standard for Portable Fire Extinguishers
11 – 2016 Edition – Standard for Low-, Medium-, and High-expansion Foam
12 – 2015 Edition – Standard on Carbon Dioxide Extinguishing Systems
12A – 2015 Edition – Standard on Halon 1301 Fire Extinguishing Systems
13 – 2016 Edition – Standard for the Installation of Sprinkler Systems
13D – 2016 Edition – Standard for the Installation of Sprinkler Systems in One- and Two-family Dwellings and Manufactured Homes
13R – 2016 Edition – Standard for the Installation of Sprinkler Systems in Low-rise Residential Occupancies
14 – 2016 Edition – Standard for the Installation of Standpipe and Hose Systems
15 – 2017 Edition – Standard for Water Spray Fixed Systems for Fire Protection
16 – 2015 Edition – Standard for the Installation of Foam-water Sprinkler and Foam-water Spray Systems
17 – 2017 Edition – Standard for Dry Chemical Extinguishing Systems
17A – 2017 Edition – Standard for Wet Chemical Extinguishing Systems
20 – 2016 Edition – Standard for the Installation of Stationary Pumps for Fire Protection
22 – 2018 Edition – Standard for Water Tanks for Private Fire Protection
24 – 2016 Edition – Standard for Installation of Private Fire

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Service Mains and Their Appurtenances
25 – 2017 Edition – Standard for the Inspection, Testing, and Maintenance of Water-based Fire Protection Systems
30 – 2018 Edition – Flammable and Combustible Liquids Code
30A – 2018 Edition – Code for Motor Fuel-dispensing Facilities and Repair Garages
30B – 2015 Edition – Code for the Manufacture and Storage of Aerosol Products
51B – 2014 Edition – Standard for Fire Prevention During Welding, Cutting, and Other Hot Work
54 – 2018 Edition – National Fuel Gas Code
55 – 2016 Edition – Compressed Gases and Cryogenic Fluids Code
58 – 2017 Edition – Liquefied Petroleum Gas Code
70 – 2017 Edition – National Electric Code
72 – 2016 Edition – National Fire Alarm and Signaling Code
501A – 2018 Edition – Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities
914 – 2019 Edition – Code for the Protection of Historic Structures
2001 – 2015 Edition – Standard on Clean Agent Fire Extinguishing Systems
2010 – 2015 Edition – Standard for Fixed Aerosol Fire Extinguishing Systems

~~**ARTICLE 5.03 LIFE SAFETY CODE**~~

~~**Section 5.03.001 Adopted.**~~

~~(a) The Life Safety Code (NFPA 101), 2009 edition, as published by the National Fire Protection Association, is adopted by reference as though copied herein fully, except such portions as may be deleted, modified or amended in this chapter.~~

~~(b) All portions of the existing code shall remain in effect unless specifically amended in this chapter.~~

~~**ARTICLE 5.04 RESERVED**~~

~~Section 5.04.001-5.04.003 Reserved~~

~~**ARTICLE 5.05 RESERVED**~~

~~Section 5.05.001-5.05.008 Reserved~~

~~**ARTICLE 5.06 RESERVED**~~

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~~Section 5.06.001-5.06.035 Reserved~~

~~ARTICLE 5.07 FIRE LANES~~

~~Section 5.07.001 Identified~~

~~(a) The areas identified on the fire lane map as maintained on file in the office of the City Secretary are hereby identified as fire lanes in the central business district of the city.~~
~~(b) All buildings constructed within the city shall identify and establish fire lanes in compliance with the Internation Fire Code (IFC), 2009 edition, and appendices thereto (fire code), or occur, in accordance with the fire code.~~
~~(c) The fire chief or his designee is authorized to establish tempory fire lanes during any fire, and to exclude all persons and vehicles other than those authorized to assist in extinguishing the fire from within such fire lanes.~~

~~Section 5.07.002 Parking in or obstructing prohibited.~~

~~Parking of vehicles or blocking by any means in a manner that would restrict fire vehicle access is hereby prohibited in an area designated as a fire lane.~~

~~Section 5.07.003 Removal of vehicles and other obstructions.~~

~~Vehicles or other objects/items identified to be in violation of this article will be subject to immediate removal. Fire lanes are hereby designated to be tow-away zones.~~

~~Section 5.07.004 Penalty~~

~~The owner/operator/holder of any vehicle, object or other item found to be in violation of this article shall be subject to citation and fine amount to be determined by the municipal court judge in keeping state statues and shall also be subject to all expenses relative to the removal and storage of said vehicle, object and/or item.~~

~~ARTICLE 5.08 RESERVED~~

~~(i) Section 5.08.001 Reserved~~

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City of Bastrop, Texas

Amendments to 2018 International Fire Code

With Adoption of Appendices B, C, D, E, F, H, I, and N

Amendments to the 2018 International Building Codes (I-Codes)

International Fire Code

[Amend] 101.1 – These regulations shall be known as the Fire Code of the City of Bastrop, Texas, hereinafter referred to as "this code".

[Amend] 102.6 – The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and registered by the state or local jurisdiction as historic buildings where such buildings or structures and the proposed use therein do not constitute a distinct hazard to life or property, as determined by the fire code official. Fire protection in designated historic buildings shall be provided with an *approved* fire protection plan as required in Section 1103.1.1 and in accordance with NFPA 914.

[Amend] 103.3 – Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *fire code official* shall have the authority to appoint a deputy *fire code official,* other related technical officers, inspectors, and other employees. Where the terms "fire code official", "fire chief", "chief", "fire department", or "fire marshal" are used in the Fire Code, the provisions shall apply to any fire department employee in the execution of their assigned duties, as delegated and appointed by the fire chief.

[Add] 104.1.1 – Authorized Personnel. The fire chief and members of the fire department assigned to enforce the Fire Code are authorized to issue municipal citations / summons for violations of the Fire Code.

[Amend] 104.3 - Where it is necessary to make an inspection to enforce the provisions of this code, or where the fire code official has reasonable cause to believe that there exists in a building or upon any premises any conditions or violations of this code which make the building or premises unsafe, dangerous or hazardous, the fire code official shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the fire code official by this code. If such building or premises is occupied, the fire code official shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the fire code official shall first make a reasonable effort to locate the owner, the owner's authorized agent or other person having charge or control of the building or premises and request entry. If entry is refused, the fire code official has recourse to every remedy provided by law to secure entry.

No owner, occupant, or any other person having charge, care, or control of any building or premises shall fail, neglect, or refuse, after proper demand is made as herein provided, to properly permit entry therein by the Fire Chief or his authorized representative for the purpose of inspection or examination under such exigent circumstances affecting the safety of persons and/or property, or to take such prudent action to extinguish a fire or abate a fire hazard.

[Add] 104.3.2 - Photographic Documentation. Members of the Fire Department making such examinations or inspections shall have the right, with proper credentials, and be authorized to take a reasonable number of photographs or record video for evidence, as well as for records for use by the Fire Department to study hazards and scientific control for fire safety.

[Amend] 105.4.4 - Approved documents. Construction documents approved by the Fire Code Official are approved with the intent that such construction documents comply in all respects with this code. The issuance or granting approval of plans and specifications or other construction documents is not an approval of any violation of this Code or of any other ordinance of the jurisdiction. An approval presuming to give authority to violate or cancel the provisions of this Code is not valid. Review and approval by the fire department shall not relieve the applicant of the responsibility of compliance with this code. The issuance of an approval based on plans, specifications and other data shall not prevent the Fire Code Official from requiring the correction of errors in the plans, specifications or other data, or from preventing processes, building operations or uses being carried on when in violation of this code or any other code of this jurisdiction.

[Amend] 105.6 – Required Operational Permits. The fire code official is authorized to issue operational permits for the operations set forth in Sections 105.6.1 through 105.6.51.

[Add] 105.6.51 Mobile Food Establishments. An operational permit is required for the operation and maintenance of a mobile food establishment. Small, light weight vendor push carts, as determined by the fire code official, are not covered under this section. For permit to operate a Mobile Food Establishment see Section 319.

[Add] 105.7.9.1 Construction Documents. The construction documents for the following tanks shall be prepared by a professional engineer licensed by the State of Texas:

1. Above ground storage tanks (AST) of 1320 gallons (5031 L) or larger used to store flammable liquids. (Class IA, 1B, IC)
2. All underground tanks used for the storage and dispensing of flammable or combustible liquids.

[Add] 110.2.1 Removal of Occupants. A member of the Fire Department is authorized to require the removal of occupants at a location when actual occupancy exceeds the permitted or posted occupant load. A person commits an offense, as indicated in Section 109.4, if they refuse to obey an order to vacate.

[Amend] 110.4 Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a Permit or certificate used under the provisions of this code shall be guilty of a Class C Misdemeanor, punishable by a fine of up to $500 per infraction. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

[Amend] 112.4 Failure to Comply. Any person who continues any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than $25 dollars or more than $500 dollars.

[Amend] 307.1.1 Prohibited Open Burning. It shall be unlawful for any person within the city limits, in anyway, to intentionally, knowingly or carelessly burn or cause to be burned any combustibles, including but not limited to grass, weeds, timber, rubbish, leaves, or other natural or synthetic materials, garbage, trash, rubbish, litter, solid waste, hazardous waste or any such like substances on any street, alley, lot or premises. Such prohibited fires shall include bonfires and fires used for ceremonial purposes not in compliance herewith.

Exceptions:

1. Burning conducted for the purposes of outdoor cooking and warming in a device approved for such purpose and in compliance with this code. No burning of waste or garbage shall be permitted in such devices.
2. Firefighter training conducted under the supervision of the Fire Code Official, or designee.
3. On-site land clearing on lots of greater than two acres upon which the owner intends to clear the lot itself of selected trees, brush and other natural plant growth and when approved by the Fire Code Official, or designee, and the onsite land clearing is conducted in compliance with state, federal and local laws and regulations. A permit shall be required and approved safety measures shall be employed in accordance with 105.6,
4. Prescribed burning for the purpose of reducing the impact of wildland fire when authorized by the Fire Code Official. A permit shall be required and approved safety measures shall be employed in accordance with 105.6 and 307.2.

[Amend] 307.4 Location. When authorized by permits in accordance with section 105.6 and 307.2, unless otherwise approved by the Fire Code Official, the location for burning shall not be less than 100 feet from any structure and provisions shall be made to prevent the fire from spreading to within 100 feet of any structure. Such fires shall be constantly attended by a competent person with an approved means to extinguish the fire and reliable communication capabilities.

[Amend] 307.4.1 Bonfires. A bonfire shall not be conducted within 100 feet from any structure or combustible material unless the fire is contained in a barbecue pit or similarly approved container. Conditions that could cause a fire to spread within 100 feet shall be eliminated prior to ignition. A permit must be obtained to conduct a bonfire.

[Add] 308.5 Fire Hazard Prohibited. A person shall not construct, erect, install, maintain or use any incinerator, barbecue pit, grill, fire pit/ring, heating device, or so bum any combustible material as to constitute or cause a fire hazard by the use or burning thereof or as to endanger the life or property of any person thereof. The use or burning of any such devices under the following conditions shall constitute a fire hazard and is strictly prohibited:

1. Within 20 linear feet of any combustible surface or material, including but not limited to decks, porches, balconies, walls, or verandas.
2. Beneath any balcony, porch, roof overhang, deck, or veranda.

Exception: Single Family Residences (excluding duplexes and townhomes)

[Amend] 503.2.2 Authority. The fire code official shall have the authority to require or permit modifications to the required access widths.

[Amend] 503.2.3 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities by either asphalt or concrete surfaces.

Drivable grass surfaces, or other alternative drivable surfaces, are permitted when approved by the Fire Code Official or his designee and in accordance with all of the following conditions:

1. Sealed documents indicating compliance with the provisions of 503.2.3 shall be submitted by a registered design professional for review.
2. The surface shall be capable of supporting the imposed load of fire apparatus weighing at least 84,000 pounds.
3. Red traffic reflectors shall be provided on each side of the surface every 15 feet to clearly mark its boundaries. Vegetation on and surrounding the surface shall be maintained such that said reflectors are visible at all times.
4. Sod is not permitted to be placed over the drivable base.
5. If the surface proposed is to be used as the aerial apparatus access road for the facility, concrete curbing, or other approved edging, shall be installed along both sides of the portion to be used as such for enhanced lateral stability.
6. If sand or other free-flowing fill is used as a main structural component for the surface, concrete curbing or other approved edging shall be installed along both sides of the surface for material containment.
7. The surface shall be maintained in proper working order at all times when utilized as a required fire lane. Should the surface become damaged or fall into disrepair, the Fire Code Official or his designee shall be authorized to require the repair and recertification of said surface at the expense of the owner or entity in charge of maintaining the surface.

[Amend] 503.2.4 Turning Radius. The required turning radius of a fire apparatus access road shall not be less than 25 feet inside or 50 feet outside.

Exception: Radius less than 25 feet inside or 50 feet outside as approved by the fire code official.

[Add] 503.7 Fire Code Official Authority to Designate and Enforce Fire Lanes. The Fire Code Official is hereby authorized to designate fire lanes on designated premises where such areas must be free of parked vehicles and other obstructions to provide ready access to buildings therein, in case of fire or other emergencies. The Fire Code Official's designation of such fire lanes does not prohibit the owner of such property of their responsibility to maintain the area. Further, owners of the private property or their designated representative may request that additional fire lanes be designated by the Fire Code Official.

503.7.1 Summons or Citation Issued for a Fire Lane Obstruction Violation. A citation, summons or notice to appear in answer to a charge of obstructing a fire lane in violation of this section specifying the location of the fire lane in which such violation occurred and the date and time of such violation, may be issued by any police officer, fire code official, or city employee charged with enforcing the code of ordinances of the City of Bastrop.

503.7.2 Removal of Vehicle by Property Owner. Except an authorized emergency vehicle, the owner of private property, or their agent, may have any motor vehicle that is parked in a legally designated fire lane removed and stored at either their own expense or that of the vehicle operator. The owner of the premises, or their agent, who has a vehicle removed and stored, is not liable for damages incurred as a result of removal or storage, if the vehicle is removed by a vehicle wrecker service insured against liability for property damage incurred in towing vehicles and is stored by a storage company insured against liability for property damage incurred in the storage of vehicles.

503.7.3 Removal of Vehicle by Fire Code Official. Any vehicle parked in any designated fire lane may be removed at the vehicle owners' expense upon the authorization of the Fire Code Official under the following conditions:

1. When the vehicle violates city code of ordinances by standing or parking a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers, in a fire lane or fire zone, or
2. When a vehicle blocks the ingress/egress of a business, theater, night club, apartment complex, gymnasium or a place of assembly, or
3. When a vehicle's presence threatens the life safety of the public by impeding the ability of the fire apparatus and emergency medical equipment to respond to an emergency.

The Fire Code Official shall cause such vehicle to be removed by the towing service operating under a contract with the City of Bastrop.

503.7.4 Abandonment of Fire Lane. No owner, manager or person in charge of any premises served by a required fire lane shall abandon or close any such fire lane without the written permission of the Fire Code Official.

[Amend] 505.1 Address identification. New and existing buildings shall have approved address numbers**.** building and/or suite identification or be provided with approved building address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Address characters shall be not less than 8 inches high for commercial occupancies and 4 inches high for residential (Group R-3 occupancy), with a minimum stroke width of ½ inch. For buildings with individual suites, the suite numbers shall be a minimum of 4 inches high with a minimum stroke width of ½ inch. Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

[Add] 505.3 Tenant identification. Each occupied tenant space provided with a secondary exit to the exterior or exit corridor shall be provided with tenant identification by business name and address. Letters and numbers shall be posted on the corridor side of the door, plainly legible and shall contrast with their background.

[Amend] 506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life saving or firefighting purposes, the fire code official is authorized to require a key box to be installed at an approved location. Additional key boxes may be required as determined by the fire code official. The key box shall be manufactured by Knox Company, keyed for use by the Bastrop Fire Department, and shall contain keys necessary to gain access as required by the fire code official.

[Add] 506.1.1.1 Electronic gates. Electric gates across fire access roadways shall be equipped with a Knox Key Switch. The Key Switch shall be located on a keypad pedestal or as approved by the Fire Code Official.

[Add] 506.1.1.2 Electrical Disconnect/Chain Access. In the event of a power failure, the gate shall open by means of an electrical power disconnect switch in a weatherproof box. The gate shall be capable of being physically disconnected from the operating mechanism from either side of the gate. Slider gate chains shall have access to cut and release the gate from the opener mechanism from either side. Swing gates shall have a pin in the swing arm mechanism secured by a Knox Padlock. The padlock shall be accessible from either side of the gate. Gates that are not in proper operating condition shall be chained and locked in an open position.

[Amend] 507.4 The fire code official shall be notified prior to the water supply test. Water supply tests shall be conducted by the fire department prior to final approval of the water supply system.

[Amend] 507.5.1 Exception #2. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance shall be 500 feet.

[Amend] 507.5.1.1 Hydrant for standpipe systems and fire department connections. If a building is required to have an automatic sprinkler system installed in accordance with this code, or a standpipe system installed in accordance with Section 905, a fire hydrant shall be located within 100 feet of the Fire Department Connections as required in 912.8.

[Amend] 901.5 Installation Acceptance Testing. Fire detection and alarm systems, fire extinguishing systems, fire hydrant systems, fire standpipe systems, fire pump systems, private fire service mains and all other fire protection systems and appurtenances thereto shall be subject to acceptance tests as contained in the installation standards and as approved by the Fire Code Official. The Fire Code Official shall be notified before any required acceptance testing. A representative of the Fire Department shall witness all required acceptance tests for all these systems.

[Amend] 901.8 Removal of or tampering with equipment. It shall be unlawful for any person to remove, tamper with or otherwise disturb any fire hydrant, fire detection and alarm system, fire suppression system or other fire appliance required by this code except for the purposes of extinguishing fire, training, recharging or making necessary repairs or where approved by the fire code official. No person shall reset/restore an activated fire alarm system unless directed by the fire department.

[Amend] 903.2.11.3. Buildings 35 feet or more in height. An automatic sprinkler system shall be installed throughout buildings with an overall height of 35 feet or more above the lowest level of fire department vehicle access.

[Add] 907.2.6.4 Group I-4 Occupancies. Group I-4 occupancies shall be equipped with a manual fire alarm system and automatic smoke detection system installed throughout the building.

[Amend] 912.5 Signs. The fire department connection shall be indicated by an approved sign. Such sign shall be a red 12 inch by 12 inch, all weather sign with 6 inch white reflective lettering, stating "FDC". The sign shall be mounted no less than 3 feet above the FDC connection, providing an unobstructed view from the fire department access roadway, to include consideration to future vegetative growth. If needed, an arrow can be used to identify the location of the FDC. Such sign shall be subject to the approval of the Fire Code Official. The Fire Code Official is permitted to require additional signage where necessary to facilitate rapid location of the FDC.

[Add] 912.8 Fire Department Connection Specifications. Sprinkler system and standpipe fire department hose connections shall be as follows:

1. Fire Department Connections shall be a 5 inch "Storz" connection, unless the Fire Code Official determines there is a need for a different arrangement
2. The 5 inch "Storz" inlet shall be installed on a 30 degree elbow, angle pointing down
3. Located no more than 30 feet from a public street, approved fire lane, or access roadway
4. Within 100 feet of an approved fire hydrant measured as the hose would be laid along a fire department apparatus roadway.
5. Minimum 30 inches (762 mm) at lowest point above finished grade and a maximum of 4 feet above finished grade measured from the bottom of the 5 inch "Storz"
6. The Fire Code Official shall approve the location of freestanding fire department connections (remote connections). Freestanding FDC's must be physically protected against impact per the requirements of Section 312.
7. Fire department connections for H occupancies will be freestanding (remote connections) and located as determined by the Fire Code Official
8. Fire Department Connections shall be equipped with locking caps, manufactured by the Knox Company, keyed for use by the Bastrop Fire Department.

[Add] 912.8.1 Fire Department Connection Signage. All FDC signage shall be made of all-weather material, red 12 inch by 12 inch, with 6 inch white reflective lettering, stating "FDC". The sign shall be mounted no less than 3 feet above the FDC connection, providing an unobstructed view from the fire department access roadway, to include consideration to future vegetative growth.

[Amend] Table 1004.5 Maximum Floor Area Allowances Per Occupant

Function of Space	Occupant Load Factor (Floor Area in Square Feet Per Occupant)
Accessory storage areas, mechanical equipment room.	300 Gross
Agricultural Building	300 Gross
Aircraft Hangars	500 Gross
Airport Terminal Baggage Claim Baggage Handling Concourse Waiting Area	 20 Gross 300 Gross 100 Gross 15 Gross
Assembly Gaming Floors (Keno, Slots, etc.) Exhibit Gallery and Museum	 11 Gross 30 Net
Assembly with Fixed Seats	See Section 1004.4
Assembly without Fixed Seats Concentrated (Chairs Only – Not Fixed) Standing Space Unconcentrated (Tables and Chairs)	 7 Net 5 Net 15 Net
Bowling Centers, Allow 5 Persons for Each Lane including 15 Feet of Runway, and for Additional Areas	7 Net
Business Areas Concentrated Business Use Areas	100 Gross See Section 1004.8
Courtrooms – other than Fixed Seating Areas	40 Net
Day Care	35 Net
Dormitories	50 Gross

Educational Classroom Area Shops and Other Vocational Room Areas	 20 Net 50 Net
Exercise Rooms	50 Gross
Group H-5 Fabrication and Manufacturing Areas	200 Gross
Industrial Areas	100 Gross
Institutional Areas Inpatient Treatment Areas Outpatient Areas Sleeping Areas	 240 Gross 100 Gross 120 Gross
Kitchens, Commercial	200 Gross
Library Reading Rooms Stack Area	 50 Net 100 Gross
Locker Rooms	50 Gross
Mall Buildings – Covered and Open	See Section 402.8.2 of the International Building Code
Mercantile Storage, Stock, Shipping Areas	60 Gross 300 Gross
Parking Garages	200 Gross
Residential	200 Gross
Skating Rinks, Swimming Pools Rink and Pool Decks	 50 Gross 15 Gross
Stages and Platforms	15 Net
Warehouses	500 Gross

[Amend] Chapter 80 – Referenced Standards

NFPA

02 – 2016 Edition – Hydrogen Technologies Code
03 – 2018 Edition – Standard for Commissioning of Fire Protection and Life Safety Systems

04 – 2015 Edition – Standard for Integrated Fire Protection and Life Safety System Testing
10 – 2018 Edition – Standard for Portable Fire Extinguishers
11 – 2016 Edition – Standard for Low-, Medium-, and High-expansion Foam
12 – 2015 Edition – Standard on Carbon Dioxide Extinguishing Systems
12A – 2015 Edition – Standard on Halon 1301 Fire Extinguishing Systems
13 – 2016 Edition – Standard for the Installation of Sprinkler Systems
13D – 2016 Edition – Standard for the Installation of Sprinkler Systems in One- and Two-family Dwellings and Manufactured Homes
13R – 2016 Edition – Standard for the Installation of Sprinkler Systems in Low-rise Residential Occupancies
14 – 2016 Edition – Standard for the Installation of Standpipe and Hose Systems
15 – 2017 Edition – Standard for Water Spray Fixed Systems for Fire Protection
16 – 2015 Edition – Standard for the Installation of Foam-water Sprinkler and Foam-water Spray Systems
17 – 2017 Edition – Standard for Dry Chemical Extinguishing Systems
17A – 2017 Edition – Standard for Wet Chemical Extinguishing Systems
20 – 2016 Edition – Standard for the Installation of Stationary Pumps for Fire Protection
22 – 2018 Edition – Standard for Water Tanks for Private Fire Protection
24 – 2016 Edition – Standard for Installation of Private Fire Service Mains and Their Appurtenances
25 – 2017 Edition – Standard for the Inspection, Testing, and Maintenance of Water-based Fire Protection Systems
30 – 2018 Edition – Flammable and Combustible Liquids Code
30A – 2018 Edition – Code for Motor Fuel-dispensing Facilities and Repair Garages
30B – 2015 Edition – Code for the Manufacture and Storage of Aerosol Products
51B – 2014 Edition – Standard for Fire Prevention During Welding, Cutting, and Other Hot Work
54 – 2018 Edition – National Fuel Gas Code
55 – 2016 Edition – Compressed Gases and Cryogenic Fluids Code
58 – 2017 Edition – Liquefied Petroleum Gas Code
70 – 2017 Edition – National Electric Code
72 – 2016 Edition – National Fire Alarm and Signaling Code
501A – 2018 Edition – Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities
914 – 2019 Edition – Code for the Protection of Historic Structures
2001 – 2015 Edition – Standard on Clean Agent Fire Extinguishing Systems
2010 – 2015 Edition – Standard for Fixed Aerosol Fire Extinguishing Systems

2018 International Building Codes (I-Codes)

Amend R302.13 to read - Crawl spaces require the underneath floor area 10 inches beyond the mechanical equipment on either side only to be fire assembly,5/8 gypsum or equivalent when a heating appliance is installed in the crawl space.

Instead of, crawl spaces now require the underneath of the floor to be fire assembly, 5/8-inch gypsum or equivalent when a heating appliance is installed in the crawl space.

Reason: Furnaces are a standard 28” deep, so by adding 10” on each side beyond the mechanical equipment it will be sufficient in slowing fire and providing an adequate fire protection barrier, while also not being cost prohibitive.

Remove N1104.1 – It has raised the lighting number to 90% for efficacy lamps

Reason: Currently there are limited options in the market for a large variety of 90% efficacy lamps. The Board also felt the supply-and-demand in the market trend would ultimately take care of this problem.

Amend IPC308.10 to read - Residential expansion tanks up to 2.4 gallons may be supported by rigid pipe.
Instead of, expansion tanks now must be attached to the wall, not hanging off pipework.

Reason: It is currently an industry standard to allow the expansion tank to be supported by rigid pipe (non-bendable in movement), and the apparatus the expansion tanks are being attached to are not always located next to a wall.

Amend 2018 IRCP 2801.6.l - To allow PVC to be listed as an approved material for ¾" and larger 2018 IPC P2906.5.

PVC is currently a material that meets industry standards and is one of the most common materials used in plumbing work.

Amend IBC Table 1004.5 – To allow Occupant load calculations to remain as is for Business Type occupancies.

Reason: The Board made a local amendment to the Fire Code to compensate for not change the occupant load in Business Type occupancies.

Adoption of 2018 International Codes

- International Green Construction Code (IgCC)
- International Energy Conservation Code (IECC)
- International Existing Building Code (IEBC)
- International Plumbing Code (IPC)
- 2017 National Electric Code (NEC)
- International Building Code (IBC)
- International Mechanical Code (IMC)
- International Fire Code (IFC)
- International Swimming Pool and Spa Code (ISPSC)
- International Fuel and Gas Code (IFGC)
- International Residential Code (IRC)

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Heart of the Lost Pines / Est. 1832

Local Amendments

- Amendments to:
  - International Residential Code
  - International Plumbing Code
  - International Building Code
  - International Fire Code

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International Residential Code (IRC)

1. Amend R302.13
   - 10 inches of 5/8 gypsum is required on each side of the furnace equipment where a heating appliance is installed.

2. Remove N1104.1
   - It has raised the lighting number to 90% for efficacy lamps.

3. Amend P2801.6.1
   - To allow PVC to be listed as an approved material for ¾” and larger drain pans in Table P2906.5.

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International Plumbing Code (IPC)

Remove IPC 308.10
Residential expansion tanks up to 2.4 gallons may be supported by rigid pipe.

Instead of expansion tanks now must be attached to the wall, not hanging off pipework.

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International Building Codes (IBC)

Amend IBC Table 1004.5
To allow occupant load calculations to remain as stated in 2009 IBC Table for Business Type occupancies.

Discussed more in Fire Code.

International Fire Code (IFC)

Amend sections of Chapter 1 Scope and Administration to be Bastrop.

- Deputies
- Authorized Personal
- Photographic Documentation
- Violation Penalties
- Establish Fines

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2018 International Fire Code (IFC)

Amend 307.1.1 Prohibited Open Burning

No open burning inside the city limits.

Few exceptions to be allowed with permit.

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2018 International Fire Code

Amend 503.2.3 Surface

Fire apparatus access roads to be designed and maintained to support the imposed loads of fire apparatus.

Provide all-weather driving capabilities by either asphalt, concrete surfaces, other approved methods.

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2018 International Fire Code

Amend 903.2.11.3 Buildings 3 Stories or more in height.

An automatic sprinkler system shall be installed throughout buildings with 3 or more stories above the lowest level of fire department vehicle access.

Reason: This is a concession made for not changing the Business Occupancy Load calculations on Table 1004.5 of the IFC and IBC.

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2018 International Fire Code

Amend Table 1004.5

Business Areas from 150 Gross to 100 Gross

Reason: 2018 IFC requires a larger square footage per person in Business Occupancy Types then the 2009 IFC. The change to increase the square footage was due to the increase in combustibility of the materials installed in modern construction. The fire department is allowing the higher occupant code due to the amendment from previous slide (fire sprinkler systems).

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No Local Amendments, adopted as written.

- International Green Construction Code (IgCC)
- International Energy Conservation Code (IECC)
- International Existing Building Code (IEBC)
- 2017 National Electric Code (NEC)
- International Mechanical Code (IMC)
- International Swimming Pool and Spa Code (ISPSC)
- International Fuel and Gas Code (IFGC)

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 8E

TITLE:
Consider action to approve the second reading of Ordinance No. 2019-56 of the City Council of the City of Bastrop, Texas repealing and replacing Chapter Six, Health and Sanitation, as attached in Exhibit A; and repealing and replacing Chapter Eight Offenses and Nuisances, as attached in Exhibit B; and providing for findings of fact, adoption, repealer, severability, and enforcement; establishing an effective date; and proper notice and meeting.

STAFF REPRESENTIVE
Clint Nagy, Assistant Chief of Police

BACKGROUND/HISTORY:
City Staff and the City of Bastrop's Attorney's office were asked to review and consolidate current ordinances and codes relating to nuisances, nuisance enforcement, and nuisance abatement. The ultimate goal of this process was to ensure that the City of Bastrop's ordinances were current, less ambiguous, easy to locate, follow, understand, and enforceable. This review was necessary to ensure that the City could enforce Bastrop Building Block (B3) Codes effectively.

On November 12, 2019, City Council unanimously approved Ordinance No. 2019-56 for a second reading on November 26th, 2019.

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

FUNDING SOURCE:
N/A

RECOMMENDATION:
Consider action to approve the second reading of Ordinance No. 2019-56 of the City Council of the City of Bastrop, Texas repealing and replacing Chapter Six, Health and Sanitation, as attached in Exhibit A; and repealing and replacing Chapter Eight Offenses and Nuisances, as attached in Exhibit B; and providing for findings of fact, adoption, repealer, severability, and enforcement; establishing an effective date; and proper notice and meeting.

ATTACHMENTS:
- PowerPoint Presentation
- Exhibit A (Nuisance Ordinance)
- Exhibit B (Nuisance Ordinance)
- Chart of Changes

ORDINANCE 2019-56

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS REPEALING AND REPLACING CHAPTER SIX, HEALTH AND SANITATION AS ATTACHED IN EXHIBIT A; AND REPEALING AND REPLACING CHAPTER EIGHT OFFENSES AND NUISANCES AS ATTACHED IN EXHIBIT B; AND PROVIDING FOR FINDINGS OF FACT, ADOPTION, REPEALER, SEVERABILITY, AND ENFORCEMENT; ESTABLISHING AN EFFECTIVE DATE; AND 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 Local Government Code; and

WHEREAS, the Bastrop City Council ("City Council"), as a duly-elected legislative body, finds that it is facing significant historic and contemporary land use challenges that existing regulations were not designed to address; and

WHEREAS, the City Council has determined that it was necessary to update and reorganize sections of their Code of Ordinances where nuisances are identified; and

WHEREAS, the City Council has determined it should adopt this Ordinance prohibiting the growth of grass, weeds, and other vegetation in an uncultivated manner, the accumulation of rubbish, brush, or any other objectionable, unsightly, and unsanitary matter, and litter within the City, and to declare other nuisances, including but not limited to excessive noise, odor and light; and

WHEREAS, the City Council has found and determined that to properly implement portions of this Ordinance and abate violations thereof, it is necessary to investigate complaints, determine the property owner's name and address, prepare and send out appropriate notices, file certain notices and liens with the Bastrop County Clerk, and supervise conduct of the work; and

WHEREAS, Texas Local Government Code section 51.001 provides the City general authority to adopt an Ordinance or police regulations 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 Chapters 341, 342, 343, 344, 361, and 365 of the Texas Health and Safety Code, as amended; and Chapter 683 of Texas Transportation Code, as amended, the City Council wishes to establish public nuisance regulations; and

WHEREAS, the City Council finds it necessary to regulate public nuisances in order to preserve health, property, good government, and order in a Home-Rule municipality as defined under Chapter 54 of Local Government Code.

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

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. ADOPTION

The City Council hereby adopts Chapter 6, Nuisances Ordinance, as attached in Exhibit A; and adopts Chapter 8, General Health and Sanitation Regulations, as attached in Exhibit B.

SECTION 3. REPEALER

In the case of any conflict between other provisions of this Ordinance and any existing Ordinance of the City, the provisions of this Ordinance will control.

SECTION 4. SEVERABILITY

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. ENFORCEMENT

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 6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

SECTION 7. OPEN MEETINGS

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.

READ & ACKNOWLEDGED on First Reading on the ___ day of November 2019.

READ & APPROVED on the Second Reading on the ___ day of November 2019.

APPROVED:

by _____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Attachment "A"

Bastrop Code of Ordinances

Chapter 6: Public Nuisances

ARTICLE 6.01 - AUTHORITY OF CITY

The governing body of a municipality may:

(1) Abate and remove a nuisance and punish by fine the person responsible for the nuisance;

(2) Define and declare what constitutes a nuisance and authorize and direct the summary abatement of the nuisance; and

(3) Abate in any manner the governing body considers expedient any nuisance that may injure or affect the public health or comfort.

ARTICLE 6.02 - DEFINITIONS

Abandoned motor vehicle. A motor vehicle that is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours; has remained illegally on public property for more than 48 hours; has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours; has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours; has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the Texas Turnpike Authority division of the Texas Department of Transportation or a controlled access highway; or is considered an abandoned motor vehicle under Texas Transportation section 644.153(r).

Abate. To eliminate by removal, repair, rehabilitation, or demolition.

Brush. An uncultivated growth or dense undergrowth that may create a fire or other hazard, unsanitary condition, or harborage for rodents, vermin or pests.

Building. Any structure, moveable premises, or fence built for support, shelter, or the enclosure of a person, animal, chattel, machine, or piece of equipment.

Carrion. The dead and putrefying flesh of any animal, fowl or fish.

City. The City of Bastrop, Texas. All area that has been fully annexed by the City.

Cultivate. To prepare or prepare and use for the raising of crops.

Dangerous building or structure. Any premises, building or structure that meets the definition of an improperly maintained building or substandard building.

Filth. Any matter in a putrescent state.

Garbage. Decayable waste from a public or private source, including establishments, residences, or restaurants.

Garage keeper. An owner or operator of a storage facility.

Improperly maintained building. A building, or part of a building, or the premises on which the building is located that is maintained in such a condition as to become so defective, unsightly, or in such a condition of deterioration or disrepair that the same is a nuisance causing appreciable diminution of the property values of the surrounding property or is materially detrimental to proximate properties and improvements. This includes, but is not limited to permitting or allowing or the keeping or disposing of or the scattering over the property or premises of any of the following:

(1) Lumber, junk, trash or debris.
(2) Excavation material.
(3) Graffiti on any premises which is unshielded so as to cause substantial diminution of the enjoyment, use, or property values of the adjacent properties.
(4) Buildings which are abandoned boarded up, partially destroyed, or left unreasonably in a state of partial construction.
(5) Buildings, including unpainted buildings, which cause, or in which exist dry rot, warping, rodent, and/or termite infestation.

Impure or unwholesome matter. Any putrescible or non-putrescible condition, object or matter which tends, may, or could produce injury, death, or disease to human beings.

Junk. An accumulation for a period of five (5) days or longer of rubbish, old machinery or parts of same, old iron or other metal, glass, cordage, building materials, newspapers, abandoned vehicles, bicycles, refrigerators, stoves, washing machines, dryers, furniture, tires, cans, scrap metal, or any other object that is not completely enclosed in a building or is visible from any public street or right-of-way.

Junked vehicle. A vehicle that is self-propelled, and is:

(A) wrecked, dismantled or partially dismantled, or discarded; or
(B) inoperable and has remained inoperable for more than:
    (i) 72 consecutive hours, if the vehicle is on public property; or
    (ii) 30 consecutive days, if the vehicle is on private property.
(C) This definition only includes a motor vehicle with an expired license plate or does not display a license plate, aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations, or watercraft that does not have lawfully on board an unexpired certificate of number and is not a watercraft described by section 31.055 of Texas Parks and Wildlife Code.

Light trespass. Light that falls beyond the property it is intended to illuminate, in a motor vehicle driver's' eyes, or upwards toward the sky.

Litter. Trash, debris, refuse, junk, garbage or other rubbish in any street, thoroughfare, alley or ditch in the city.

Lumen. The unit of measurement used to quantify the amount of light produced by a bulb or emitted from a fixture (as distinct from "watt," a measure of power consumption). The lumen rating associated with a given lamp is generally indicated on its packaging or may be obtained from the manufacturer. (Abbreviated lm)

Lux. Unit of illuminance and luminous emittance, measuring luminous flux per unit area. It is equal to one lumen per square meter. In photometry, this is used as a measure of the intensity, as perceived by the human eye, of light that hits or passes through a surface.

Motor vehicle. A vehicle that is subject to registration under Texas Transportation Code, Chapter 501 and as defined in section 531.201(11).

Motor vehicle demolisher. A person in the business of:

(1) Converting motor vehicles into processed scrap or scrap metal; or
(2) Wrecking or dismantling motor vehicles.

Noxious. Harmful, poisonous, or very unpleasant.

Objectionable, unsightly or unsanitary matter. Any matter, condition, or object which could attract rodents, reptiles or insects, and which is or could be objectionable, unsightly, or unsanitary to a person of ordinary sensitivities.

Odor. A distinctive smell, especially an unpleasant one.

Outboard motor. An outboard motor subject to registration under Chapter 31 of Texas Parks and Wildlife Code.

Owner.

(a) A person having title to real property and/or the person or entity identified as the owner in the appraisal records of the county appraisal district, or, for purposes of this chapter, the individual occupying, leasing or controlling the property at issue.

(b) Any person or entity having temporary or permanent custody of, owning, keeping, sheltering, in charge of, controlling, maintaining, having property rights to, or harboring one or more animals covered by this chapter.

(c) Any person who holds the legal title to a motor vehicle or is the registered owner of a motor vehicle, any person who has the legal right of possession thereof, or any person who is the authorized representative of such person.

Person. Any individual, firm, partnership, association, business, corporation, or other entity.

Police department. The police department of the City of Bastrop.

Premises. A privately owned or controlled property, including vacant lots, buildings designed or used for residential, commercial, business, industrial or religious purposes, or otherwise. The term includes a yard, ground, walk, private alleyway, driveway, fence, porch, steps or other structural appurtenant to the premises.

Private swimming pool. A swimming pool that is privately owned, not opened to the public, and located at a private residence, condominium, or similar facility used or intended to be used, solely by the owner or occupants of such premises or the family and friends of the owner or occupants without the payment of a fee.

Refuse. A heterogeneous accumulation of worn-out, used-up, broken, rejected or worthless materials, including but not limited to garbage, rubbish, paper, or litter, and other decayable or nondecayable waste.

Rubbish. Trash, debris, rubble, stone, fragments of building materials, or other miscellaneous useless waste or rejected matter.

Rubble. Any non-decayable waste greater than fifty (50) lbs. in weight or greater than three (3) cubic feet in size.

Smoke. A visible suspension of carbon or other particles in air, typically one emitted from a burning substance**.**

Substandard building. A building, or part of a building, or the premises on which a building is located that has inadequate sanitation, structural hazards, hazardous electrical wiring, hazardous plumbing, hazardous mechanical equipment, faulty weather protection, fire hazard, faulty materials of construction, hazardous or unsanitary premises, inadequate exits, inadequate fire-protection or firefighting equipment or improper occupancy or any other condition that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof. Specific examples of a substandard building include, but are not limited to:

(a) A building which does not have an adequate mechanism for the disposal of wastewater.
(b) A building that lacks or has improper hot and cold running water to plumbing fixtures.
(c) A building that lacks or has an improper water closet, lavatory, bathroom, or shower.
(d) A building which has been constructed or which now exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure, of the building regulations of this city, or of any law or ordinance of this state or city relating to the condition, location or structure of buildings.
(e) A building used or intended to be used for dwelling purposes because of dilapidation, decay, damage, or faulty construction or arrangement, or otherwise, that is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or is likely to work injury to the health, safety or general welfare of those living within the city when so determined by the Chief of Police, code enforcement officer, or building official.
(f) A building used or intended to be used for dwelling purposes with light, air, and/or sanitation facilities inadequate to protect the health, safety or general welfare of persons living within.
(g) A building that by reason of obsolescence, dilapidated condition, deterioration, damage, electric wiring, gas connections, heating apparatus, or other causes is in such condition as to be a fire hazard and endangers life or other buildings or property

in the vicinity or provides a ready fuel supply to augment the spread and intensity of fire arising from any cause.

(h) Any sidewalk or driveway which is debilitated, broken, damaged, or raised to such a degree as to be injurious to property or injurious to persons using said driveway or sidewalks.

(i) Any portion, part or appurtenance of a building that is likely to fall, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(j) A building that has become dilapidated or deteriorated to such an extent, regardless of the cause, that it has become an attractive nuisance to children who might play therein to their danger, or has become a harbor for vagrants, criminals or immoral persons, or enable persons to resort thereto for the purpose of committing nuisance or unlawful or immoral acts.

Storage facility. Includes a garage, parking lot, or establishment for the servicing, repairing, or parking of motor vehicles.

Swimming pool. A permanent swimming pool, wading or reflection pool, or hot tub or spa over eighteen (18) inches deep, located at ground level, above ground, below ground, or indoors.

Watercraft. A vessel subject to registration under Chapter 31 of Texas Parks and Wildlife Code.

Any word not defined herein shall be construed in the ordinary context used and by ordinary interpretation, not as a term of art.

Weeds. Vegetation consisting of typically short plants with long, narrow leaves, growing wild or cultivated on lawns and pasture, not to include Shrubs, bushes, and trees, cultivated flowers and cultivated wildflowers; or cultivated crops.

ARTICLE 6.03 – NUISANCE DECLARED

Whatever is dangerous to human life or health; whatever renders the ground, the water, the air or any food or drink unwholesome and a hazard to human life and health, and whatever may injure or affect the public health or comfort in any manner is declared to be a nuisance and unlawful.

ARTICLE 6.04 - SPECIFIC CONDITIONS

The things or conditions listed in this section, among others, are declared to be nuisances, but are in no way to be construed as being an exclusive enumeration. Nuisances are liable for abatement, and the persons guilty of causing, permitting, or suffering any of them upon such person's premises or in any building occupied and/or controlled by such person or on any yard or grounds surrounding such building owned and/or controlled by such person, or in or upon any street, alley, sidewalk, right-of-way, or any property, public or private, shall, be fined upon expiration of the appropriate notification for abatement, as provided in this Chapter. The City can also use abatement by City forces, whether an emergency or not as provided for in this Chapter. Nuisances are further defined as follows:

(a) The act by any person of permitting or allowing any stagnant or unwholesome water, filth, carrion, weeds, rubbish, rubble, brush, lumber, building materials, refuse, junk, machinery or garbage, or impure or unwholesome matter of any kind, or objectionable, unsightly matter of whatever nature to accumulate or remain on any real property or premises which is owned by them or in their control, unless the offending material is entirely contained within a closed receptacle or a building and is not visible from the public right-of-way;

(b) The act by any person of throwing, depositing or leaving any trash, debris, refuse, junk, garbage or other rubbish in any public street, thoroughfare, alley or ditch in the city;

(c) The act by any person of owning, leasing, or having charge or possession of any premises or building in the city to maintain or fail to maintain same so that it becomes or is allowed to remain a substandard building or improperly maintained building;

(d) The act by any person of occupying a substandard building;

(e) The act by any person in control of or owning any premises permitting or allowing the premises to exist in an unsanitary, unhealthy, or contaminated condition or maintain the premises in such a manner that it is likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests, is a possible or probable medium of disease transmission to or between humans, or is a danger to public safety, health or welfare;

(f) The act by any person owning, in control of, or operating any swimming pool, including a private swimming pool, of maintaining the swimming pool in a manner that is unsafe, unsanitary, or a danger to public safety, health or welfare;

(g) The act by any person of planting, fixing or maintaining any trees, shrubbery or other vegetation on any parking or property within the city adjacent to the intersection of any

two (2) or more streets which obstructs the driving vision of the operator of any vehicle upon any street approaching such intersection.

(h) The act by any person of grading, filling, blocking, or otherwise obstructing a drainage easement, failing to maintain a drainage easement, or maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation;

(i) The act by any person of grading, filling, blocking, altering or otherwise obstructing a premises or property that is located in either a floodplain and/or a floodway, or in areas that affect drainage into such regulated areas;

(j) The act by any person of grading, filling, blocking, altering, constructing, or obstructing property so that water is discharged on to adjoining property or premises to the detriment of person or property or in a manner that causes the water to affect the safe use or stability of the adjacent property;

(k) The act by any person of conducting any activity or harboring any animals in a manner that creates or results in noxious or offensive odors that extend beyond the property line of the originating tract or is offensive to a person of ordinary sensibilities. Odors as a result of chemicals, smoke, stagnant pools, refuse, composting, dead animals or animal excrement are per se noxious and offensive.

(l) The act by any person of making, assisting in making, permitting, continuing, causing to be made or continued or permitting the continuance of any sound which either exceeds the maximum permitted sound levels specified in section 8.03.005(c) or otherwise unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city, this includes but is not limited to the specific conditions listed in section 8.03.005(e).

(m) The act by any person of making, assisting in making, permitting, continuing, causing to be made or continued or permitting the continuance of any light that does not comply with the lighting requirements of the Bastrop Building Code and/or the Bastrop Building Block Code Technical Manual, including but not limited to the following:

(A) Light trespass or glare that deprives an owner or occupant of usual and reasonable use and enjoyment of a property;

(B) A high frequency or duration of periods when light trespass or glare is sufficient to interrupt or interfere with usual and reasonable use and enjoyment of a property; or

(C) Light trespass or glare that causes visual discomfort or impairment of visual performance in a manner that deprives any citizen of the city from the usual and reasonable enjoyment of a property.

(D) Light trespass or glare which is sufficiently intense or contrasts excessively with surrounding illumination, regardless of the intensity of the surrounding illumination, in a manner to cause impairment of visual performance or to distract from or impair the safe operation of a vehicle; or

(E) Light trespass or glare that impairs a person's visual performance or ability to avoid obstacles in his or her path.

(n) The act by any person of bringing, depositing, or having in the city limits a carcass or other offensive or unwholesome substance or matter;

(o) The act by any person of permitting or disposing of any human waste in any manner other than in a toilet;

(p) The act by any person of discharging household, industrial or commercial waste into any watercourse, impoundment, storm sewer or public thoroughfare or permitting treated or untreated domestic wastewater or the effluent from a septic tank or domestic tank or domestic on-site sewage management system to drain directly or indirectly into a ditch or stream, or across any adjacent land owner;

(q) The act by any person of failing to connect sinks, lavatories, garbage disposals, dishwashers, clothes washing machines, shower baths, bathtubs, basins and similar plumbing fixtures or appliances to a potable water system and public sewer or to an approved domestic on-site wastewater system.

(r) The act by any person who own property abutting the streets of the city on which shade trees are growing of failing to prune such trees or remove such trees when dead.

(s) The act by any person of allowing an abandoned vehicle, including a part of an abandoned vehicle, to be visible from a public place or public right-of-way.

(t) The act by any person of allowing a junked vehicle, including a part of a junked vehicle, to be visible at any time of the year from a public place or public right-of-way.

ARTICLE 6.05 - VIOLATION DECLARED TO BE A NUISANCE PER SE; PUNISHABLE BY FINE

All violations of this chapter shall be declared to be nuisances per se. A person committing an offense of this chapter, and upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to a fine, as provided for the general penalty provision found in section 1.01.009 of this code. Said fine shall be in addition to any cost or expense that is incurred by the city to remedy the nuisance should the responsible party fail to do so after notice and a demand for compliance by the city. Each and every day that a violation declared to be a nuisance continues shall constitute a separate offense of this article.

ARTICLE 6.06 - NUISANCE ABATEMENT AND NOTICE PROCEDURES

Sec. 6.06.001 – General Notice of Violation and Abatement Procedures.

(a) In the event that any person fails or refuses to take necessary action to comply with this chapter within seven (7) days after notice of a violation, in writing, by the city, a representative of the city may:

(1) Enter upon the premises upon which the violation exists without further notice and remedy the nuisance or make the improvements required; and

(2) Pay for all work necessary to remedy the nuisance or make a required improvement and charge all expenses and cost expended by the city to the owner.

(b) The notice must be given:
(1) Personally, in writing, to the owner;
(2) By letter addressed to the owner at the owner's address, as recorded in the appraisal district records of the appraisal district in which the premises is located; or
(3) If personal service cannot be obtained or the premises owner's address is unknown:
(A) By publication at least once;
(B) By posting the notice on or near the front door of each building on the premises to which the violation relates; or
(C) By posting the notice on a placard attached to a stake driven into the ground on the premises to which the violation relates, if the premises contain no buildings.

(c) If the city mails a notice to a premises' owner in accordance with subsection (b), and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

(d) In a notice provided pursuant to the terms of this article, the city may inform the owner of the property or premises that if another violation of the same kind or nature that poses a danger to the public health and safety occurs on or before the first anniversary of the date the violation was committed, the city may without the seven-day notice period stated in article 6.06.001(a), correct the violation at the owner's expense and assess the expense against the premises.

(e) If a violation covered by a notice under this subsection occurs within the one-year period, and the city has not been informed in writing by the owner of an ownership change, then the city may, without notice, take any action permitted by this article and assess its expenses as provided for herein.

(f) Notwithstanding anything stated herein to the contrary, the city shall have the right to immediately issue a citation and/or abate a condition that is an immediate danger to the health, life, or safety of any person and to charge the owner of the premises on which the condition occurred or the person who caused the condition with all expenses and costs expended by the city in the abatement.

Sec. 6.06.002 - Authority to abate weeds without notice.

(a) The city may abate, without prior notice to a premises owner, weeds that:
(1) Have grown higher than forty-eight (48) inches; and
(2) Are an immediate danger to the health, life, or safety of any person.

(b) Not later than the tenth day after the date the City abates weeds under this section, the Code Enforcement Officer or designee, shall give notice to the property owner in the manner consistent with section 6.06.001(b).

(c) The notice shall contain:
(1) An identification of the premises, which is not required to be a legal property description;
(2) A description of the violations that occurred on the premises;
(3) A statement that the municipality abated the weeds; and

(4) An explanation of the premises owner's right to request an administrative hearing about the municipality's abatement of the weeds.

(d) The city shall conduct an administrative hearing before the Police Chief or his or her designee, on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement of the weeds, the premises owner files with the city a written request for a hearing with the City Secretary.

(e) An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date of a request for a hearing is filed. The owner may testify or present any witness or written information relating to the city's abatement of the weeds.

(f) After the hearing conducted in accordance with this section, the Police Chief may uphold, modify, or overturn the actions of the Code Enforcement Officer or designee.

(g) A municipality may assess expenses and create liens as set forth in section 6.06.003 of this chapter.

(h) The authority of the city under this section is in addition to any other authority granted pursuant by law.

Sec. 6.06.003 - Assessment of Expenses; Lien

(a) The city may assess expenses incurred under this article against the real estate on which the work to remedy the nuisance is done or improvements made.

(b) To obtain a lien against a premises, the mayor, municipal health authority, or municipal official designated by the mayor must file a statement of expenses with the county clerk. The lien statement must state the name of the owner of the premises or property, if known, and the legal description of the premises or property. A signature on a lien statement may be a facsimile signature as defined by section 618.002, Government Code. The lien attaches upon the filing of the lien statement with the county clerk.

(c) The lien obtained by the city is security for the expenditures made and the interest accruing at the rate of 10% on the amount due from the date of payment by the city.

(d) The lien is inferior only to:

(1) Tax liens; and

(2) Liens for street improvements.

(e) The city may bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.

(f) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.

(g) The remedy provided by this section is in addition to any other remedy allowed by law.

(h) The city may foreclose a lien on a premises and/or property under this article in a proceeding relating to the property and/or premises described in Chapter 33, Subchapter E, of the Texas Tax Code.

(i) All charges shall bear interest at the maximum legal rate per annum from the date the city incurs the expense.

(j) The owner or any other person responsible, as provided herein, shall be jointly and severally liable for the charges.

ARTICLE 6.07 – ABATEMENT OF SUBSTANDARD OR IMPROPERLY MAINTAINED BUILDINGS

Sec. 6.07.001. - Application.

This Chapter shall apply to all substandard or improperly maintained buildings and shall apply equally to new and existing conditions.

Sec. 6.07.002. - Standards for repair, vacation or demolition.

The following standards shall be followed in ordering repair, vacation and/or demolition: If the dangerous building or structure can be feasibly repaired or the condition remedied so that it will no longer exist in violation of the terms of this Article, it shall be ordered remedied or repaired.

(a) Repairs shall be deemed feasible only if less than 50 percent of the structure of the building must be repaired or replaced or the value of the structure is reduced by less than 50 percent because of the violations. Value shall be determined by comparing the most recent valuation for the building or structure by the Bastrop County Appraisal District with the valuation of the building or structure two years prior to the most recent valuation by the Bastrop County Appraisal District.

(b) If the dangerous building or structure is in such a condition as to make it hazardous to the health, safety or general welfare of its occupants or the public, it shall be ordered vacated and secured, and the order may also require the occupants to be relocated.

(c) In any case where more than 50 percent of a building or structure is damaged, decayed or deteriorated, it shall be ordered demolished or removed, unless the Construction Standards Board of Adjustments and Appeals deems that the structure can be feasibly repaired or the condition remedied. In all cases where a building cannot be repaired, it shall be ordered demolished.

(d) If a building is ordered demolished execution of the demolition order shall not commence until 30 days after the order is mailed to the owner. The Building Official shall confirm that a verified petition appealing the demolition order has not been filed in district court before executing a demolition order.

Sec. 6.07.003. - Minimum standards for continued use or occupancy.

In this Article, the minimum standards that shall determine the suitability of a building for continued use or occupancy, regardless of the date of construction, are those found in the City's adopted building code, supplemental building code, mechanical code, supplemental mechanical code, gas code, supplemental gas code, plumbing code, supplemental plumbing code, electrical code, housing code, existing buildings code, and fire prevention codes, as amended by the City from time to time.

Sec. 6.07.004. - Commencement of proceedings.

Whenever the Building Official has determined that a building or structure is a dangerous building or structure, he shall obtain a date and time for a public hearing before the Board to determine whether the building complies with the standards set out in this Chapter. The Building

Official may seek voluntary compliance with this Chapter with the owner, lienholder or mortgagee of the building or structure before seeking a hearing before the Commission. If the Building Official receives voluntary compliance from the owner, lienholder or mortgagee, the Building Official need not seek a public hearing from the Board.

Sec. 6.07.005. - Notice of hearing.

(a) Notice of the public hearing required under section 6.07.004 shall be sent to the owner of record, lienholder and mortgagee of the affected property. The notice shall be served at least ten calendar days prior to the hearing date. The notice may be served personally or by certified mail, return receipt requested. The executed return receipt shall be prima facie evidence of service. If the owner of record, lienholder or mortgagee of the building cannot be identified, the City shall make a diligent effort, use its best efforts, or make a reasonable effort to determine the identity and address of an owner, a lienholder or mortgagee. If a notice is mailed according to this subsection and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice shall be deemed to be delivered.

(b) The City must post a notice of the public hearing on the front door of each improvement situated on the affected property or as close to the front door as practicable on or before the 10th day before the date fixed for the public hearing.

(c) The City must publish a notice of the public hearing in a newspaper of general circulation in the municipality on one occasion on or before the 10th day before the date fixed for the public hearing.

(d) The City may file a notice of the hearing in the Official Public Records of Real Property for Bastrop County.

(e) The filing of the notice of hearing in the Official Public Records of Real Property for Bastrop County is binding on subsequent grantees, lienholders or other transferees of an interest in the property who acquire such interest after the filing of the notice and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

Sec. 6.07.006. - Contents of notice.

(a) The notice must contain:
  (1) The name and address of the owner of the affected property if that information can be determined;
  (2) A legal description of the affected property; and
  (3) A description of the hearing.

(b) A notice of a public hearing required by section 6.07.004 sent to an owner, lienholder or mortgagee:
  (1) Must include a statement that the owner, lienholder or mortgagee will be required to submit at (1) the hearing proof of the scope of any work that may be required to comply with this Chapter and the time it will reasonably take to perform the work;
  (2) May contain a description of each violation which allegedly exists, a statement that the City may perform the required work to abate the violation if the owner fails to do so, and an explanation of the owner's right to a hearing before the Commission.

Sec. 6.07.007. - Public hearing.

At the hearing the Building Official shall present evidence of the condition of the structure and may recommend a course of action. The owner, lienholder, mortgagee or any other interested party may present evidence on any relevant issues.

Sec. 6.07.008. - Construction Standards Board of Adjustments and Appeals orders.

(a) After the public hearing, if a building is found in violation of standards set out in this Chapter or any other applicable ordinances, the Board may:
    (1) Find the building or structure to be a dangerous building or structure and order that the building be vacated, secured, repaired, removed or demolished by the owner within a reasonable time. The Board may order that the owner relocate the occupants within a reasonable time; or
    (2) In the case of a single-family dwelling occupied by the owner where the health, safety and welfare of other persons will not be affected, grant an exception to any provision of this Chapter to avoid the imposition of an unreasonable hardship.

(b) The mortgagees and lienholders shall be provided an additional reasonable amount of time to comply with the ordered action in the event the owner fails to comply with the order within the time provided for action by the owner.

(c) A Board order shall require the owner, lienholder or mortgagee of the building to within 30 days:
    (1) Secure the building from unauthorized entry; or
    (2) Repair, remove or demolish the building, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

(d) If the Board allows the owner, lienholder or mortgagee more than 30 days to repair, remove or demolish the building, the Board shall set specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the Board.

(e) The Board may not allow the owner, lienholder or mortgagee more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder or mortgagee:
    (1) Submits a detailed plan and time schedule for the work at the hearing; and
    (2) Establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

(f) If the Board allows the owner, lienholder or mortgagee more than 90 days to complete any part of the work required to repair, remove or demolish the building, the Board will require the owner, lienholder or mortgagee to regularly submit progress reports, as defined by the Board, to the Building Official to demonstrate compliance with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the Board or the Building Official to demonstrate compliance with the time schedules.

(g) If the Board allows the owner, lienholder or mortgagee to repair, remove or demolish the building, the work shall be done in compliance with all permitting requirements of the

City, Bastrop County and State of Texas. Any repair work must comply with the applicable codes for the work to be completed.

(h) If the owner, lienholder or mortgagee owns property, including structures and improvements on property, within the City limits of the City with a value that exceeds $100,000.00 in total value, the Board may require the owner, lienholder or mortgagee to post a cash or surety bond in an amount adequate enough to cover the cost of repairing, removing or demolishing a building or structure. In lieu of a bond, the Board may require the owner, lienholder or mortgagee to provide a letter of credit from a financial institution or guaranty from a third-party approved by the Board. The bond must be posted, or the letter of credit or third-party guaranty provided, not later than the 30th day after the Board issues the order. Value may be determined by using the appraised value of real property and improvements as determined by the Bastrop County Appraisal District, or its successor in interest.

(i) The owner, lienholder or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with the applicable City ordinances and the time it will take to reasonably perform the work.

Sec. 6.07.009. - Actions subsequent to board order.

(a) Within ten days after the date the order is issued, the City shall:
  (1) File a copy of the order in the office of the City Secretary; and
  (2) Publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:
    (A) The street address or legal description of the property;
    (B) The date of the hearing;
    (C) A brief statement indicating the results of the order; and
    (D) Instructions stating where a complete copy of the order may be obtained.

(b) The Building Official shall promptly mail by certified mail, return receipt requested, a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The municipality shall use its best efforts to determine the identity and address of any owner, lienholder or mortgagee of the building. If a copy of the order is mailed according to this subsection and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the mailing is not affected, and the copy of the order shall be deemed to be delivered.

Sec. 6.07.010. - Compliance with Board order.

(a) If the building is not vacated, secured, repaired, removed or demolished, or the occupants are not relocated within the allotted time, the City may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense.

(b) If the City incurs expenses under subsection (a) of this section, the City may assess the expenses on, and the City has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the building is located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the City for the expenses. The lien arises and attaches to the

property at the time the notice of the lien is recorded and indexed in the office of the County Clerk of Bastrop County. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the City, and the balance due.

(c) This section does not limit the City's ability to collect on a bond or other financial guaranty that may have been required by section 6.07.008(h).

Sec. 6.07.011. - City's authority to secure a dangerous building.

(a) The City may secure a building the Building Official determines:
    (1) Violates the minimum standards; and
    (2) Is unoccupied or is occupied only by persons who do not have a right of possession to the building.

(b) Before the 11th day after the date the building is secured, the Building Official shall give notice to the owner by:
    (1) Personally serving the owner with written notice;
    (2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
    (3) Publishing the notice in a newspaper of general circulation if personal service cannot be obtained and the owner's post office address is unknown; or
    (4) Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.

(c) The notice must contain:
    (1) An identification, which is not required to be a legal description, of the building and the property on which it is located;
    (2) A description of the violation of the municipal standards that is present at the building;
    (3) A statement that the municipality will secure or has secured, as the case may be, the building; and
    (4) An explanation of the owner's entitlement to request a hearing about any matter relating to the municipality's securing of the building.

(d) The Board shall conduct a hearing at which the owner may testify or present witnesses or written information about any manner relating to the City's securing of the building if, within 30 days after the date the City secures the building, the owner files with the Building Official a written request for the hearing. The Board shall conduct the hearing within 20 days after the date the request is filed.

(e) If the City incurs expenses under this section, the City may assess the expenses on, and the City has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the building is located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the City for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the County Clerk in the county in which the property is located. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal

description of the real property on which the building was located, the amount of expenses incurred by the City, and the balance due.

(f) After the hearing conducted in accordance with subsection (d) of this section, the Board may:
  (1) Uphold the City's actions; or
  (2) Order that the amount of the lien assessed under subsection (e) of this section be reduced or extinguished.

(g) The authority granted by this section is in addition to any other remedy provided in this Chapter or by state law.

Sec. 6.07.011. - Additional authority regarding substandard building.

(a) A Board order issued pursuant to section 6.07.010 may require that after the expiration of the time allotted for repair, removal or demolition of a building:
  (1) That the City repair the building or structure at the expense of the City and may place a lien on the land which the building stands or to which it is attached for the expenses of the repair; or
  (2) Assess a civil penalty against the property owner for failure to repair, remove or demolish the building and may recover the penalty by placing a lien on the property.

(b) The City may repair a building under subsection (a) of this section only to the extent necessary to bring the building into compliance with the minimum standards and only if the building is a residential building with ten or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds minimum housing standards.

(c) If the Board orders the building or structure repaired or assesses a civil penalty against the owner under section 6.07.011, the City shall impose a lien against the land on which the building stands or stood, unless it is a homestead as protected by the Texas Constitution, to secure the payment of the repair expenses or the civil penalty. Promptly after the imposition of the lien, the City must file for record, in recordable form in the office of the County Clerk of Bastrop County, a written notice of the imposition of the lien. The notice must contain a legal description of the land.

(d) Any civil penalty or other assessment imposed under this section accrues interest at the rate of ten percent from the date of the assessment until paid in full.

(e) The City's right to the assessment lien cannot be transferred to third parties.

(f) A lien acquired under this section by the City for repair expenses may not be foreclosed if the property on which the repairs were made is occupied as a residential homestead by a person 65 years of age or older.

(g) The Board may assess and the City may recover a civil penalty, if ordered, against a property owner at the time of the Board hearing on violations of this Chapter, in an amount not to exceed $1,000.00 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed $10.00 a day for each violation, if the municipality proves:
  (1) The property owner was notified of the requirements of the ordinance and the owner's need to comply with the requirements; and
  (2) After notification, the property owner committed acts in violation of the ordinance or failed to take an action necessary for compliance with the ordinance.

(h) Notice of an action taken under subsection (a) of this section shall be the same notice provided for in section 6.07.009.
(i) The authority granted by this section is in addition to any other remedy provided in this Chapter or by State law.

Sec. 6.07.011. - Diligent or best efforts by the city.

Under this Article, the City is deemed to have made a diligent effort, used its best efforts, or made a reasonable effort to determine the identity and address of an owner, a lienholder, or mortgagee if it searches the following records:
(a) County real property records of the county in which the building is located;
(b) Appraisal district records of the appraisal district in which the building is located;
(c) Records of the secretary of state;
(d) Assumed name records of the county in which the building is located;
(e) Tax records of the City; and
(f) Utility records of the City.

Sec. 6.07.012. - Inspection of buildings, schools, churches, etc.

The Building Official, or their designee, may inspect or cause to be inspected periodically all public buildings, schools, halls, churches, theaters, hotels, apartments, commercial premises or tents for the purpose of determining whether any condition exist which render any such place a dangerous building or structure. The Building Official shall also inspect buildings under the following conditions:
(a) Any premises, building, wall or structure about which complaints are filed by any person to the effect that any premises or building, wall or structure is or may be existing in violation of this Chapter;
(b) Any premises, building, wall or structure reported by the Health, Fire or Police departments of the City as possibly existing in violation of the terms of this Chapter;
(c) Any premises, building, wall or structure that the Building Official has reason to believe may be in violation of this Chapter, wherein such inspection is conducted in accordance with the law.

Sec. 6.07.013. - Responsibility for expense of repair, removal, demolition, etc.

(a) Demolition, closure, removal or repair of a structure may be accomplished by the owner in compliance with this section or by the City. The expense of demolition, closure, correction, removal or repair, when performed under contract with the City or by City forces and filed in accordance with the law, constitutes a lien against the real property on which a structure stood and the lien runs and is attached to the land.
(b) The City may use all other lawful means to collect costs from an owner.

Sec. 6.07.014. - Timely vacation of structure.

(a) Each occupant of a structure or dwelling unit that has been ordered vacated shall vacate the structure or dwelling unit within the time specified in the order. It is unlawful for any person to occupy a structure or dwelling unit that has been ordered vacated.
(b) A person who is ordered to vacate a structure shall not be considered a displaced person and shall not be eligible for relocation assistance if:
    (1) The person is ordered to vacate a structure as a consequence of his own intentional or negligent conduct;
    (2) The person began occupying the structure after the Building Official placed a red placard on the structure warning of its dangerous condition.

Sec. 6.07.015. - Reduction of occupancy load—Notice.

(a) The Building Official shall, by certified mail, return receipt requested, sent to the last known address of the owner and occupant of a structure, as shown on the tax roll of the official records of the Tax Assessor-Collector and the records of utility service for that address of the City, give notice of a hearing to consider reduction of occupancy load of a structure or portion thereof that is overcrowded. The notice shall state:

    (1) Identification of the building that is over-occupied;
    (2) A description of the violation(s) with reference to the appropriate regulations;
    (3) Required action to abate the violation;
    (4) The right to a hearing and the time, date and location of such hearing.

Sec. 6.07.016. - Reduction of occupancy load—Public hearing.

A public hearing to consider occupancy load of a structure shall be held before a hearing panel of the Board at least ten days after receipt of notice by the owner and occupants or at least five days after the mail is returned undelivered. The Building Official shall present evidence of the overcrowded or dangerous condition of the structure and the owner, lessor or occupants may present evidence on relevant issues.

Sec. 6.07.017. - Reduction of occupancy load—Criteria for determination.

(a) A structure or dwelling unit is overcrowded if the following standards are not met:
    (1) Floor Space Per Person. Each structure or dwelling unit shall contain at least 150 square feet of habitable floor space for the first occupant and at least 100 square feet of additional habitable floor space for each additional occupant;
    (2) Sleeping Space Per Person. In each structure or dwelling unit of two or more rooms, each room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space for each occupant;

(3) Special Provisions. Children under 12 months of age shall not be considered occupants, and children under 12 years of age shall be considered as ½ of one occupant for purposes of Subsections 1 and 2.;
(4) Ceiling Height. For purposes of Subsections 1 and 2, a room of a structure must have a ceiling height of at least seven feet to be considered habitable space.

Sec. 6.07.018. - Reduction of occupancy load—Findings of hearing panel.

The hearing panel shall order reduction of occupancy load if it finds that the structure is overcrowded. The order to reduce the occupancy load shall be given to the occupants and the order shall also be filed in the deed records of Bastrop County.

Sec. 6.07.019. - Reduction of occupancy load—Timely compliance with order.

The occupants of a structure or dwelling unit that has been ordered reduced in occupancy load shall reduce the occupancy to the number and within the time specified in the order.

Sec. 6.07.020. - Reduction of occupancy load—Violation of order unlawful.

It is unlawful for the owner of the building or structure referred to in section 6.07.008 to permit occupancy in violation of the order.

Sec. 6.07.021. - Emergency cases.

(a) In cases where it reasonably appears there is an immediate and imminent danger to the life or safety of any person unless a dangerous building as defined in this Chapter is immediately vacated, repaired, closed or demolished, the Building Official of building inspections shall cause the immediate vacation, repair, closure or demolition of such dangerous building or part thereof. The Building Inspector shall use the least intrusive means to abate the emergency.
(b) The Building Inspector shall make reasonable attempts to notify the affected persons in accordance with section 6.07.008. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the manner as provided for by section 6.07.013.

Sec. 6.07.022. - Disconnecting public utilities.

The Building Official of building inspections may request that public utilities be disconnected in order that demolition may be accomplished without delay when an order for demolition has been issued or when an emergency situation exists.

ARTICLE 6.08 – ABATEMENT OF ABANDONED VEHICLES

Sec. 6.08.001 –Abatement of Abandoned Vehicles, Notice, Seizure, Auction Demolition Procedures.

(a) The Police Department shall follow the procedures for taking into custody an abandoned motor vehicle, aircraft, watercraft, or outboard motor found on public or private property as provided by Texas Transportation Code, Chapter 683, Subsection B.
(b) The Police Department shall follow the procedures for taking into custody an abandoned motor vehicle in a storage facility operated for commercial purposes as provided by Texas Transportation Code, Chapter 683, Subsection C.
(c) The Police Department shall follow the procedures for selling, giving away, or disposing of an abandoned motor vehicle as provided by Texas Transportation Code, Chapter 683, Subsection D.

ARTICLE 6.09 – ABATEMENT OF JUNKED VEHICLES

Sec. 6.09.001 – Authority to Abate

(a) The city may abate and remove from private or public property or a public right-of-way a junked vehicle or part of a junked vehicle that is a public nuisance pursuant to section 6.04 in accordance with the procedures and requirements of this article.
(b) An appropriate court of the municipality or county may issue necessary orders to enforce the procedures.
(c) Procedures for abatement and removal of a public nuisance shall be administered by regularly salaried, full-time employees of the city, except that any authorized person may remove the nuisance.
(d) A person authorized by the city to administer the nuisance abatement procedures may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.
(e) The relocation of a junked vehicle that is a public nuisance to another location in the city or the county after a proceeding for abatement and/or removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.
(f) In addition to any other remedies specified herein and available to the city, the city may enforce this article pursuant to section 217.002 of the Texas Local Government Code.

Sec. 6.09.002 - Notice.

(a) The Chief of Police or his designee must provide not less than ten (10) days' notice of the nature of the nuisance to:
    (1) the last known registered owner of the nuisance;
    (2) each lienholder of record of the nuisance; and
    (3) the owner or occupant of
        i. the property on which the nuisance is located; or
        ii. if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.
(b) Said notice shall comply with Texas Transportation Code section 683.075

Sec. 6.09.003 - Hearing.

(a) The City Council designates the presiding judge of the Bastrop Municipal Court of Record as the official to conduct hearings under the procedures adopted under this section and in Subchapter E of Texas Transportation Code Chapter 683.

(b) On request of a person who receives notice as provided by section 6.09.002 must be set if the request is made not later than the date by which the nuisance must be abated and removed. If a hearing is requested by a person for whom notice is required under section 6.09.002(a)(3), the hearing shall be held not earlier than the 11th day after the date of the service of notice.

(c) A person for whom notice is required under section 6.09.002(a)(3) may, within ten (10) days after service of a notice to abate said nuisance, request of the clerk of the municipal court, either in person or in writing, and without the requirement of the bond, that a date and a time be set when he or she may appear before the presiding judge of the municipal court for a hearing to determine whether or not the motor vehicle is a junked motor vehicle. Notice of any hearing set under this section shall be delivered to the Chief of Police.

(d) The judge of the municipal court shall hear any case brought before such court, as set out herein, and shall determine by a preponderance of the evidence whether or not the motor vehicle is a junked motor vehicle and in violation of this article. Such hearing shall not be criminal in nature and shall be as summary as due process and orderly procedure allows. At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

(e) Upon finding that a motor vehicle is in violation of this article, the judge of such court shall order such defendant to remove and abate such nuisance within ten (10) days. If the party fails or refuses to remove and abate the nuisance within the allotted time, the presiding judge of the municipal court may issue an order directing the Chief of Police or his designee to have the same removed from its location. If so ordered, the Chief of Police or designee shall take possession of such nuisance and remove it from its location.

(f) If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include:

(1) for a motor vehicle, the vehicle's:

(A) description;

(B) vehicle identification number; and

(C) license plate number;

(2) for an aircraft, the aircraft's:

(A) description; and

(B) federal aircraft identification number as described by Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; and

(3) for a watercraft, the watercraft's:

(A) description; and

(B) identification number as set forth in the watercraft's certificate of number.

(g) If the court determines that the junked vehicle must be removed, the vehicle cannot be reconstructed or made operable after removal.

(h) If the court determines that the junked vehicle must be removed, notice identifying the vehicle or part of the vehicle shall be given to the Texas Department of Motor Vehicles not later than the fifth day after the date of removal.

Sec. 6.09.004 - Abatement when persons entitled to notice cannot be found.

(a) If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered.
(b) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.
(c) Upon a showing of compliance with the applicable notice provisions, the presiding judge of the municipal court, the abatement procedures may continue and if it is determined that the nuisance is a junked vehicle the presiding judge may issue an order that complies with this Chapter.

Sec. 6.09.005 - Exemptions.

(a) Procedures adopted under section 6.09 may not apply to a vehicle or vehicle part:
    (1) That is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
    (2) That is stored or parked in a lawful manner on private property in connection with the business of a "licensed vehicle dealer" or "junkyard" as those terms are defined in the Texas Transportation Code and the rules promulgated thereunder, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
        (A) Maintained in an orderly manner;
        (B) Not a health hazard; and
        (C) Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.
(b) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning.

Antique vehicle. A passenger car or truck that is at least thirty-five (35) years old.

Motor vehicle collector. A person who:
    (1) Owns one or more antique or special interest vehicles; and
    (2) Acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special interest vehicle. A motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

Sec. 6.09.006 – Junk Vehicle Disposal.

(a) A junked vehicle, including a part of a junked vehicle, may be removed to a scrapyard, a motor vehicle demolisher, or a suitable site operated by a municipality or county.

(b) The city may operate a disposal site if the City Council determines that commercial disposition of junked vehicles is not available or is inadequate. The city may:
  (1) Finally dispose of a junked vehicle or vehicle part; or
  (2) Transfer it to another disposal site if the disposal is scrap or salvage only.

ARTICLE 6.10 - ENFORCEMENT

The provisions of this article shall be enforced by representatives of the city. Notwithstanding any provisions of this article to the contrary, the City Manager, building official, or his or her designee, code enforcement officer, and the Chief of Police or his or her designee has authority to issue immediate citations to persons violating any provision of this article in the presence of said official. The building official, or his or her designee, code enforcement officer, or the Chief of Police, or his or her designee, upon the showing of proper identification, are authorized to enter upon any private property and/or premises to inspect for violations of this article and to insure compliance with same. It shall be unlawful for any person to interfere with the building official, or his or her designee, code enforcement officer, or the Chief of Police or his or her designee, in the exercise of their duties under this article.

Attachment "B"

CHAPTER 8: GENERAL HEALTH AND SANITATION REGULATIONS

ARTICLE 8.01 – GENERAL

Section 8.01.001 – Enforcement

(a) A person who violates a provision of this chapter, or who fails to perform an act required of them by this chapter, commits an offense.
(b) A person violating a provision of this chapter commits a separate offense for each day or part of a day during which a violation is committed, continued, or permitted.
(c) The culpable mental state required for the commission of an offense under this chapter is governed by Section 1.01.009 of this code.
(d) Unless specifically provided otherwise in this chapter, an offense under this chapter is punishable by a fine not to exceed:
    (1) $2,000 if the provision violated governs public health or sanitation;
    (2) the amount fixed by State Law if the violation is one for which the state has fixed a fine; or
    (3) $500 for all other offenses.
(e) Prosecution for an offense under Subsection (a) does not prevent the use of civil enforcement remedies or procedures applicable to the person charged with or the conduct involved in the offense.
(f) Prosecution for an offense under Subsection (a) does not prevent the use of the abatement procedures enacted in Chapter 6 and the assessment of the costs associated with abatement.
(g) In addition to imposing a criminal penalty, the city may, in accordance with Section 54.012(5) and (10) of the Texas Local Government Code, bring a civil action against a person violating a provision of this chapter. The civil action may include, but is not limited to, a suit to recover a civil penalty pursuant to Section 54.017 of the Texas Local Government Code not to exceed $1,000 for each day or portion of a day during which each violation is committed, continued, or permitted.

ARTICLE 8.02 – PUBLIC PROPERTY

Section 8.02.001 - Defacing or tearing down public notices.

A person commits an offense if they mark, alter, deface or tear down any notice of any kind posted for public inspection by order of the City Council.

Section 8.02.002 - Sale, possession and consumption of alcohol prohibited in public areas.

(a) *Prohibited areas.* It shall be unlawful for any person to knowingly or willfully sell, possess with the intent to sell, possess, consume or possess with the intent to consume any alcoholic beverage in the following areas, except as provided herein:

(1) Within any public park, playground or recreation area in the city, not including park land owned by the State.
(2) Within any area with a Civic Space designation within the city, not including park land owned by the State.
(3) Within any park, recreation area, playground, athletic field or athletic facility owned by a public school district and located within the city.
(4) Upon any public street, sidewalk, or right-of-way which is located within a public park, playground, recreation area, or area with a Civic Space designation within the city, not including land owned by the state. Streets which have been temporarily closed for the use of parties, dances or other recreational purposes shall be considered to be public recreational areas for purposes of this section.

(b) *Administrative waivers by City Manager.* Notwithstanding any provision contained herein, the City Manager shall have the authority to approve an administrative waiver for the sale, possession, and consumption of alcoholic beverages in parks and other public areas, on a case-by-case basis when, in their sole discretion, an administrative waiver is in the best interest of the applicant, the city and the citizens of Bastrop, with all pertinent factors considered, and when the request for a waiver involves the sale, possession and consumption of alcoholic beverages: (1) for a special event to be held by a non-for profit entity, pursuant to a Special Event Permit issued by the city; (2) in a City of Bastrop public park or public area or property controlled by the city; (3) the applicant for the waiver adequately demonstrates to the City Manager that the sales, possession and consumption will not negatively impact immediately surrounding property owners or the public at large, and (4) the applicant provides the City Manager with any pertinent licensing, insurance and/or other applicable business information and documentation deemed necessary by the City Manager to grant the waiver. The City Manager is authorized to require applicants for waivers to provide proof of insurance in amounts approved by the city for the event(s), on a case-by-case basis, and to establish other reasonable and necessary limits and conditions when granting such waivers, such as hiring private security personnel or posting a refundable security deposit for post-event clean-up cost and/or trash collection, or other necessary services related to the event and the sale/consumption of alcoholic beverages. All waivers will be in effect for a stated location and period of time, as determined by the City Manager, but in no event to be longer than seventy-two (72) hours.

(c) *Deferral of waivers to the City Council.* In the event that the City Manager so desires, they may defer the administrative decision on a requested waiver related to the sale, possession and consumption of alcoholic beverages in city parks and in public areas to the City Council, for its evaluation and determination. If a request for a waiver is to be deferred to the Council, the City Manager will place the request for a waiver on an upcoming council agenda. In making exemption council decision on a requested waiver, the City Council may consider all pertinent information provided, the possible impact on the immediately adjacent neighborhood, as well as any citizen input deemed relevant and presented to the Council at the meeting. Further, the City Council shall require an applicant for exemption waiver to provide proof of liability insurance in amounts that adequately protect the public and the city.

Section 8.02.003 - Reward for reporting acts of vandalism to city property or criminal mischief.

(a) A reward may be paid for information leading to arrest and conviction of vandals damaging city property, as follows:
  (1) The city may pay a reward of up to $500 to a person who furnished information to the city that leads to the arrest and conviction of any person who damages property that is owned, operated, or under the control and responsibility of the city. One and only one reward shall be paid for each separate incident of vandalism.
  (2) Law enforcement personnel, city employees, and city officials shall not be eligible for payment of any such reward.
  (3) The City Council shall make the determination of who shall receive the reward when more than one person makes a claim for the payment of the reward noted herein, pursuant to this section. The City Council shall have and reserve the right to file a petition in the nature of a bill of interpleader in any court of competent jurisdiction if more than one person claims the reward.

(b) A reward may be paid to the person or persons who furnish information to the city leading to arrest and conviction of any individual for committing the crime of criminal mischief, as that term is defined by Texas Penal Code § 28.03, and as amended hereafter, when the criminal mischief is committed within the jurisdictional limits of the city.
  (1) The Chief of Police of the city shall determine the amount of the reward, up to but not exceeding $500, if any, to be paid to the person or persons furnishing the pertinent information.
  (2) Law enforcement personnel, city employees, city agents, city officials, and other officers, employees and/or agents of the state and other political subdivisions shall not be eligible for payment of any such reward related to criminal mischief information.
  (3) The Chief of Police of the city is the sole judge of any dispute arising over the claimed reward due to any person or persons, if any, and as to the share in such reward, and the Chief of Police's decision on all matters connected with this reward shall be final, conclusive, and not otherwise appealable.

Section 8.02.004 - Visibility obstructions at intersections.

No person shall plant, fix or maintain any trees, shrubbery or other vegetation on any parking or property within the city adjacent to the intersection of any two (2) or more streets which obstructs the driving vision of the operator of any vehicle upon any street approaching such intersection. This section shall not prohibit the owner of any property from erecting or maintaining buildings or structures permitted by this code.

Section 8.02.005 -Loitering, Camping, Solicitation in Public Area.

(a) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Automated teller machine. A device, linked to a bank's account records, which is able to carry out banking transactions.

Automated teller facility. The area comprised of one or more automatic teller machines, and any adjacent space that is made available to banking customers.

Bank. Includes savings banks, savings and loan associations, credit unions, trust companies, or similar financial institutions.

Camping. The use of a public area for living accommodation purposes including, storing personal belongings; making a campfire; using a tent, shelter, vehicle or other structures and/or materials for a living accommodation; carrying on cooking activities; or digging or earth breaking activities.

Check cashing business. A person or entity that is in the business of cashing checks, drafts, or selling or cashing money orders for consideration.

Loitering. Sitting, lying down, sleeping or stowing personal belongings in or on a public area, without the express permission of the entity or person who owns or otherwise controls such public areas.

Public area. An area that is accessible to the public including a street, highway, park, sidewalk, parking lot, alleyway, pedestrian way, and the common areas of a school, hospital, apartment building, office building, transport facility, shop, business, bank, rights-of-way between a roadway and the abutting property line or structure, and/or upon public rights-of-way.

Harassing. Aggressively approaching or following a pedestrian or vehicle, repetitive soliciting despite refusals, the use of abusive, profane or offensive language that causes fear and intimidation, unwanted physical contact (whether intentional or recklessly made) or a threat thereof, and/or the intentional blocking of pedestrian and vehicular traffic.

Solicit. To request, by spoken, written, or printed word or by other means of communication a donation or transfer of money, food, or any other thing from another person, regardless of the solicitor's purpose or intended use of the money or other thing, and regardless of whether consideration is offered.

(b) Loitering prohibited. A person shall not loiter in a public area. A person commits an offense if the person, after being notified by a law enforcement officer or the person that owns or controls the property that a person's activities violate a city regulation, fails to vacate the property in question.

(1) Defenses. It is a defense to prosecution under subsection (a) that a person:

(A) Was sitting or lying down because of a medical emergency;

(B) As a result of a disability, used a wheelchair or similar device to move about;

(C) Participated in or viewed a parade, festival, performance, rally, demonstration, or similar event;
(D) Waited in line to purchase a ticket to or attend a performance or a public event;
(E) Sat on a chair or bench that was supplied by an agency, entity, individual or business, unless the agency, entity, individual, or business requested that the person leave the chair or bench provided; or
(F) Operated or patronized a commercial establishment that conducts business on the sidewalk, during the time business was being conducted thereon.

(c) Camping prohibited. Camping is not allowed in public areas. A person commits an offense if the person camps in a public area that is not designated as a camping area by the city and/or parks department.
(1) This section does not apply to permitted camping or cooking in a park in compliance with park regulations or if the person is engaged in a sanctioned outdoor cooking event.
(2) It is an affirmative defense to prosecution under this subsection that a person owns the property or has secured the permission of the property owner to camp in a public area, unless such activities are otherwise prohibited by state or local regulations.
(3) Harassing solicitation prohibited. A person commits an offense if the person solicits in a harassing manner in:
(A) A public area;
(B) At a transportation stop;
(C) Within twenty-five (25) feet of:
(i) An automated teller facility.
(ii) The entrance to a bank.
(iii) The entrance or exit of a check cashing business.
(D) At a marked crosswalk;
(E) On either side of the street on a block where a school attended by minors or a childcare facility has an entrance or exit;
(F) At a sidewalk eatery.

(d) Penalty for violations. A person committing an offense of this section, and upon conviction thereof, shall be guilty of a class c misdemeanor and shall be subject to a fine of not less than $50 or more than $500.

Section 8.02.006 - Leaving merchandise or other items in front of store at night.

No goods, boxes, barrels or obstructions of any kind shall be left in front of any store on any street after close of business in the central business district. Each night, or part of a night, that such article is so left shall constitute a separate offense.

Section 8.02.007 - Duty of adjacent owners and occupants to remove litter, weeds, etc.

A person owning, occupying, or controlling real property adjacent to a public sidewalk commits an offense if they allow such sidewalk, or any part thereof, to become littered or obstructed by weeds, trash, rubbish, or other items.

Section 8.02.008 - Littering.

A person commits an offense if they throw, deposit or leave any trash, debris, refuse, junk, garbage or other rubbish in any public street, thoroughfare, alley or ditch in the city.

Section 8.02.009 - Injuring trees or shrubbery.

A person commits an offense if they break, bruise or injure any shrub, bush or tree set out along the sidewalks or around or on the premises of any person.

ARTICLE 8.03 – PRIVATE PROPERTY

Section 8.03.001 - Unsanitary conditions; generally.

(a) No person in control of or owning any premises shall permit the premises to exist in an unsanitary, unhealthy, or contaminated condition or maintain the premises in such a manner that it is likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests, is a possible or probable medium of disease transmission to or between humans, or is a danger to public safety, health or welfare.
(b) Sewage, human excreta, wastewater, garbage, or other organic material may not be deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons.
(c) The presence of bedbugs, lice, mites, or other ectoparasites suspected to be disease carriers in a place in which sleeping accommodations are offered to the public is prohibited.

Section 8.03.002 - Swimming pools.

(a) No person owning, in control of, or operating any swimming pool, including a private swimming pool, shall maintain the swimming pool in a manner that is unsafe, unsanitary, or a danger to public safety, health or welfare.
(b) Swimming pools located outside must be enclosed in an enclosure that completely surrounds the swimming pool and is at least six (6) feet in height, but which may include an adjoining fence, wall, or building.
(c) A swimming pool enclosure that is in compliance with this section shall not contain an opening large enough to permit the passage of a two (2) inch diameter sphere.
(d) Gates leading to a swimming pool yard must be designed so as not to permit access by unauthorized persons and shall have:
    (1) A self-closing and self-latching device; or
    (2) Hardware enabling the gate to be locked by a padlock or a built-in lock operated by key, card, or combination.

Section 8.03.003 – Light

(a) Definitions**.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Light trespass. Light that falls beyond the property it is intended to illuminate, in a motor vehicle driver's' eyes, or upwards toward the sky.

Lumen. The unit of measurement used to quantify the amount of light produced by a bulb or emitted from a fixture (as distinct from "watt," a measure of power consumption). The lumen rating associated with a given lamp is generally indicated on its packaging or may be obtained from the manufacturer. (Abbreviated lm)

Lux. Unit of illuminance and luminous emittance, measuring luminous flux per unit area. It is equal to one lumen per square meter. In photometry, this is used as a measure of the intensity, as perceived by the human eye, of light that hits or passes through a surface.

(b) Offenses.

(1) A person commits an offense if they fail to comply with the lighting requirements of the Bastrop Building Code and/or the Bastrop Building Block Code Technical Manual, as amended.

(2) A person commits an offense if they allow any detectable measure over zero lux at all areas past three feet of the neighboring property perimeter.
(3) A person commits an offense if they allow light to emit onto the property of another that unreasonably interferes with the neighboring property owners use and enjoyment of their property.
(4) A person commits an offense if they allow any form of light trespass or glare that deprives an owner or occupant of usual and reasonable use and enjoyment of a property.

Section 8.03.004 – Conformance to all County, State, and Federal Regulations

(a) In all Place Types, any land use shall comply with all County, State, or Federal agencies' regulations. All uses shall conform in operation, location, and construction to appropriate performance standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare.
(b) All Federal and State pollution, noise, and requirements for toxic waste disposal shall be observed.

Section 8.03.005 – Odor.

(a) A person commits an offense if they conduct any activity or harbor any animals in a manner that creates or results in noxious or offensive odors that extend beyond the property line of the originating tract or is offensive to a person of ordinary sensibilities.
(b) The following odors are per se noxious and offensive. Odors as a result of:
    (1) chemicals
    (2) smoke
    (3) stagnant pools
    (4) refuse
    (5) composting
    (6) dead animals
    (7) animal excrement

Section 8.03.006 – Noise.

(a) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Daytime hours. The hours between 7:00 a.m. on one day and 9:00 p.m. the same day.

Decibel/dB(A). The intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighting scale and the slow meter response, as specified by the American National Standards Institute.

Emergency. An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.

Emergency work. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, or which is otherwise necessary to restore property to a safe condition following a fire, accident or natural disaster, or which is required to protect persons or property from exposure to danger, or which is required to restore public utilities.

Nighttime hours. The hours between 9:00 p.m. on one day and 7:00 a.m. the following day.

Nonresidential property. Any real property within the limits of the city which is not included in the definition of residential property as defined in this section.

Person. Any individual, association, partnership, or corporation.

Property line. The line along the ground surface, and its vertical extension, which separates the real property owned, leased or occupied by one person from that owned, leased or occupied by another person, and the imaginary line which represents the legal limits of property of any person who owns, leases or otherwise occupies an apartment, condominium, hotel or motel room, office or any other type of occupancy.

Public right-of-way. Any street, avenue, boulevard, highway, road, thoroughfare, sidewalk, alley or other property which is owned or controlled by a governmental entity.

Residential property. Any real property developed and used for human habitation and which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, unless such premises are actually occupied and used primarily for purposes other than human habitation.

Responsible person. Any owner, operator, or lessee of the property or premises from which a sound emanates, whether real property or personal property; or any other person who causes, suffers, allows or permits a sound.

Penalty. Any person who violates any provision of this article is guilty of a misdemeanor and, upon conviction, shall be subject to a fine in accordance with the general penalty provision found in section 1.01.009 of this code. Each occurrence of any violation shall constitute a separate offense. To the extent that any conduct prohibited under this article also constitutes an offense under state law, then it shall be punishable as provided by state law.

Maximum permissible sound levels. No person shall conduct, permit or allow any activity or sound source to produce a sound that is discernible beyond the property lines of the property on which the sound is being received that when measured as provided in this article exceeds the applicable dB(A) level listed below for the property on which the sound is received:

(a) Residential property: 75 dB(A) during daytime, and 70 dB(A) during nighttime hours.

(b) Nonresidential property: 85 dB(A) during daytime, and 80 dB(A) during nighttime hours.

Prima facie evidence. The dB(A) levels set forth in this section apply to the property where the sound is being received. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified in this section, when measured at the site where the sound is being received, if available, shall be prima facie evidence of a noise which unreasonably disturbs, injuries or endangers the comfort, repose, health, peace or safety of others within the limits of the city in violation of this article.

(b) *General prohibition*. It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued or permit the continuance of any sound which either exceeds the maximum permitted sound levels specified in section 8.03.006(a) or otherwise unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city. The acts enumerated in the following sections of this article, among others, are specifically prohibited, but such enumeration shall not be deemed to be exclusive.

(1) *Noisy vehicles*. The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in such a manner so as to create loud and unreasonable grating, grinding, rattling or any other loud and unreasonable sound is hereby prohibited and declared to be unlawful.

(2) *Amplified sound from motor vehicle*. It is unlawful for any person to operate a radio, tape or CD player, or other electronic or mechanical sound-making device from within a motor vehicle in the city in a manner that emits sounds that are audible on a public right-of-way, street, or highway, to the human ear of a person with average and normal hearing, at a distance of thirty-five (35) feet or more from the motor vehicle. It shall be presumed that the driver of any vehicle is the operator of the sound-making device(s).

(A) The following exceptions shall apply to the prohibitions noted in subsection (e) above:

1. The provisions of this section shall not apply to any law enforcement motor vehicle equipped with any communication device necessary in the performance of law enforcement duties or to any emergency vehicle equipped with any communication device necessary in the performance of any emergency procedures.
2. The provisions of this section do not apply to motor vehicles used for business or political purposes, which in the normal course of conducting such business use sound-making devices.
3. The provisions of this section do not apply to the noise made by a horn or other warning device required or permitted by state law.

(3) *Engine braking*. The use of engine brakes or similar mechanical/vehicular devices in such a manner or resulting in noises of a volume that a person of ordinary sensibilities is annoyed and/or otherwise disturbed by them, while operating equipment and/or vehicles within the city's municipal boundaries, is hereby prohibited.

(c) *Defenses*. The following defenses shall apply to any offense established in this article:

(1) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger or attempted crime or an authorized test or drill for emergency, danger or attempted crime.

(2) The sound was produced by emergency or regularly scheduled work necessary to restore public utilities, or to restore property to a safe condition, or to protect persons or property from imminent danger, following a fire, accident or natural disaster, or to collect garbage, or to clean city streets with a street sweeper.

(3) The sound was generated:

(A) At a lawfully scheduled stadium event;

(B) By a parade and spectators and participants on the parade route during a permitted parade;

(C) By spectators and participants at a lawfully scheduled amphitheater event;

(D) By patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnic permit was obtained and the explosives were inspected by the fire marshal;

(E) By a pyrotechnic display that was inspected and approved by the fire marshal;

(F) By spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert which was sponsored, cosponsored, or permitted by the city; or

(G) By any other lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution.

(H) The sound was produced by the erection, excavation, construction, demolition, alteration, or repair work, or the permitting or causing thereof, of any building or other structure, or facility, or the operation or the permitting or causing the operation of any tools or equipment used in any such activity, conducted between the hours of 7:00 a.m. and 9:00 p.m. and which activity did not produce a sound exceeding 95 dB(A) when measured from the nearest residential property where the sound is being received.

(I) The sound was produced by aircraft in flight or in operation at an airport, or railroad equipment in operation on railroad rights-of-way.

(J) The sound was produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used between the hours of 7:00 a.m. and 9:00 p.m. and used for the maintenance or upkeep of the property on which it was used.

(K) The sound was generated as authorized under the terms of a permit issued under section 8.03.006(e) of this article.

(L) The sound was produced by the operation of any air conditioning unit which did not produce a sound exceeding 75 dB(A) on residential property or 85 dB(A) on nonresidential property, when measured at or near fifteen (15) feet from the air conditioning unit producing the sound being measured.

(M) The sound was produced by church bells or church chimes when used as part of a religious observance or service during daytime hours and which did not exceed five (5) continuous minutes in duration in any one-hour period.

(N) The sound was produced by the “noon” siren.

(O) The sound was produced by a locomotive or train horn.

(d) *Method of sound measurement*. Whenever portions of this article prohibit sound over a certain decibel limit, measurement of said sound shall be made with a calibrated sound level meter. Noise levels shall be measured in decibels. The unit of measurement shall be designated as dB(A). Meters shall be maintained in calibration and good working order. Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of said meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. Except as provided in sections 8.03.006(b)(2) and 8.03.006(c)(3)(L), measurements shall be taken at or near the nearest property line of the property where the sound is being received.

(e) *Permit for use of outdoor sound amplification equipment*. No person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier or any other machine or device which produces, reproduces, or amplifies sound outside of buildings or other enclosed structures in a manner which exceeds the levels specified in section 8.03.006(b), when measured from the property where the sound is being received, without first obtaining a permit to do so. Such permit:

(1) May be obtained by making application to the director of the city department so designated by the City Manager.

(2) Is valid for one fourteen-hour period between the hours of 8:00 a.m. and 10:00 p.m., except for events in city parks, for which the permit is valid for two sixteen-hour periods ending at 12:00 midnight on Thursday and Friday and one seventeen-hour period between the hours of 8:00 a.m. on Saturday and ending at 1:00 a.m. on the next following Sunday.

(3) Shall not be issued for the same location more than twice during the thirty-day period, except for events at city parks, for which there may be three (3) permits issued during any thirty-day period.

(4) Shall not authorize, allow, or otherwise permit the production, reproduction, or amplification of sound which exceeds 85 dB(A) when measured from the nearest receiving property.

(5) The use of any loudspeaker, loudspeaker system, sound amplifier or any other similar machine or device which is permitted pursuant to this section is subject to the following regulations:

i. The only sound permitted shall be either music or human speech or both.
ii. The volume of the sound amplified pursuant to this section shall not exceed 85 dB(A) when measured from the nearest receiving property.
iii. No equipment permitted pursuant to this section shall be operated during the hours between 10:00 p.m. and 8:00 a.m.

(6) The application for the permit required to be filed pursuant to this section shall contain the following information:

i. The date of the application and the date and hours for which the permit is requested.
ii. The name and address of the applicant.
iii. The name and address of the person who will have charge of the sound amplifying equipment.
iv. The purpose for which the sound equipment will be used.
v. The address and a description of the location where the sound equipment will be used.
vi. A description of the type of sound amplifying equipment to be used.

Section 8.03.007 – Smoke and Particulate Matter

(a) No operation or use shall cause, create, or allow the emission for more than three minutes in any one hour of air contaminants which at the emission point or within the bounds of the property are:

(1) As dark or darker in shade as that designated as No. 2 on the Ringleman Chart as published by the United States Bureau of Mines Information Circular 7118.
(2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed in 3-1302-1 above [sic] except that, when the presence of uncombined water is the only reason for failure to comply or when such contaminants are emitted inside a building which prevents their escape into the atmosphere, the standards specified in 3-1302-4 and -2 shall not apply.
(3) The emission of particulate matter from all sources shall not exceed 0.5 pounds per acre of property within the plant site per any one hour.
(4) Open storage and open processing operations, including on-site transportation movements which are the source of wind or air borne dust or other particulate matter; or which involves dust or other particulate air contaminants generating equipment such as used in paint spraying, grain handling, sand or gravel processing or storage or sand blasting shall be so conducted that dust and other particulate matter so generated are not transported across the boundary line of the tract on which the use is located in concentrations exceeding four grains per 1000 cubic feet of air.

Section 8.03.008 – Fire or Explosive Hazard Material

(a) No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted except that chlorates, nitrates, perchlorates, phosphorus, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists or wholesalers may be permitted when approved by the Fire Marshal of the City of Bastrop.

(b) The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the City of Bastrop Fire Code or are approved by the Fire Marshal.

Section 8.03.009 – Toxic and Noxious Matter

No operation or use shall emit a concentration across the bounding property line of the tract on which such operation or use is located of toxic or noxious matter which will exceed 10 percent of the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the Texas State Department of Health.

Section 8.03.010 – Vibration

No operation or use shall at any time create earth borne vibrations which when measured at the bounding property line of the source operation exceed the limits of displacement set forth in the following table in the frequency ranges specified:

Frequency Cycles Per Seconds	Displacement in Inches
0 to 10	.0010

10 to 20	.0008
20 to 30	.0005
30 to 40	.0004
40 and over	.0003

Section 8.03.011 – Drainage

(a) No person may grade, fill, block, or otherwise obstruct a drainage easement, fail to maintain a drainage easement, or maintain a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation.
(b) No person shall grade, fill, block, alter or otherwise obstruct a premises or property that is located in either a floodplain and/or a floodway, or in areas that affect drainage into such regulated areas.
(c) No person shall grade, fill, block, alter, construct, or obstruct property so that water is discharged on to adjoining property or premises to the detriment of person or property or in a manner that causes the water to affect the safe use or stability of the adjacent property.
(d) Property owners are responsible for maintaining drainage easements on their property to the point that all such easements abut the adjacent street surfaces (whether gravel, dirt, or pavement, etc.) or if not abutting a street surface then at the point their property abuts the back of curb, or the public right-of-way, whichever is applicable to a particular property and owner.

Section 8.03.012 - Control of mosquitoes.

(a) Conditions under which mosquitoes are likely to breed. Collections of water in which mosquitoes breed or are likely to breed are those contained in ditches, ponds, pools, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs, urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks of flush closets and other water containers.
(b) Treatment required. No person shall have, keep, maintain, cause or permit within the city any collection of standing or flowing water in which mosquitoes breed or are likely to breed unless such collection of water is treated so as effectually to prevent such breeding.
(c) Evidence of breeding. The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are breeding therein.
(d) Methods of treatment. Collections of water in which mosquitoes breed or are likely to breed shall be treated by one or more of the following methods as shall be approved by the city's Public Works Director or their designee:
    (1) Screening with wire netting of at least sixteen (16) meshes to the inch each way, or any other materials which will effectually prevent the ingress or egress of mosquitoes.

(2) Complete emptying every seven (7) days of unscreened containers, together with their thorough drying or cleaning.
(3) Using a larvicide approved by and applied under the direction of the city's Public Works Director or their designee.
(4) Covering completely the surface of the water with kerosene, petroleum or paraffin oil once every seven (7) days.
(5) Cleaning and keeping free of vegetable growth and other obstructions, and stocking with mosquito-destroying fish.
(6) Filling and draining to the satisfaction of the city's Public Works Director or their designee.
(7) Disposal by removal or destruction of broken or empty containers likely to hold water.

Section 8.03.013 - Wastewater disposal and potable water system.

(a) No person shall permit or dispose of any human waste except in a toilet. Flush toilets must be connected to a potable water system and public sewer or an approved domestic on-site wastewater system.
(b) No household, industrial or commercial waste shall be discharged into any watercourse, impoundment, storm sewer or public thoroughfare. In no case shall treated or untreated domestic wastewater or the effluent from a septic tank or domestic tank or domestic on-site sewage management system be permitted to drain directly or indirectly into a ditch or stream, nor shall it be allowed to surface or run or drain across any adjacent land owner.
(c) All sinks, lavatories, garbage disposals, dishwashers, clothes washing machines, shower baths, bathtubs, basins and similar plumbing fixtures or appliances shall be connected to a potable water system and public sewer or to an approved domestic on-site wastewater system.

Section 8.03.014 – Pruning and removal of trees abutting streets.

All owners of property abutting the streets of the city on which shade trees are now growing shall provide for the pruning of such trees or for their removal when dead.

Section 8.03.015 – Weeds.

(a) No person shall permit rank and/or uncultivated vegetable growth or matter to:
(1) Grow to twelve (12) inches or more in height on any lot, tract or parcel of land within the corporate limits of the city that is five (5) acres or less in size;
(2) Create an unsightly or unsanitary condition that is a harborage for rodents, vermin or other disease carrying pests, regardless of the height of weeds;
(3) Grow in excess of twelve (12) inches in height on tracts of land more than five acres in size that is located within twenty-five (25) feet of a public street or right-of-way within the corporate limits of the city or within twenty-five (25) feet of any lot that is occupied by a residence or business; or
(4) Persons are responsible for removal of grass and weeds from their property, as noted above, to the back of the curb of an abutting roadway, or, in the absence of

a curb, then to the surface of an adjacent abutting roadway or abutting public right-of-way; or to the point on the property as otherwise determined by the code enforcement officer to be required for weed/grass abatement necessary to protect and maintain the public's health, welfare and safety.

(b) For purposes of this section the following shall not constitute a weed:
  (1) Shrubs, bushes, and trees;
  (2) Cultivated flowers and cultivated wild flowers; or
  (3) Cultivated crops.

ARTICLE 8.04 – FIREARMS

Section 8.04.001 – Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

City building and city vehicle. Any building or portion of a building or any vehicle owned, occupied, leased, or under the authorized use or control of the city for city operations and activities. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

Gun, pistol, rifle, shotgun, and firearm. Any device designed, made, or adapted to expel a projectile through a barrel by using explosive energy generated by an explosion or burning substance, or any device readily convertible to that use, and shall include all air guns, air pistols, air rifles, and all other firearms using air pressure to propel a projectile. For purposes of this section, "taser" type weapons, crossbows, and bows and arrows are considered to be firearms.

Handgun. Any firearm that is designed, made, or adapted to be fired with one (1) hand.

Section 8.04.002 – Discharge.

(a) Prohibitions.
  (1) It shall be unlawful for any person to discharge or cause to be discharged any BB gun, pellet gun, gun, pistol, rifle, shotgun, or firearm of any kind within the city limits, except within a properly secured indoor firearms range constructed and maintained in accordance with National Rifle Association specifications and standards or upon a range owned and operated by a governmental entity.
  (2) It shall be unlawful for any person to discharge or cause to be discharged any BB gun, pellet gun, gun, pistol, rifle, shotgun, or firearm of any kind on, along, across, over, or into any portion of the Colorado River situated within the city's municipal limits.
  (3) It shall be unlawful for any person to discharge or cause to be discharged any BB gun, pellet gun, gun, pistol, rifle, shotgun, or firearm of any kind in a manner that results in any shot, projectile, slug or ammunition falling within the city's municipal limits.

(b) Exemptions. The provisions of this section do not apply to:

(1) This section shall not be construed to prohibit any peace officer of the law, or authorized animal control officer, from discharging a firearm in the performance of his or her duty, nor does this section prohibit any citizen from discharging a firearm when lawfully defending person or property.
(2) This section shall not be construed to prohibit the exhibition and sale of firearms at approved firearm trade shows in the city.
(3) Nothing contained herein shall be deemed to prohibit the use of pneumatic nail guns or similar construction tools, when used for their intended purpose.
(4) This section does not apply to members of the U.S. armed forces and members of the military forces of the state while engaged in the performance of official duties.
(5) This section does not apply to the discharge of airguns, BB guns, toy guns, or bows and arrows by citizens on their own property, provided that no projectile fired from these weapons is fired onto or into, or reaches, another person's property.

Section 8.04.003 – Carrying in city building or city vehicle.

(a) It shall be unlawful for any person, other than a peace officer, while carrying a firearm, regardless of whether or not the person is duly licensed by the state to carry a handgun, to enter into or remain on the premises of:
    (1) Any city building that is utilized by a court, while carrying a firearm, unless written authorization is first obtained from the court;
    (2) Any city building that is serving as a polling place on the day of an election or at any time while early voting is in progress in the city building; and
    (3) Any city building in which a public meeting, of the city is being held, pursuant to the Open Meetings Act requirements.
(b) The City Manager shall direct the city staff to:
    (1) Provide notice at all entries to all city buildings in the form and language prescribed by Chapter 30 of the Texas Penal Code, and as that chapter may be amended from time to time, that entry into that city building is forbidden to any person carrying a firearm in accordance with this section.
    (2) Provide a notice to anyone who is found to be carrying a firearm in accordance with this section and applicable state law, to exit the city building and/or the city vehicle.
(c) This section does not apply to a peace officer or a commissioned security officer hired by or under contract with the city and acting within the scope of that employment, or to a peace officer of another unit of government lawfully acting within the scope of the peace officer's duties.

ARTICLE 8.05 – MINORS CURFEW

Section 8.05.001 – Definitions

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Curfew hours.

(1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday, until 5:00 a.m. of the following day; and
(2) 12:01 a.m. until 5:00 a.m. on any Friday or Saturday; and
(3) During school hours on any Monday, Tuesday, Wednesday, Thursday, or Friday when Bastrop Independent School District public schools are in session.

Custodian. A person over the age of 21 who is authorized or designated by a parent, guardian, or court of competent jurisdiction to supervise and control a minor.

Emergency. An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.

Establishment. Any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

Guardian.

(1) A person who, under court order, is the guardian of the person of a minor; or
(2) A public or private agency with whom a minor has been placed by a court.

Minor. Any person:

(1) Ten years of age or older and under 17 years of age; or
(2) 17 years of age or older and under 18 years of age.

Operator. Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Parent. A person who is a natural parent, adoptive parent, or stepparent of the minor (excluding any person whose parental rights have been terminated in accordance with the Texas Family Code).

Public place. Any place in which the public or a substantial group of the public has access, but excluding areas where access is controlled by property owners and/or management by use of signs, policy or personnel. Public places may include but are not limited to, streets, highways, common areas beyond the exterior walls of school buildings, hospitals, apartment houses, office buildings, transport facilities, shops, and shopping centers.

Remain. To:

(1) Linger or stay; or
(2) Fail to leave premises when requested to do so by a peace officer or the owner, operator, or other person in control of the premises.

Serious bodily injury. Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Section 8.05.002 – Offenses.

(a) A minor commits an offense if he knowingly remains, walks, runs, stands, drives, rides, or otherwise is present in, on or upon any public place, or any private place other than his place of residence, or on the premises of any establishment within the city during curfew hours.
(b) A parent, guardian, or custodian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain, walk, run, stand, drive, ride, or otherwise be present in, on, or upon any public place or on the premises of any establishment within the city during curfew hours.
(c) The owner, operator, or any other person in control of a public place or establishment commits an offense if he or she knowingly allows or permits a minor to remain upon the premises of the public place or establishment during curfew hours.

Section 8.05.003 – Defenses.

(a) It is a defense to prosecution under section 8.05.002 that the minor was:
    (1) Accompanied by the minor's parent, guardian, or spouse, or custodian;
    (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
    (3) In a motor vehicle involved in interstate travel with the consent of the minor's parent, guardian, or custodian;
    (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
    (5) Involved in an emergency;
    (6) On private property at which the minor resides or is present with consent of the parent, guardian, custodian, or spouse;
    (7) Attending an official school, religious, or other recreational activity supervised by a person over the age of 21 and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by a person over the age of 21 and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;
    (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
    (9) A minor who has had disabilities of minority removed in accordance with Texas Family Code, Ch. 31.

(b) It is a defense to prosecution under section 8.05.002(c) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.
(c) With respect to the school hours curfew only (see section 8.05.001, definition of "curfew hours," subsection (3)), it is a defense that the school which the minor attends was not in session, that the minor is a high school graduate or has equivalent certification, that the minor is on an excused absence from his or her place of schooling, or that the minor is participating in a work-study program which requires the minor to be off campus during school hours.

Section 8.05.004 – Enforcement procedures.

All enforcement procedures adopted by the police department shall be in compliance with the provisions of the Texas Family Code.

Section 8.05.005 – Penalties.

(a) Any minor violating this division shall be guilty of a class C misdemeanor.
(b) Any other person violating this division shall be guilty of a class C misdemeanor, which shall be punishable by a fine of not less than $50 nor more than $500.
(c) When required by Texas Family Code, § 51.08, as amended, the municipal court shall waive original jurisdiction over a minor who violates section 8.05.002 of this division and shall refer the minor to juvenile court.

City of Bastrop
Chart of Changes
for
ORDINANCE 2019-56

PUBLIC NUISANCES – EXHIBIT A		
Code Reference	**Change**	**Discussion**
Article 6.01	Updated the definition for abandoned motor vehicle to match Texas Transportation Code, added definition for dangerous building or structure, and updated the definition for junked vehicle to match Texas Transportation Code.	The City can create a more inclusive definition of a junked vehicle per Tex. Trans. § 683.0711.
Article 6.02	Deleted the "health officer" in its entirety.	Staff confirmed that this position is not being utilized. We need to scrub the rest of the Code and remove references to this position throughout.
Sec. 6.06.002(d)	Changed this from being an administrative hearing conducted before the City Manager to the Police Chief.	This is a recommended change, but council can designed the hearing officer as they see fit.
Sec. 6.06.002	Changed provision regarding abating weeds without notice to those situations where weeds have (1) have grown higher than 48 inches; and (2) are an immediate danger to the health, life, or safety of any person	This previously stated "or" but Health and Safety Code Sec. 342.008 requires that both elements be satisfied.
Sec. 6.06.003	Changed "shall" to "may" Changed list of people who can file a lien to mirror state law.	Liens require a lot of paperwork. I think it makes sense for this to be discretionary depending on the amount owed.

Article 6.07	Updated abatement procedures for substandard buildings to be more specialized.	TEX. LOC. GOV'T CODE § 214 has specific requirements for abating substandard buildings through an administrative process. Additionally, Dallas v. Stewart raises concerns about demolishing buildings without a court order so these procedures take that into account and require the City to wait until all appeals have been exhausted before demolishing a nuisance building. The Construction Standards Board of Adjustments and Appeals has been designated as the body to her these appeals, but the ordinance can declare any competent body to handle these hearings.
Article 6.08	Directly references Texas Transportation Code instead of copy and pasting state law into the Code.	This reduced the chance that state law will change and conflict with the City's procedures.
Article 6.09	Confirmed that the Bastrop Code is compliant with State law (a)-(f) recite state law.	Kept the recitation of these procedures because this section of state law says, "A municipality or county may adopt procedures that conform to this subchapter." Therefore, I think it is better to clearly adopt specific procedures for junk vehicles.
Sec. 6.09.002	This section now references Texas Transportation Code instead of having the law copy and pasted.	This reduced the chance that state law will change and conflict with the City's procedures.
Sec. 6.09.003(a)	Change the language to state that the presiding judge would conduct the public hearings instead of "the court."	State law requires that the governing body or the official designated by the governing body to conduct these hearings. Therefore, I think it is important we designated the presiding judge not just "the court."
Sec. 6.09.003(g)	Clarified that "the department" is the "Texas Department of Motor Vehicles."	This is to be consistent with state law.
Sec. 6.09.004	Changed the "Abatement when persons entitled to notice cannot be found" to mirror state law.	To be consistent with state law.

GENERAL HEALTH AND SANITATION REGULATIONS – EXHIBIT B		
Chapter 8	Major reorganization. Moved offenses from Ch. 6 here, moved nuisance provisions to Ch. 8, organized regulations by those that regulate public property and those that regulate private property, then minors and firearms.	
Current Code Sec. 8.01.004	Removed section prohibiting driving across sidewalks.	Already prohibited under Texas Transportation Code Section 545.422
Current Code Sec. 8.02.001 ;002	Removed regulations for occupying, enclosing or using city land, and fencing public streets.	Penal Code 42.03 already prohibits any kind of obstruction of a public roadway.
Section 8.02.003	Revised the "rewards" sections of the previous code. Combined them into one section. Changed the language so that the rewards are discretionary and not mandatory. Changed the language of the criminal mischief reward to mirror that of the vandalism reward and not include "standing offer" language.	As written the sections limited discretion to give rewards and required budgeting for rewards, I was not sure was happening.
Sec. 8.02.004	Deleted the specific abatement and notice procedures for the "visibility obstructions at intersections."	No need to have a separate procedure to abate this process. This conduct was added to the specific conditions list in Ch. 6 and can be abated via the general abatement procedures included in Ch. 6.
Sec. 8.02.005	Reorganized and clarified language of the Loitering, Camping, Solicitation in Public Area violations.	Council may want to review this section critically. There has a been a recent surge of political activism about criminalizing homelessness.
Current Code 8.01.008	Deleted the definition for aggressive from the new Section 8.02.005 because it mimicked the definition of harassing solicitation. Reworded the definition of harassing.	Provides clarity.
Current Code 8.01.008	Removed language from the new Section 8.02.005 that stated "this section does not proscribe a demand for payment…"	It was unclear what the purpose of the language was and it did not seem necessary.
Current Code 8.01.008	Removed language from the new Section 8.02.005 prohibiting public bathing.	Already a disorderly conduct violation that could be cited under Penal Code 42.01.
Current Code	Removed section from the new Section 8.02.005 regarding	The default is that if the fine is less than $500 no

8.01.008	mental state.	culpable mental state is required. We don't need to repeat that here.
Section 8.02.009	Changed the section on "injuring trees or shrubbery" to exclude a mental state requirement.	This section may be hard to enforce as written, but removing the "willfully and wantonly" will make it easier to prosecute.
Sec. 8.02.006	Added "after close of business" because the language made it seem like stores were never able to have merchandise in front of the store. Also, removed the language regarding not being able to keep merchandise overnight on the sidewalk if obstructs traveling public.	This section calls out the "Central Business District." If there is a better name for the downtown, we should change the language to that. Obstructing sidewalks is already prohibited under Texas Penal Code 42.03.
Sec. 8.03.003	Creates criminal violations for violating the lighting regulations or creating a lighting nuisance.	
Sec. 8.03.004	Incorporated language regarding animal odor nuisances.	Animal "nuisances" are mentioned in Chapter 2 – Animal Control. But they basically restate the general sanitations, odor and noise nuisances as they relate to animals so we just include animals in the examples here.
Sec. 8.03.004	Added language to state that all land uses in all Place Types need to conform to County, State, and Federal regulations	
Sec. 8.03.005	Reworked the noise ordinance to be more enforceable. Changed the general prohibition to include any noise that "unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city."	Limited violations to just those that are over a certain decibel level make a lot of noise nuisances unenforceable. Think constantly crowing rooster. You will probably not get an offending decibel reading on that, but it could still be a nuisance.
Sec. 8.03.006	Creates exceptions to the noise ordinance for the noon whistle and train horns	Per Council request
Sec. 8.03.007	Added language regulating smoke and particulate matter.	
Sec. 8.03.008	Added language prohibiting storage of fire, explosives, or hazardous materials.	
Sec. 8.03.009	Added language setting regulations for toxic or noxious matter that may be exposed beyond the property line.	
Sec. 8.03.010	Added requirements for earth borne vibrations.	
Sec. 8.03.012	Changed references to "health officer" in the mosquito	Health officer position has been eliminated

	control regulations to "Public Works Director or their designee"	
Sec. 8.03.019	Removed the separate notice and abatement procedure for removal of trees and defers to the basic abatement procedures in Ch. 6.	For consistency I think we should notice and abate all violations using the procedures in Ch. 6. No need for additional notice procedures in Ch. 8.
Current Code Sec. 8.03.036	Removed section on "periodic review of regulations."	Not necessary City Council can review the regulations at any given time that it's deemed necessary.
Current Code Sec. 8.04.001	Removed section prohibiting putting up an awning over a sidewalk.	Current version is in conflict with the sign ordinance, and the intent of this section could be enforced through the sign ordinance.
Current Code Sec. 8.04.002	Removed section prohibiting one to delay, hinder or in any way inconvenience the traveling public.	This is already prohibited by Texas Penal Code § 42.03 no need to repeat.
Current Code Sec. 8.04.003	Removed section prohibiting congregation of persons if obstructs traveling public.	This is already prohibited by Texas Penal Code § 42.03 no need to repeat.
Sec. 8.04.003	Removed section that states "It shall be unlawful for any person, other than a peace officer, who is not duly licensed by the state to carry a handgun, to enter into or remain on the premises of any city building or in a city vehicle while carrying a firearm."	I'm concerned about this section. I don't think it would pass constitutional review if it trying to keep all guns out of city buildings? People take long arm guns (shotguns etc...) anywhere (except those specific places, courts, meetings etc..).
Article 8.05	Changed title from "Minors" to "Minors Curfew"	If we don't include tobacco regulations as suggested this is the only subject of that article so I changed title.
Sec. 8.05.001	Changed one-half hour before sunrise to 5:00 a.m.	This is to make enforcement easier.
Division 2 – Tobacco	Removed in its entirety.	Tobacco possession/use by a minor is already a criminal violation against state law (Health and Safety Code Sec. 161.252). I do not think we need to cut and paste those violations into City Code. But if we add back in make sure we update to be compliant with recent change in state law.

Bastrop Police Department

Assistant Chief Clint Nagy

November 12th, 2019

Purpose and Goals

Ensure that our codes are clear, concise, fair, and easily enforceable.

Accomplished the above by making definitions, due process, abatement, civil remedies and rewards well organized, easy to follow, without duplication, and easier to find.

These codes reflect the values of the City of Bastrop such as Community Values, Public Safety, and Nuisances.

Methodology

Two Chapters, Chapter 6 and 8 were revamped

CHAPTER 6	CHAPTER 8
Chapter 6 is the Public Nuisances Chapter and how we will manage violations. It includes abatement procedures and civil remedies.	Chapter 8 is the General Health and Sanitation Regulations and Violations such as light, noise, and odor.

Reference	Revision
Article 6.01 -- Junked Vehicles.	Updated the definition for abandoned motor vehicle to match Texas Transportation Code, added definition for dangerous building or structure, and updated the definition for junked vehicle to match Texas Transportation Code.
Article 6.02 – Removed definition "Health Officer"	Staff confirmed that this position is not being utilized. "Public Works Director or their designee" will be utilized in Chapter 8.03.012.
Sec. 6.06.002(d) – Abatement	Changed this from being an administrative hearing conducted before the City Manager to the Police Chief.
Sec. 6.06.002 – Abatement weeds without notice	To follow state law; changed provision regarding abating weeds without notice to those situations where weeds have (1) have grown higher than 48 inches; and (2) are an immediate danger to the health, life, or safety of any person.

Reference	Revision
Article 6.07 – Abatement procedures for substandard buildings	Rely on Texas Law. TEX. LOC. GOV'T CODE § 214 has specific requirements for abating substandard buildings through an administrative process.
Article 6.08 – Abatement of abandoned vehicles	Clarified language to follow Texas Transportation Code.
Article 6.09 – Abatement of junked vehicles	Confirmed that the Bastrop Code is compliant with State law (a)-(f) recite state law.
Sec. 6.09.002, .003, .004 – Abatement of junked vehicles	Clarified and updated language to be consistent with Texas Law.

Reference	Revision
Chapter 8 – Reorganized	Moved offenses from Ch. 6 here, moved nuisance provisions to Ch. 8, organized regulations by those that regulate public property and those that regulate private property, then minors and firearms.
Current Code Sec. 8.01.004 - Removed driving on sidewalks	Covered by Transportation Code Sec 545.422
Current Code Sec. 8.02.001; .002 Removed occupying city property	Relying on Penal Code 30.05 Criminal Trespass and 42.03 Transportation Code to enforce.
Section 8.02.003 -- Rewards	Updated rewards for damage to City Property language.
Sec. 8.02.004 – Abatement of obstruction @ intersections	Abatement portion covered in Chapter 6.
Sec. 8.02.005 – Camping and loitering	Clarified and reorganized but spirit of this ordnance has not changed.

BASTROPTX
Heart of the Lost Pines

Reference	Revision
Current Code 8.01.008 camping and loitering cont.	Clarified and reorganized but spirit of this ordnance has not changed (new code 8.02.005). We can follow Texas State Law.
Section 8.02.009 – Injuring trees	Clarified language and can use Texas State Law.
Sec. 8.02.006 – Signs at business (C.B.D.)	Updated to closing time vs. 5:00 p.m. Updated language to follow Texas State Law.
Sec. 8.03.004 – All most conform to all regulations	Added language to state that all land uses in all Place Types need to conform to County, State, and Federal regulations (E.g. Noise, Smoke, Noxious Matter).
Sec. 8.03.005 – Noise	Now more enforceable (new Dba max 75 day and 70 night in residential).
Sec. 8.03.006 – Noise, new exceptions	Noon Whistle and Trains.

Reference	Revision
Sec. 8.03.007 - Smoke and particulate matter	Regulating Smoke and Particulate Matter.
Sec. 8.03.008 – Regulating storage of fire, explosives, or hazardous materials.	Prohibiting storage of fire, explosives, or hazardous materials.
Sec. 8.03.009 - Regulations for toxic or noxious	Regulations for toxic or noxious.
Sec. 8.03.010 – Vibrations	Creates a violation for excessive vibration.
Sec. 8.03.019 – Abatement of trees	Moved to Chapter 6, abatement.
Current Code Sec. 8.03.036 – Removed mandatory review of regulations under Division 3 Curfew	Not necessary; City Council can review the regulations at any given time that it's deemed necessary.
Current Code Sec. 8.04.001 – Removed Awnings over sidewalk	Had conflicted with sign ordinance.
Current Code Sec. 8.04.002 – Removed traveling public	Rely on Texas State Law

Reference	Revision
Sec. 8.04.003 – Firearms in City Building or Vehicle	Regulates carrying a firearm in a city building or city vehicle during court, polling place, or public meeting under open meetings act.
Article 8.05 -- Changed title from “Minors” to “Minors Curfew	Changed title from “Minors” to “Minors Curfew.”
Sec. 8.05.001 – curfew hours	Changed one-half hour before sunrise to 5:00 a.m.
Division 2 – Tobacco Removed	Rely on Texas State Law.

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM:** 8F

TITLE:
Consider action to approve the second reading of Ordinance No. 2019-60 of the City Council of the City of Bastrop, Texas amending the Bastrop City Code of Ordinances, Chapter 13, “Utilities,” adding Article 13.12 “Impact Fees,” and providing for findings of fact, enactment, enforcement, a repealer, and severability; establishing an effective date; and proper notice and meeting.

STAFF REPRESENTATIVE:
Lynda K. Humble, City Manager

BACKGROUND/HISTORY:
City Council is adopting the Bastrop Building Block Codes, which will repeal Chapter 10, Subdivision Ordinance, and Chapter 14, Zoning Ordinance, in the City of Bastrop Codes of Ordinances. Staff has audited both chapters and determined that Impact Fees, currently located in Chapter 10, will need to be relocated to Chapter 13, Utilities, since these fees address water and wastewater services and is not listed in the Bastrop Building Block Codes.

POLICY EXPLANATION:
There are NO CHANGES to the existing ordinance language. The adoption of this ordinance simply relocates the Ordinance from Chapter 10, Subdivision, to Chapter 13, Utilities.

FUNDING SOURCE:
N/A

RECOMMENDATION:
Consider action to approve the second reading of Ordinance No. 2019-60 of the City Council of the City of Bastrop, Texas amending the Bastrop City Code of Ordinances, Chapter 13, “Utilities,” adding Article 13.12 “Impact Fees,” and providing for findings of fact, enactment, enforcement, a repealer, and severability; establishing an effective date; and proper notice and meeting.

ATTACHMENTS:
- Ordinance

ORDINANCE 2019-60

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AMENDING THE BASTROP CITY CODE OF ORDINANCES, CHAPTER 13, "UTILITIES," ADDING ARTICLE 13.12 "IMPACT FEES," AND PROVIDING FOR FINDINGS OF FACT, ENACTMENT, ENFORCEMENT, A REPEALER, AND SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING

WHEREAS, the City of Bastrop is updating all development related codes and repealing Chapter 14 and Chapter 10 of the current Bastrop City Codes of Ordinances; and

WHEREAS, Impact Fees have been located in Chapter 10 of the Bastrop City Codes of Ordinance; and

WHEREAS, Impact Fees are being added to the Utilities section of the Code of Ordinance, known as Chapter 13, since these fees are related to water and wastewater services; and

WHEREAS, there are no changes being made to the existing ordinance other than to include these fees in Chapter 13 rather than Chapter 10 of the Bastrop Code of Ordinances.

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

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. ADOPTION

The City Council hereby adopts the relocation of Impact Fees in the Bastrop Code of Ordinances from Chapter 10 to Chapter 13 on November 26, 2019, as attached in Exhibit A.

SECTION 3. REPEALER

In the case of any conflict between other provisions of this Ordinance and any existing Ordinance of the City, the provisions of this Ordinance will control.

SECTION 4. SEVERABILITY

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. ENFORCEMENT

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 6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

SECTION 7. OPEN MEETINGS

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.

READ & ACKNOWLEDGED on First Reading on the 12th day of November 2019.

READ & APPROVED on the Second Reading on the 26th day of November 2019.

APPROVED:

by _____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

EXHIBIT A

ARTICLE 13.12 - IMPACT FEES

DIVISION 1. - GENERALLY

Sec. 13.12.001 - Short title.

This ordinance shall be known and cited as the water and wastewater impact fees ordinance.

Sec. 13.12.002 - Intent.

This article is intended to impose water and wastewater impact fees, as established in this article, in order to finance public facilities, the demand for which is generated by new development in the designated service area.

Sec. 13.12.003 - Authority.

The city is authorized to enact this article by V.T.C.A. Local Government Code, chapter 395, which authorizes home-rule cities, among others, to enact or impose impact fees on land with in their corporate boundaries and in their extraterritorial jurisdictions, and on persons with whom they have a water or sewer service contract, as charges or assessments imposed against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development; and by the city charter, The provisions of this article shall not be construed to limit the power of the city to adopt such ordinance pursuant to any other source of local authority, nor to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this article. Guidelines may be developed by resolution or otherwise to implement and administer this article.

(Ord. No. 2011-21, § 1, 8-9-11)

Sec. 13.12.004 - Definitions.

As applied in this article, the following words and terms shall be used:

Advisory committee.

(1) The advisory committee shall consist of at least five (5) members, appointed by the mayor and confirmed by the Council, to serve terms of three (3) years. None of the committee members may be employees of the city, and at least 40% of the members shall be representatives of the real estate, development, or building industries, and, if impact fees are to be applied within the extraterritorial jurisdiction of the city, the membership shall include one member who resides within and represents the interests of those living within the city's extraterritorial jurisdiction. Alternatively, the committee may consist of the members of the city's planning and zoning commission, but in this case, the membership shall also include one regular or ad hoc member who is not an employee of the city and who is representative of the real estate, development, or building industry, and, if impact fees are to be applied within the extraterritorial

jurisdiction of the city, the membership shall include one member who resides within and represents the interests of those living within the extraterritorial jurisdiction area. The committee is appointed to regularly review and update the capital improvements program in accordance with the requirements of V.T.C.A. Local Government Code, chapter 395, and its successors.

(2) Each seat on the committee will be assigned a "place." Committee members' terms of service shall be "staggered," so that the entire membership of the committee will not be subject to replacement at any single point in time. To the extent possible, staggering shall be done so that the committee membership is divided into thirds. Initial staggering of the membership will be accomplished by having all appointees/members who are serving as of the first annual meeting following approval and passage of this section (held in July), "draw lots" to determine which "place" will have what number of service in the transition period (e.g., 1/3 of the places will draw for one-year terms, 1/3 of the places will draw for two-year terms, and the remaining 1/3 of the places will draw for three-year terms.) After the first July meeting, staggering of membership, by place, will begin.

(3) In the event of a vacancy on the committee, an individual appointed to fill the vacancy will serve only the remaining term of the individual who is being replaced by the appointee, so that the staggering of terms shall remain intact.

(4) Attendance requirements for the commission are set forth in this code, section 1.02.002(b), et seq.

Assessment. The determination of the amount of the maximum impact fee per service unit which can be imposed on new development pursuant to this article.

Building permit. Written permission issued by the city for the construction, repair, alteration or addition to a structure.

Capital construction cost of service. Costs of constructing capital improvements or facility expansions, including and limited to the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees, and expert witness fees), and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the city.

Capital improvements program (CIP). Plan which identifies water and wastewater capital improvements or facility expansions pursuant to which impact fees may be assessed.

City. The city of Bastrop, Texas.

City Council (Council). Governing body of the city.

City manager (manager). Chief executive officer of the city, appointed by the Council. City manager includes any city employee designated to act in the City Manager's behalf.

Comprehensive plan. The comprehensive long-range plan, adopted by the City Council, which is intended to guide the growth and development of the city which includes analysis, recommendations and proposals for the city regarding such topics as population, economy, housing, transportation, community facilities and land use.

Effective impact fee. Amount of impact fee collected per service unit, which may be equal to or less than the maximum impact fees as set forth in exhibit C to Ordinance 2011-21.

Existing development. All development within the service area which has a water or wastewater tap on the city's water or sewer system, as of the date of the adoption of this article.

Facility expansion. The expansion of the capacity of an existing facility which serves the same function as an otherwise necessary new capital improvement in order that the existing facility may serve new development. Facility expansion does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

Final subdivision plat (final plat). The map, drawing or chart on which is provided a subdivider's plan of a subdivision, and which has received final approval by the planning and zoning commission or City Council and which is recorded with the office of the county clerk.

Growth-related costs. Capital construction costs of service related to providing additional service units to new development, either from excess capacity in existing facilities, from facility expansions or from new capital facilities. Growth-related costs do not include:

(1) Construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;

(2) Repair, operation, or maintenance of existing or new capital improvements or facility expansions;

(3) Upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;

(4) Upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;

(5) Administrative and operating costs of the city; or

(6) Principal payments and interest or other finance charges on bonds or other indebtedness, except for such payments for growth-related facilities contained in the capital improvements program.

Impact fee. Charge or assessment to be imposed by the city upon new development to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to new development. The term includes amortized charges, lump-sum charges, impact fees, contributions in aid of construction, and any other fee that functions as described by this definition. Impact fees do not include dedication of rights-of-way or easements, or construction or dedication of site-related water distribution or wastewater collection facilities, or streets, sidewalks, or curbs if the dedication or construction is required by other valid ordinances of the city code and is necessitated by and attributable to the new development; lot or acreage fees placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or other pro rata fees for reimbursement of water or sewer mains or lines extended by the city.

Inflation escalator. An inflation escalator is applied to the maximum allowable impact fee each fiscal year for October. That escalator is calculated by dividing the National Engineering News-Record Index Value for October by the National Engineering News-Record Index Value during the month of the adoption of this article.

Land use assumptions. Description of the service area and projections of changes in land uses, densities, intensities, and population therein over at least a ten-year period, adopted by the city, as may be amended from time to time, upon which the capital improvement plan is based.

Multifamily development. A single structure containing three (3) or more dwelling units.

New development. Subdivision of land; or the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units. New development includes the sale of water taps resulting from the conversion of an individual well to the city's water utility and the sale of wastewater taps resulting from the conversion of an individual septic or other individual waste disposal system to the city's wastewater utility.

Offset. The amount of the reduction of an impact fee designed to fairly reflect the value of system-related facilities, pursuant to rules herein established or administrative guidelines, provided and funded by a developer pursuant to the city's subdivision regulations or requirements.

Service area. Area within the corporate boundaries and within the extraterritorial jurisdiction as defined by the Municipal Annexation Act (V.T.C.A. Local Government Code, ch. 41, § 4202), to be served by the water or wastewater capital improvements or facilities expansions specified in the capital improvements program applicable to the service area. The service area represents the general geographic basis for planning the utility capital improvement programs, used to formulate the fees. The service area is conceptual in nature and does not necessarily represent a definitive commitment for service by the city; the service area boundary also does not necessarily represent limits to service potential or fee assessment.

Service unit. Standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements or facility expansions expressed in service units equivalent.

Service unit equivalent (SUE). Basis for establishing equivalency among and within various customer classes, based upon the relationship of the continuous duty flow rate in gallons per minute for a water meter of a given size and type compared to the continuous duty maximum flow rate in gallons per minute for a 5/8 " diameter simple water meter, using American Water Works Association C700-C703 standards. For purposes of this article, 5/8 " water meters are considered to equal one SUE; except that for multifamily development, each living unit is equivalent to 0.5 SUE.

SUE Equivalencies for Various Types and Sizes of Water Meters

Meter Type	Meter Size	Duty Maximum Continuous Rate (GPM)	Ratio To 5/8 " Meter
Simple	5/8 " × ¾"	10	1.000
Simple	¾"	15	1.500
Simple	1"	25	2.500
Simple	1½"	50	5.000
Simple	2"	80	8.000
Compound	2"	80	8.000

Turbine	2"	100	10.000
Compound	3"	160	16.000
Turbine	3"	240	24.000
Compound	4"	250	25.000
Turbine	4"	420	42.000
Compound	6"	500	50.000
Turbine	6"	920	92.000
Compound	8"	800	80.000
Turbine	8"	1600	160.000
Compound	10"	1150	115.000
Turbine	10"	2500	250.000
Turbine	12"	3300	330.000

Source: AWWA Standards C700, C701, C702, C703.

Site-related facility. Improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water or wastewater facilities to serve the new development, and which is not included in the capital improvements plan, and for which the developer or property owner is solely responsible under subdivision and other applicable regulations.

System-related facility. A capital improvement or facility expansion which is designated in the capital improvements plan and which is not a site-related facility. A system-related facility may include a capital improvement which is located offsite, within, or on the perimeter of the development site.

Tap purchase. The filing with the city of a written application for a water or wastewater tap and the acceptance of applicable fees by the city. The term "tap purchase" shall not be applicable to a master water meter or master wastewater connection purchased from the city by a wholesale customer such as a water district, political subdivision of the state, or other wholesale utility customer; nor shall it be applicable to a meter purchased for and exclusively dedicated to fire protection.

Wastewater facility. Improvement for providing wastewater service, including, but not limited to, land or easements, treatment facilities, lift stations, or interceptor mains. Wastewater facility excludes wastewater lines or mains which are constructed by developers, the costs of which are reimbursed from charges paid by subsequent users of the facilities and which are maintained in dedicated trusts. Wastewater facilities also exclude dedication of rights-of-way or easements or construction or dedication of on-site or off-site wastewater collection facilities required by valid ordinances of the city and necessitated by and attributable to the new development.

Wastewater facility expansion. Expansion of the capacity of any existing wastewater improvement for the purpose of serving new development, not including the repair, maintenance, modernization or expansion of an existing wastewater facility to serve existing development.

Wastewater improvements plan (wastewater CIP). Portion of the CIP, as may be amended from time to time, which identifies the wastewater facilities or wastewater facility expansions and their associated growth-related costs which are necessitated by and which are attributable to new development, for a period not to exceed ten (10) years, which are to be financed in whole or in part through the imposition of wastewater impact fees pursuant to this article.

Water facility. Improvement for providing water service, including, but not limited to, land or easements, water supply facilities, treatment facilities, pumping facilities, storage facilities, or transmission mains. Water facility excludes water lines or mains which are constructed by developers, the costs of which are reimbursed from charges paid by subsequent users of the facilities and which are maintained in dedicated trusts. Water facilities also exclude dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution facilities required by valid ordinances of the city and necessitated by and attributable to the new development.

Water facility expansion. Expansion of the capacity of any existing water improvement for the purpose of serving new development, not including the repair, maintenance, modernization or expansion of an existing water facility to serve existing development.

Water improvements plan (water CIP). Portion of the CIP, as may be amended from time to time, which identifies the water facilities or water facility expansions and their associated growth-related costs which are necessitated by and which are attributable to new development, for a period not to exceed ten (10) years, which are to be financed in whole or in part through the imposition of water impact fees pursuant to this article.

Wholesale customer. Water or wastewater customer of the city's utilities which purchases utility service at wholesale rates for resale to their retail customers.

Sec. 13.12.005 - Applicability.

(a) This article shall be uniformly applicable to new development which occurs within the water and wastewater service areas.

(b) No new development shall be exempt from the assessment of impact fees as defined in this article.

Sec. 13.12.006 - Impact fees as conditions of development approval.

No application for new development shall be approved within the city without assessment of impact fees pursuant to this article, and no water and wastewater tap shall be issued and no

building permit shall be issued unless the applicant has paid the impact fees imposed by and calculated hereunder.

Sec. 13.12.007 - Establishment of water and wastewater service areas.

(a) The water and wastewater service areas are established as shown on the service area map which is exhibit A to Ordinance 2017-13 .

(b) The service areas shall be established consistent with any facility service area established in the CIP for each utility. Additions to the service area may be designated by the City Council consistent with the procedure set forth in V.T.C.A. Local Government Code, ch. 395.

(Ord. No. 2017-13 , pt. 1, 5-9-17)

Sec. 13.12.008 - Land use assumptions.

Land use assumptions used in the development of the impact fees are contained in exhibit B to Ordinance 2017-13 . These assumptions may be revised by the City Council according to the procedure set forth in V.T.C.A. Local Government Code, chapter 395 and its successors.

(Ord. No. 2017-13 , pt. 1, 5-9-17)

Sec. 13.12.009 - Service units.

(a) Service units are established in accordance with generally accepted engineering and planning standards.

(b) Service units shall be calculated based on service units equivalent as determined by the size of the water meter(s) for the development; or alternatively, as approved the city as a result of an engineering report prepared by a qualified professional engineer licensed to perform such professional engineering services in the state, which demonstrates that the number of SUE's of service for the new development will be different than those indicated by the size of the water meter.

(c) If the city determines that the water pressure in the city's transmission main is significantly higher or lower than standard pressure such that the size of the water meter is not indicative of actual service demand, the city may adjust the number of SUE's based on a smaller or larger sized meter which more accurately reflects the flow rate and the system pressure conditions.

(d) If a fire demand meter (tap) is purchased for a property, the meter size utilized to calculate the number of SUE's shall be the dimension of the portion of the fire demand meter which reflects the meter size which would provide only domestic service to the property. Said reduced meter size shall then be utilized to calculate the number of SUE's.

(1) The meter types used to calculate the number of SUE's shall be either simple or compound meters.

(2) If the fire protection capacity of the fire demand meter is routinely utilized for domestic purposes as evidenced by the registration of consumption recorded on the city's meter-reading and billing systems, the then-owner of the property shall be assessed the then-

current fee for the fire protection capacity which has been converted to domestic capacity by its routine usage as domestic capacity.

(3) To avoid the use of fire flow volumes for domestic usage, the owner of any property for which a fire demand meter is purchased shall be required to execute a restrictive covenant on a form approved by the city, which covenant shall acknowledge the right of the city to assess such fees to subsequent owners of the property. Said covenant shall be executed prior to the purchase of the fire demand meter and shall be filed in the deed records of the county.

(4) No fees shall be collected for the purchase of taps which shall be utilized to provide only fire protection capacity.

(e) Upon wastewater tap purchase for lots for which no water meter has been purchased, service units shall be established by a professional engineer licensed in the state, shall be reviewed by the city and shall be presented to the City Council, which shall designate the appropriate number of service units.

(f) The City Council may revise the service unit designation according to the procedure set forth in V.T.C.A. Local Government Code, ch. 395 and its successors.

Sec. 13.12.010 - Impact fees per service unit.

(a) The maximum impact fee per service unit for each service area shall be computed by dividing the growth-related capital construction cost of service in the service area identified in the capital improvements plan for that category of capital improvements, by the total number of projected service units anticipated within the service area which are necessitated by and attributable to new development, based on the land use assumptions for that service area, and adjusted by subtracting credits in the form of future rate or tax contributions to water and/or wastewater CIP funding and adding any additional amount as may be yielded in the inflation-escalator portion of the fee assessment formula set forth in section 13.12011. Maximum impact fees per service unit for each service area shall be established by category of capital improvements and shall be set forth in exhibit C to Ordinance 2017-13 .

(b) Exhibit C to Ordinance 2017-13 may be amended by the City Council according to the procedure set forth in chapter 395 of the Texas Local Government Code and its successors.

(c) The effective impact fees per service unit may be amended from time to time by the City Council through ordinance amendment to any amount less than that set forth in exhibit C to Ordinance 2017-13 .

(Ord. No. 2017-13 , pt. 1, 5-9-17)

Sec. 13.12.011 - Assessment.

(a) The approval of any subdivision of land or of any new development shall include as a condition the assessment of the impact fee applicable to such development.

(b) Assessment of the impact fee for any new development shall be made as follows:

(1) For new development which is submitted for approval pursuant to the city's subdivision regulations following the effective date of this article, assessment shall be at the time of final subdivision plat approval, and shall be the value of the effective

impact fee per service unit then in effect, as provided in exhibit C as set forth in section 13.12.010(c), multiplied times the inflation escalator then in effect. The city may provide the subdivider with a copy of exhibit C prior to final subdivision plat approval, but such shall not constitute assessment within the meaning of this article.

(2) For new development which has received final plat approval prior to the effective date of this article and for which no replatting is necessary prior to the issuance of a building permit, assessment shall be upon the issuance of a building permit, and shall be the value of the effective impact fee per service unit set forth in exhibit C to Ordinance 2017-13 .

(3) For new development which occurs or is proposed to occur without platting, assessment shall be upon the issuance of a building permit, and shall be the value of the effective impact fee per service unit set forth in exhibit C to Ordinance 2017-13 .

(4) Fees shall not be assessed to property which has previously purchased taps for the property and which desires to exchange those purchased taps for taps which will reflect an equivalent number of SUE's, as determined under section 13.12.009. If the exchange of said taps will result in an increase in the number of SUE's, the purchaser shall be assessed the effective impact fee in effect at the time of tap exchange, based on the additional SUE's required.

(5) Because fire protection is of critical concern to the community as a whole, water demand related solely to fire protection is not subject to collection of an impact fee. However, if the fire protection capacity of the fire demand meter is routinely utilized for domestic purposes as evidenced by the registration of consumption recorded on the city's meter-reading and billing systems, the current owner of the property shall be assessed the impact fees currently in effect at the time such conversion is established by the city for the fire protection capacity which has been converted to domestic capacity by its routine usage as domestic capacity.

(c) Following assessment of the impact fee pursuant to subsection (b), no additional impact fees or increases thereof shall be assessed against that development unless the number of service units increases, as set forth under section 13.12.009.

(d) Following the lapse or expiration of approval for a plat, a new assessment must be performed at the time a new application for such development is filed.

(Ord. No. 2017-13 , pt. 1, 5-9-17)

Sec. 13.12.012 - Calculation of impact fees.

(a) Following the request for new development as provided in section 13.12.011 of this article, the city shall compute impact fees due for the new development in the following manner:

(1) The total service units for the new development shall be multiplied by the appropriate per-unit effective fee value determined as set forth in section 13.12.010; and

(2) Fee offsets shall be subtracted as determined by the process proscribed in section 13.12.014 of this article.

(b) The value of each impact fee due for a new development shall not exceed a value computed by multiplying the effective fee assessed per service unit pursuant to section 13.12.010 by the number of service units generated by the development.

Sec. 13.12.013 - Collection of impact fees.

(a) No water or wastewater tap or building permit shall be issued until all impact fees have been paid to the city, or until a "notice of impact fee due" is recorded as provided in this section, except as provided otherwise by contract.

(b) Impact fees shall be paid at the time of the issuance of a building permit, except as provided in subsections (c) through (f).

(c) For land platted outside the corporate boundaries of the city, fees shall be collected at the time an application for connection to the city's water or wastewater system is filed.

(d) If the city lacks authority to issue building permits in the area where the impact fee applies, impact fees shall be collected at the time an application is filed for connection to the city's water or wastewater system.

(e) For new development converting to the city water utility from an individual water well, or to the city wastewater utility from a septic tank or individual waste disposal system, the city may allow the fee payer to pay impact fees in the form of a monthly assessment, as provided below:

(1) At the request of the applicant, and with the approval of the City Manager, the impact fees for such customers may be paid in increments over a period of not more than two (2) years, with interest computed on the unpaid balance at the statutory rate as set forth in article 1.03, title 79, Revised Statutes (article 5069-1.03, Vernon's Texas Civil Statutes), or any successor statute.

(2) If the applicant chooses this extended payment option, the applicant shall, as a condition of tap sale and/or building permit issuance, sign and file with the city clerk, and consent to the recordation of, a "notice of impact fee due," which shall be recorded as a lien against the subject property. The city shall release the lien held only upon payment in full of the impact fees and any late penalties and applicable interest.

(3) Late payments shall subject the applicant to a penalty of 10% of the amount due and additional interest in addition to all other remedies available to the city as lien holder.

(f) The city may, at its sole discretion, enter into contracts to establish a different date of fee collection than those provided in this section.

(g) It shall be the policy of the city to attempt to revise any contracts which might exist with wholesale customers, or which in the future may be entered into for wholesale service, in such a manner that impact fees are collected from the wholesale customer according to the number of SUE's attributable to each retail meter for new development within the wholesale customer's service area

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Sec. 13.12.014 - Offsets against impact fees.

(a) The city shall offset the present value of any system-related facilities, pursuant to rules established in this section, which have been dedicated to the city by the fee payer, and have been received by the city, including the value of rights-of-way or capital improvements constructed pursuant to an agreement with the city, against the value of the impact fee due for that category of capital improvement.

(b) All offsets against impact fees shall be subject to the following limitations and shall be granted based on this article and additional standards promulgated by the city, which may be adopted as administrative guidelines.

(1) No offset shall be given for the dedication or construction of site-related facilities.

(2) The unit costs used to calculate the offsets shall not exceed those assumed for the capital improvements included in the capital improvements plan for the category of facility within the service area for which the impact fee is imposed.

(3) If an offset applicable to a plat has not been exhausted within ten (10) years from the date of the issuance of the first building permit after the effective date of this article or within such period as may be otherwise designated by contract, such offset shall lapse.

(4) In no event will the city reimburse the property owner or developer for an offset when no impact fees for the new development can be collected pursuant to this article or for any value exceeding the total impact fees due for the development for that category of capital improvement, unless otherwise agreed to by the city.

(c) An applicant for new development must apply for an offset against impact fees due for the development either at or before the time of plat recordation. The applicant shall file a petition for offsets with the city on a form provided for such purpose. The contents of the petition shall be established by administrative guidelines. The city must provide the applicant, in writing, with a decision on the offset request, including the reasons for the decision. The decision shall specify the maximum value of the offset which may be applied against an impact fee, which value and the date of the determination shall be associated with the plat for the new development.

(d) The available offset associated with the plat shall be applied against an impact fee in the following manner:

(1) Such offset shall be prorated equally among all service units, as calculated in section 13.12.009, and remain applicable to such service units, to be applied at time of filing and acceptance of an application for a building permit, against impact fees due.

(2) If the total number of service units used by the city in the original offset calculation described in subsection (1) is eventually exceeded by the number of total service units realized by the actual development, the city may, at its sole discretion, collect the full impact fee exclusive of any associated offset for the excess service units.

(3) At its sole discretion, the city may authorize alternative offset agreements upon petition by the owner in accordance with guidelines promulgated by the city.

Sec. 13.12.015 - Establishment of accounts and records.

(a) The city shall establish separate interest-bearing accounts, in a bank authorized to receive deposits of city funds, for each major category of capital facility for which an impact fee is imposed pursuant to this article.

(b) Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds authorized in section 13.12.016.

(c) The city shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the account are utilized solely for the purposes authorized in section 13.12.016. Disbursement of funds shall be authorized by the city at such times as are reasonably necessary to carry out the purposes and intent of this article; provided,

however, that any fee paid shall be expended within a reasonable period of time, but not to exceed ten (10) years from the date the fee is deposited into the account.

(d) The city shall maintain and keep adequate financial records for each such account, which shall show the source and disbursement of all revenues, which shall account for all monies received, and which shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of uses specified in the capital improvements program as system-related facilities. The city shall also maintain such records as are necessary to ensure that refunds are appropriately made under the provision in section 13.12.018 of this article, and such other information as may be necessary for the proper implementation of this article.

Sec. 13.12.016 - Use of proceeds of impact fee accounts.

(a) The impact fees collected pursuant to this article may be used to finance or to recoup capital construction costs of service. Impact fees may also be used to retire bonds or to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the city to finance such capital construction costs of service.

(b) Impact fees collected pursuant to this article shall not be used to pay for any of the following expenses:

(1) Construction, acquisition or expansion of capital improvements or assets other than those identified in the associated capital improvements plans;

(2) Repair, operation, or maintenance of existing or new capital improvements or facilities expansions;

(3) Upgrading, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;

(4) Upgrading, expanding or replacing existing capital improvements to provide better service to existing development; provided however, that impact fees may be used to pay the costs of upgrading, expanding or replacing existing capital improvements in order to meet the need for new capital improvements generated by new development; or

(5) Administrative and operating costs of the city.

Sec. 13.12.017 - Appeals.

(a) The property owner or applicant for new development may appeal the following decisions to the City Manager:

(1) The applicability of an impact fee to the development;

(2) The basis for fee calculation;

(3) The amount of fee due;

(4) The availability or the value of an offset;

(5) The application of an offset against an impact fee due;

(6) The amount of the refund due, if any.

(b) The burden of proof shall be on the appellant to demonstrate that the value of the fee or the value of the offset was not calculated according to the applicable impact fee schedule or the guidelines established for determining offsets.

(c) If the appeal application is accompanied by a bond or other sufficient surety satisfactory to the City Manager in an amount equal to the original determination of the impact fee due, the development application or tap purchase or building permit application may be processed while the appeal is pending.

(d) The appellant may appeal the decision of the City Manager to the Council. A notice of appeal to the Council must be filed by the applicant with the City Secretary within thirty (30) days following the City Manager's decision. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the city attorney in an amount equal to the original determination of the capital recovery fee due, the development application or tap purchase or building permit issuance may be processed while the appeal is pending.

Sec. 13.12.018 - Refunds.

(a) Any impact fee or portion thereof collected pursuant to this article which has not been expended within ten (10) years from the date of payment, shall be refunded, upon application, to the record owner of the property at the time the refund is paid, or, if the impact fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund at the statutory rate as set forth in article 1.03, title 79, Revised Statutes (article 5069-1.03, Vernon's Texas Civil Statutes), or any successor statute.

(b) An impact fee collected pursuant to this article shall be considered expended if the total expenditures for capital improvements or facilities expansions authorized in section 13.12.016 within ten (10) years following the date of payment exceeds the total fees collected for such improvements or expansions during such period.

(c) If a refund is due pursuant to subsections (a) and (b), the city shall prorate the same by dividing the difference between the amount of expenditures and the amount of the fees collected by the total number of service units assumed within the service area for the period to determine the refund due per service unit. The refund to the record owner or governmental entity shall be calculated by multiplying the refund due per service unit by the number of service units for the development for which the fee was paid, and interest due shall be calculated upon that amount.

(d) Upon the request of an owner of the property on which an impact fee has been paid, the city shall refund such fees if:

(1) Existing service is available and service is denied;

(2) Service was not available when the fee was collected and the city has failed to commence construction of facilities to provide service within two (2) years of fee payment; or

(3) Service was not available when the fee was collected and has not subsequently been made available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in any event later than five (5) years from the date of fee payment.

(e) The city shall refund an appropriate proportion of impact fee payments in the event that a previously purchased unused water meter is replaced with a smaller meter, based on the

SUE differential of the two (2) meter sizes and the per-SUE fee at the time of the original fee payment, less an administrative charge of $50.

(f) Petition for refunds shall be submitted to the city on a form provided by the city for such purpose. Within one month of the date of receipt of a petition for refund, the city must provide the petitioner, in writing, with a decision on the refund request, including the reasons for the decision. If a refund is due to the petitioner, the City Manager shall cause a refund payment be made to the petitioner.

Sec. 13.12.019 - Updates to plan and revision of fees.

The city shall review the land use assumptions and capital improvements plan for water and wastewater facilities at least every five (5) years, the first five-year period commencing from the date of adoption of the capital improvements plan referenced herein. The City Council shall accordingly then make a determination of whether changes to the land use assumptions, capital improvements plan or impact fees are needed and shall, in accordance with the procedures set forth in V.T.C.A. Local Government Code, chapter 395, or any successor statute, either update the fees or make a determination that no update is necessary.

Sec. 13.12.020 - Functions of advisory committee.

(a) The functions of the advisory committee are those set forth in V.T.C.A. Local Government Code, ch. 395, or any successor statute, and shall include the following:

(1) Advise and assist the city in adopting land use assumptions;

(2) Review the capital improvements plan regarding water and wastewater capital improvements and file written comments thereon;

(3) Monitor and evaluate implementation of the capital improvements program;

(4) Advise the city of the need to update or revise the land use assumptions, capital improvements program and impact fees;

(5) File semiannual reports evaluating the progress of the city in achieving the capital improvements plans and identifying any problems in implementing the plans or administering the impact fees, and any perceived inequities in administration of the fee; and

(6) In October of each year, the committee shall review the impact fees being assessed to determine whether said fees should be adjusted to reflect:

(A) Any changed circumstances encountered by the city; and

(B) Any increases in the consumer price index.

(b) The city shall make available to the advisory committee any professional reports prepared in the development or implementation of the capital improvements plan.

(c) The Council shall adopt procedural rules for the committee to follow in carrying out its duties.

Sec. 13.12.021 - Agreement for capital improvements.

The City Council may approve the owner of a new development to construct or finance some of the public improvements identified in the CIP. In the case of such approval, the property owner must enter into an agreement with the city prior to fee collection. The agreement shall be on a form approved by the city, and shall establish the estimated cost of improvement,

the schedule for initiation and completion of the improvement, a requirement that the improvement shall be completed to city standards, and any other terms and conditions the city deems necessary. The City Manager or his/her designee shall review the improvement plan, verify costs and time schedules, determine if the improvement is contained in the CIP, and determine the amount of the applicable offset for such improvement to be applied to the otherwise applicable impact fee before submitting the proposed agreement to the Council for approval.

Sec. 13.12.022 - Use of other financing mechanisms.

(a) The city may finance water and wastewater capital improvements or facilities expansions designated in the capital improvements plan through the use of operating cash transfers, through the issuance of bonds, through the formation of public improvement districts or other assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations as may be provided by law, in addition to the use of impact fees.

(b) Except as herein otherwise provided, the assessment and collection of an impact fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment which is lawfully imposed on and due against the property.

Sec. 13.12.023 - Impact fees as additional and supplemental regulation.

(a) Impact fees established by this article are additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the issuance of building permits or the sale of water or wastewater taps or the issuance of certificates of occupancy. Such fees are intended to be consistent with and to further the policies of city's comprehensive plan, capital improvements plan, zoning ordinance, subdivision regulations and other city policies, ordinances and resolutions by which the city seeks to ensure the provision of adequate public facilities in conjunction with the development of land.

(b) This article shall not affect, in any manner, the permissible use of property, density of development, design, and improvement standards and requirements, or any other aspect of the development of land or provision of public improvements subject to the zoning and subdivision regulations or other regulations of the city, which shall be operative and remain in full force and effect without limitation with respect to all such development.

Sec. 13.12.024 - Relief procedures.

Any person who has paid an impact fee or an owner of land upon which an impact fee has been paid may petition the City Council to determine whether any duty required by this article has not been performed within the time so prescribed. The petition shall be in writing and shall state the nature of the unperformed duty and request that the act be performed within sixty (60) days of the request. If the Council determines that the duty is required pursuant to the article and is rate in being performed, it shall cause the duty to commence within sixty (60) days of the date of the request and to continue until completion.

Sec. 13.12.025 - Exemptions.

No exemptions will be granted from payment of applicable water and wastewater impact fees, except as provided for in section 13.12.014.

Sec. 13.12.026 - Certification of compliance required.

(a) The City Manager or designee shall submit a written certification verifying compliance with this chapter to the attorney general each year not later than the last day of the city's fiscal year.

(b) The certification must be signed by the presiding officer of the City Council and include a statement that reads substantially similar to the following: "This statement certifies compliance with chapter 395, Local Government Code."

(Ord. NO. 2011-21, § 1, 8-9-11)

Secs. 13.12.027—13.12.060 - Reserved.

DIVISION 2. - WATER FACILITIES

Sec. 13.12.061 - Service area.

(a) There is hereby established a water service area as depicted on exhibit A to Ordinance 2017-13 and incorporated herein by reference.

(b) The boundaries of the water service area may be amended from time to time, and new water service areas may be delineated, pursuant to the procedures in section 13.12.007.

(Ord. No. 2017-13 , pt. 1, 5-9-17)

Sec. 13.12.062 - Improvements plan.

(a) The water improvements plan for the city is hereby adopted as exhibit D to Ordinance 2017-13 and incorporated by reference herein.

(b) The water improvements plan may be amended from time to time, pursuant to the procedures set forth in V.T.C.A. Local Government Code, ch. 395 and its successors.

(Ord. No. 2017-13 , pt. 1, 5-9-17)

Sec. 13.12.063 - Impact fees.

(a) The maximum impact fee values per service unit for water facilities are hereby adopted and incorporated in exhibit C to Ordinance 2017-13 and made a part hereof by reference.

(b) The impact fee values per service unit for water facilities may be amended from time to time, pursuant to the procedures in section 13.12.010.

(Ord. No. 2011-21, § 2, 8-9-11; Ord. No. 2017-13 , pt. 1, 5-9-17)

Secs. 13.12.064—13.12.090 - Reserved.

DIVISION 3. - WASTEWATER FACILITIES

Sec. 13.12.091 - Service area.

(a) There is hereby established a wastewater service area as depicted on exhibit A to Ordinance 2017-13 and incorporated herein by reference.

(b) The boundaries of the wastewater service area may be amended from time to time, and new wastewater service areas may be delineated, pursuant to the procedures in section 13.12.007.

(Ord. No. 2017-13 , pt. 1, 5-9-17)

Sec. 13.12.092 - Improvements plan.

(a) The wastewater improvements plan for the city is hereby adopted as exhibit E to Ordinance 2017-13 hereto and incorporated by reference herein.

(b) The wastewater improvements plan may be amended from time to time, pursuant to the procedures set forth in V.T.C.A. Local Government Code, ch. 395 and its successors.

(Ord. No. 2017-13 , pt. 1, 5-9-17)

Sec. 13.12.093 - Impact fees.

(a) The maximum impact fee values per service unit for wastewater facilities are hereby adopted and incorporated in exhibit C to Ordinance 2017-13 and made a part hereof by reference.

(b) The impact fee values per service unit for wastewater facilities may be amended from time to time, pursuant to the procedures in section 13.12.010.

(Ord. No. 2011-21, § 3, 8-9-11; Ord. No. 2017-13 , pt. 1, 5-9-17)

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9A

TITLE:
Consider action to approve Resolution No. R-2020-118 of the City Council of the City of Bastrop, Texas supporting the Bastrop County 2020 Census Complete Count Committee; and establishing an effective date.

STAFF REPRESENTATIVE:
Becca Sexton, Library Director

BACKGROUND/HISTORY:

- Approximately $675 billion in federal funding is distributed to communities across the country each year based, in part, on area demographics sourced from the Census.
- Census data is used to determine legislative and school districts and has a direct impact on the number of elected representatives from a given geographic region.
- Trends in Census data over time are used to forecast transportation, infrastructure, and housing needs.
- The purpose of a Complete Count Committee is to create awareness and understanding of the importance of the Census and how it works and to increase response rates.
- The Census Bureau Response Outreach Area Mapper predicts as much as a 29% non-response rate in some parts of Bastrop County.
- The Bastrop County Complete Count Committee includes representatives from the Cities of Bastrop, Elgin, and Smithville; Bastrop County; Bastrop County Cares; the Elgin, Smithville, and Bastrop Chambers of Commerce; and other non-profit organizations throughout the county.
- Other organizations that have passed resolutions supporting the efforts of the Complete Count Committee include Bastrop Independent School District, the Bastrop Chamber of Commerce, and the City of Smithville.

POLICY EXPLANATION:
N/A

FUNDING SOURCE:
N/A

RECOMMENDATION:
Consider action to approve Resolution No. R-2020-118 of the City Council of the City of Bastrop, Texas supporting the Bastrop County 2020 Census Complete Count Committee; and establishing an effective date.

ATTACHMENTS:

- Resolution

RESOLUTION NO. R-2020-118

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, TO SUPPORT THE BASTROP COUNTY 2020 CENSUS COMPLETE COUNT COMMITTEE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the U.S. Census Bureau is required by the United States Constitution to conduct a count of all persons every ten years; and

WHEREAS, federal and state funding is allocated to communities, and decisions are made on matters of national and local importance based on census data; and

WHEREAS, census data determines how many seats each state will have in the U.S. House of Representatives and is necessary for redistricting of state legislative seats, county precincts, and city councils and voting districts; and

WHEREAS, information from the 2020 Census and American Community Survey are vital tools for economic development and increased employment; and

WHEREAS, personal information collected by the census is confidential and protected by law; and

WHEREAS, the census count requires extensive work, and the Census needs partners at the state and local level to insure a complete and accurate count; and

WHEREAS, the City of Bastrop is committed to ensuring every resident is counted; and

WHEREAS, a united voice of business, government, community and faith-based organizations, educators, media and others will enable the 2020 Census message to reach more of our citizens; and

WHEREAS, the Bastrop County Complete Count Committee will bring together a cross section of community members who will use their local knowledge and expertise to reach out to all persons of our community; and

WHEREAS, this Complete Count Committee will work with the Census Bureau to strive for an accurate count in the City of Bastrop.

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

Section 1: That the City Council of the City of Bastrop supports the Bastrop County 2020 Census Complete Count Committee.

Section 2: 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 26th day of November, 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Bastrop County 2020 Census Complete Count Committee

Becca Sexton, Bastrop Public Library Director

November 26th, 2019

- Approximately $675 billion in federal funding is distributed annually based, in part, on Census data.
- Census data is used to determine legislative and school districts and the number of state representatives in the U.S. House of Representatives.
- The Census Bureau Response Outreach Area Mapper predicts as much as a 29% non-response rate in some parts of Bastrop County.
- The purpose of a Complete Count Committee is to create awareness of the importance of the Census and how it works and to increase response rates.
- The Bastrop County Complete Count Committee includes representatives from the Cities of Bastrop, Elgin, and Smithville; Bastrop County; Bastrop County Cares; the Elgin, Smithville, and Bastrop Chambers of Commerce; and other non-profit organizations throughout the county.

BASTROPTX
Heart of the Lost Pines

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9B

TITLE:
Consider action to approve Resolution No. R-2019-119 of the City Council of the City of Bastrop, Texas approving an Amendment to Task Order No. BAS.006A with KSA Engineering for supplemental engineering services associated with the acquisition of 350 feet of Wastewater Treatment Plant Land in the amount of Twenty-four Thousand Five Hundred Dollars and Zero cents ($24,500.00) as attached in Exhibit A, authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

STAFF REPRESENTATIVE:
Trey Job, Assistant City Manager of Development Services

BACKGROUND/HISTORY:
On August 28, 2018, The City Council of the City of Bastrop, Texas approved multiple task orders with KSA Engineering for the design of Wastewater Treatment Plant #3 and all ancillary components needed to continue serving our customers with wastewater service. The task orders for the Engineering in regard to wastewater treatment plant were as follows:

- Task Order Form BAS.006 for Wastewater Treatment Plant & Collection System Improvements
- Task Order Form BAS.007 for General Engineering Services
- Task Order Form BAS.008 for Wastewater Plant No. 3 - Public Relations

The item tonight is a change order to BAS.006 in the amount of $24,500.00. On November 12, 2019, the City Council awarded a land acquisition contract to 7Arrows Land Staff LLC to negotiate on the City of Bastrop's behalf. The attached amendment to Task Order No. BAS.006A from KSA Engineering provides for supplemental engineering services associated with the acquisition of 350 feet of additional land needed for the Wastewater Treatment Plant #3 to accommodate the 100-year flood plain and land acquisition negotiations with Appraiser as well as coordination with City supplied Emergency Operations Center (EOC) trades and professionals. Additional Services are as follows:

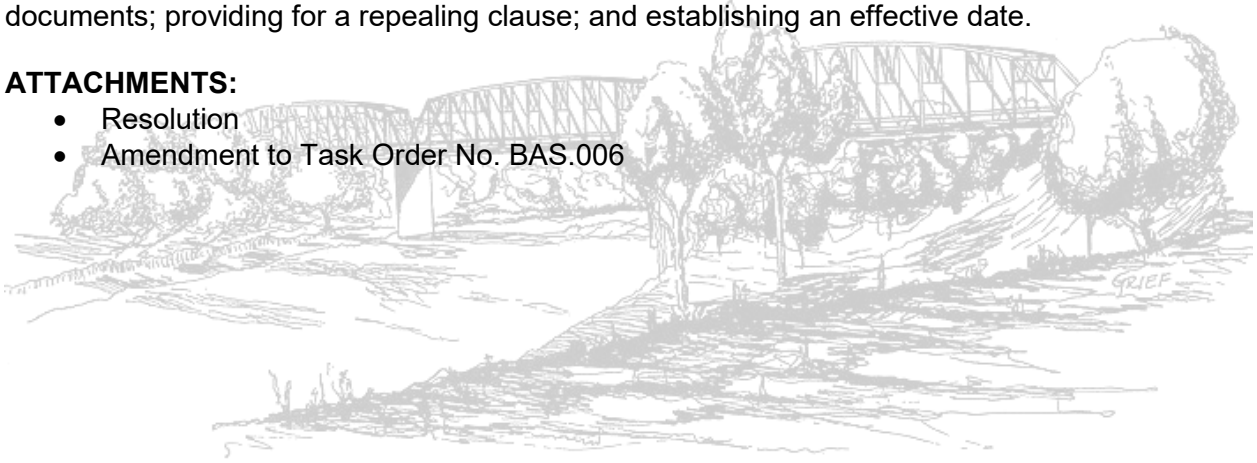
Surveying	$15,000.00
Geotechnical	5,000.00
EOC Electrical Coordination	4,500.00
TOTAL	***$24,500.00***

POLICY EXPLANATION:
Chapter 217 of the Texas Administrative Code requires the design for a new wastewater treatment plant begin when the existing plant capacity reaches 75% and construction of a new plant begin at 90% capacity of the existing plant. Currently, the existing plants are at 68% and will reach 90% by 2021.

FUNDING SOURCE:
Funding for additional engineering and survey work associated with the land purchases for WWTP#3 will be made from the Wastewater Capital Fund shown on page 227 of the FY 2019-20 budget book. A budget amendment to the capital fund will be brought to carry-over available balance from FY2019 on the December 10, 2019 Regular City Council Meeting.

RECOMMENDATION:
Consider action to approve Resolution No. R-2019-119 of the City Council of the City of Bastrop, Texas approving an Amendment to Task Order No. BAS.006A with KSA Engineering for supplemental engineering services associated with the acquisition of 350 feet of Wastewater Treatment Plant Land in the amount of Twenty-four Thousand Five Hundred Dollars and Zero cents ($24,500.00) 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
- Amendment to Task Order No. BAS.006



RESOLUTION NO. R-2019-119

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS APPROVING AN AMENDMENT TO TASK ORDER NO. BAS.006A WITH KSA ENGINEERING FOR SUPPLEMENTAL ENGINEERING SERVICES ASSOCIATED WITH THE ACQUISITION OF 350 FEET OF WASTEWATER TREATMENT PLANT LAND IN THE AMOUNT OF TWENTY-FOUR THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS ($24,500.00) AS ATTACHED IN EXHIBIT A, AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Bastrop, Texas 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 projected growth of the City of Bastrop will soon result in wastewater flow rates that will exceed the capacity of the City's current wastewater collection system and treatment facilities; and

WHEREAS, the City Council of the City of Bastrop, Texas has the vision to improve Bastrop's Community Safety by building Wastewater Treatment Plant No. 3; and

WHEREAS, engaging KSA Engineers to provide design and construction management services for Wastewater Treatment Plant No. 3 meets that intent and is Item CS#15 in the City's Workplan; and

WHEREAS, the City of Bastrop has chosen KSA Engineers from a list of qualified consulting firms identified by City Council on July 10, 2018; and

WHEREAS, the City Council of the City of Bastrop, Texas approved a contract for the design of Wastewater Treatment Plant #3 and related collection system improvements on August 28, 2018; and

WHEREAS, the Amendment to Talk Order No. BAS.006A provides supplemental engineering services related to the acquisition of 350 feet of Wastewater Treatment Plant Land to accommodate the 100-year flood plain and land acquisition negotiations with Appraiser as well as coordination with City supplied Emergency Operations Center (EOC) trades and professionals.

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 the Amendment to Talk Order No. BAS.006A for to KSA Engineers in the amount of twenty-four thousand five hundred dollars and no cents, ($24,500.00).

Section 2: That the City Council of the City of Bastrop has found KSA Engineers to be a subject matter expert in the field of Wastewater Treatment Plants.

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 26th day of November, 2019.

APPROVED

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

This is **EXHIBIT K**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated October 31, 2018.

Amendment To Task Order No. BAS.006A

1. Background Data:

   a. Effective Date of Task Order Agreement: October 31, 2018

   b. Owner: City of Bastrop

   c. Engineer: KSA Engineers, Inc.

   d. Specific Project: Wastewater Treatment Plant No. 3

2. Description of Modifications

   a. Engineer shall perform the following Additional Services: Approximately 350-feet of Wastewater Treatment Plant Land Acquisition to accommodate the 100-year floodplain and land acquisition negotiations with Appraiser. Includes coordination with City supplied Emergency Operations Center (EOC) trades and professionals.

   b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Task Order and previous amendments, if any, is modified as follows: N/A

   c. The responsibilities of Owner with respect to the Task Order are modified as follows: N/A

   d. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation:

Surveying	$ 15,000.00	Per Exhibit C
Geotechnical	$ 5,000.00	Per Exhibit C
EOC Electrical Coordination	$ 4,500.00	Hourly Rate
TOTAL	$ 24,500.00	Not to Exceed without Prior Authorization

   e. The schedule for rendering services under this Task Order is modified as follows: Design phase requires one (1) additional month of time.

   f. Other portions of the Task Order (including previous amendments, if any) are modified as follows: N/A

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3. Task Order Summary (Reference only)

a. Original Task Order amount:	$2,790,000.00
b. Net change for prior amendments:	$ -0-
c. This amendment amount:	$ 24,500.00
d. Adjusted Task Order amount:	$2,814,500.00

The foregoing Task Order Summary is for reference only and does not alter the terms of the Task Order, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Task Order as set forth in this Amendment. All provisions of the Agreement and Task Order not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is _____.

OWNER: City of Bastrop	ENGINEER: KSA Engineers, Inc.
By: _____	By: _____
Name: Lynda Humble	Name: Joncie H. Young, P.E.
Title: City Manager	Title: Director of Municipal Services
Date Signed: _____	Date Signed: 10/22/19

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STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM:** 9C

TITLE:
Conduct public hearing and consider action to deny the first reading of Ordinance No. 2019-73 of the City Council of the City of Bastrop, Texas, rezoning 1.866 acres of Bradford Subdivision, Lot 2 Fraction from P-3 Neighborhood, to P-4 Mix, located at 1903 Main Street, within the city limits of Bastrop, Texas, as shown in Exhibit A; including a severability clause; and establishing an effective date.

STAFF REPRESENTATIVE:
Jennifer C. Bills, AICP, LEED AP, Assistant Planning Director

ITEM DETAILS:

Site Address:	1903 Main Street (Exhibit A)
Total Acreage:	1.866 acres
Legal Description:	1.866 acres of Bradford Subdivision, Lot 2 Fraction
Property Owners:	Steve & Kerry Fossler
Existing Use:	Residential
Existing Zoning:	P-3 Neighborhood (Previously Single-Family 7) (Attachment 3)
Requested Zoning:	P-4 Mix
Future Land Use:	Neighborhood Residential (Attachment 4)

BACKGROUND/HISTORY:
The property owner has requested to be zoned to P-4 Mix to allow them to install a small take-out commercial kitchen that would operate on a limited basis. P-4 Mix will allow commercial uses within a house-form structure, as well as single-family and multi-family uses. This is a larger property at 1.866 acres and is bounded by the railroad tracks to the south. Given the size and location constraints, the P-4 Mix is appropriate and the house-form will provide compatibility with the neighborhood design.

PUBLIC COMMENTS:
Property owner notifications were sent to 25 adjacent property owners on November 5, 2019 (Attachment 2). At the time of this report, four responses in favor and one opposed have been received. (Attachment 5)

POLICY EXPLANATION:
Texas Local Government Code

Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. (a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

Notice was published in the Bastrop Advertiser and notice was sent to property owners within 200 feet of the property boundary.

(b) In addition to the notice required by Subsection (a), a general-law municipality that does not have a zoning commission shall give notice of a proposed change in a zoning classification to each property owner who would be entitled to notice under Section 211.007(c) if the municipality had a zoning commission. That notice must be given in the same manner as required for notice to property owners under Section 211.007(c). The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given.

N/A. Bastrop is not a general-law municipality.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

Notice of the meeting was posted at least 72 hours in advance.

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots or land covered by the proposed change; or

(2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

(e) In computing the percentage of land area under Subsection (d), the area of streets and alleys shall be included.

At the time of this report, no protest has been received.

(f) The governing body by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the municipality's zoning commission that a proposed change to a regulation or boundary be denied.

If the Planning & Zoning Commission recommends denial of the zoning request, the City Council must have a minimum vote of 4 out of 5 members to approve the zoning request.

Compliance with 2036 Comprehensive Plan:

- Future Land Use Plan – Neighborhood Residential: The Neighborhood Residential character area is for single-family residential subdivision development, associated amenities such as parks, trails, open spaces, and public uses such as schools, fire stations, and more. Although individual developments may exhibit common features including home size, lot size, setbacks, impervious surface coverage, etc., the character area supports variations of these spatial and aesthetics characteristics, subject to appropriate transitions in form, scale, and density between blocks or adjacent developments. In some instances, transitions between developments and adjacent character areas may include higher density housing types or neighborhood oriented commercial uses of limited scale.

The Neighborhood Residential land use supports limit commercial uses that are compatible with the neighborhood. Given the location of the property, and the fact that Main Street is a prime thoroughfare for connecting the neighborhood to the downtown, the house-form P-4 Mix would be compatible with the land use.

PLANNING & ZONING COMMISSION RECOMMENDATION:
At the November 21, 2019 meeting, the Planning & Zoning Commission motion to approve the request failed by a vote of three to four.

If the Planning & Zoning Commission recommends denial of the zoning request, the City Council must have a minimum vote of 4 out of 5 members to approve the zoning request.

RECOMMENDATION:
Conduct public hearing and consider action to deny the first reading of Ordinance No. 2019-73 of the City Council of the City of Bastrop, Texas, rezoning 1.866 acres of Bradford Subdivision, Lot 2 Fraction from P-3 Neighborhood, to P-4 Mix, located at 1903 Main Street, within the city limits of Bastrop, Texas, as shown in Exhibit A; including a severability clause; and establishing an effective date.

ATTACHMENTS:
- Ordinance
- Exhibit A: Location Map
- Attachment 1: Applicant Request
- Attachment 2: Surrounding Property Owners Notification
- Attachment 3: Zoning Map
- Attachment 4: Future Land Use Map
- Attachment 5: Property Owner Responses
- PowerPoint Presentation



ORDINANCE 2019-73

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, REZONING 1.866 ACRES OF BRADFORD SUBDIVISION, LOT 2 FRACTION FROM P-3 NEIGHBORHOOD, TO P-4 MIX, LOCATED AT 1903 MAIN STREET, WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AS SHOWN IN EXHIBIT A; INCLUDING A SEVERABLILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Steve & Kerry Fossler (hereinafter referred to as "Property Owner") submitted a request to 1.866 acres of Bradford Subdivision, Lot 2 Fraction, within the City limits of Bastrop, Texas, hereinafter referred to as "the Property"; and

WHEREAS, a location map is attached hereto as Exhibit "A" (the "Property); and

WHEREAS, the Property is currently zoned as P-3 Neighborhood; and

WHEREAS, the Property Owner is requesting to be rezoned to P-4 Mix; and

WHEREAS, the Future Land Use Designation for this Property is The Neighborhood Residential character area is for single-family residential subdivision development, associated amenities such as parks, trails, open spaces, and public uses such as schools, fire stations, and in some instances, transitions between developments and adjacent character areas may include higher density housing types or neighborhood oriented commercial uses of limited scale; and

WHEREAS, pursuant to Texas Local Government Code Section 211, notice of the rezoning was given to all property owners located within two hundred (200) feet of the Property, and the Planning and Zoning Commission of the City of Bastrop held a public hearing on the rezoning request on November 21, 2019; and

WHEREAS, after notice and hearing, the Planning and Zoning Commission motion to approve the request failed by a vote of three to four; and

WHEREAS, the City Council of the City of Bastrop held a public hearing on November 26, 2019 to consider the Property Owner's request; and

WHEREAS, after consideration of public input received at the hearing, the information provided by the Applicants, and all other information presented, City Council finds that it is in the public interest to approve the rezoning.

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

Section 1: The Property, situated on 1.866 acres of Bradford Subdivision, Lot 2 Fraction, located 1903 Main Street, in the city limits of Bastrop, Texas as more particularly shown on attachment Exhibit A is rezoned to P-4 Mix.

Section 2: 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 ACKNOWLEDGED on First Reading on the 26th day of November 2019.

READ and APPROVED on the Second Reading on the 10th day of December 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A
Location Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 35 70 140
Feet

1 inch = 104 feet

1903 Cedar Street
Rezone Request

N

Date: 11/12/2019

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

BUILDING BASTROP

BASTROPTX
Heart of the Lost Pines / Est. 1832

Individual Property Owner Place Type Change Request

Proposed Place Type Zoning (from the notice): P3 Neighborhood

Requested Place Type Zoning: P4 Mixed Use

Reason for Requested Place Type / Why I would like to change my zoning:

We have a sideyard that we'd like to use to build a *small* take-out commercial kitchen (house-based form), serving just 1 hour each weekday. We plan for The "Bastrop Whistle Stop" to be open Monday through Friday from 12-1p to serve fresh food to the community, especially for residents of the North End District. It will probably be 2020 before we can submit our building plans and permits. This P-4 Mixed Use designation would allow us to dream this into reality and serve our town!

Property Owner Name: Steve & Kerry Fossler

Property Address/Parcel ID: 1903 Main St, Bastrop, TX 78602 / R28823

Property Owner's Signature: Kerry Fossler

Staff Use Only

Reviewed By: _____

Staff Comments: _____

Staff Recommendation: ☐ Approve ☐ Deny

PLANNING & DEVELOPMENT
1311 Chestnut Street – PO Box 427 – Bastrop, Texas 78602 – 512.332.8840
www.cityofbastrop.org

RECEIVED
By AL at 4:20 pm, Oct 08, 2019

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing 1.866 acres of Bradford Subdivision, Lot 2 Fraction, located at 1903 Main Street, from the existing Form-Based Code – Neighborhood District (which is being rezoned to P-3 Neighborhood with the B³ Code rezoning) to P-4 Mix, within the City Limits of Bastrop, Texas.

Property Address:	1903 Main Street
Property ID/Parcel Number:	28823
Current Zoning:	Form-Based Code - Neighborhood
Proposed B³ Code Zoning (Place Type):	P-3 Neighborhood
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: _____

Property Address: _____

Mailing Address (if different than property address): _____

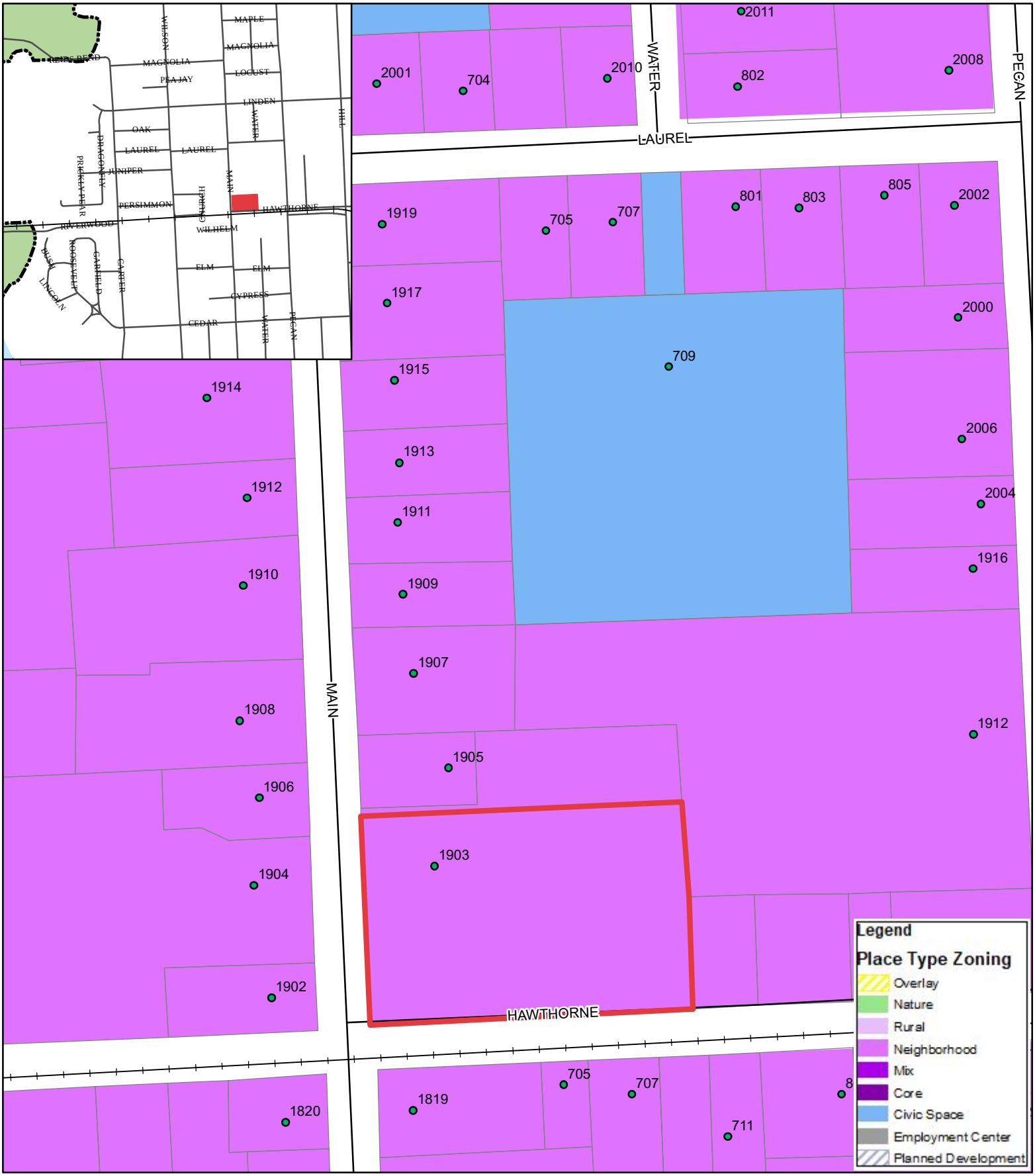
Phone (optional): _____ Email (optional): _____

Property Owner's Signature: _____

Additional Comments (Optional): _____

_____

Re: Place Type Change 28823_Bradford Subdivision, Lot 2 Fraction_1903 Main Street



BASTROPTX
Heart of the Lost Pines
Est. 1832

1 inch = 139.95 feet

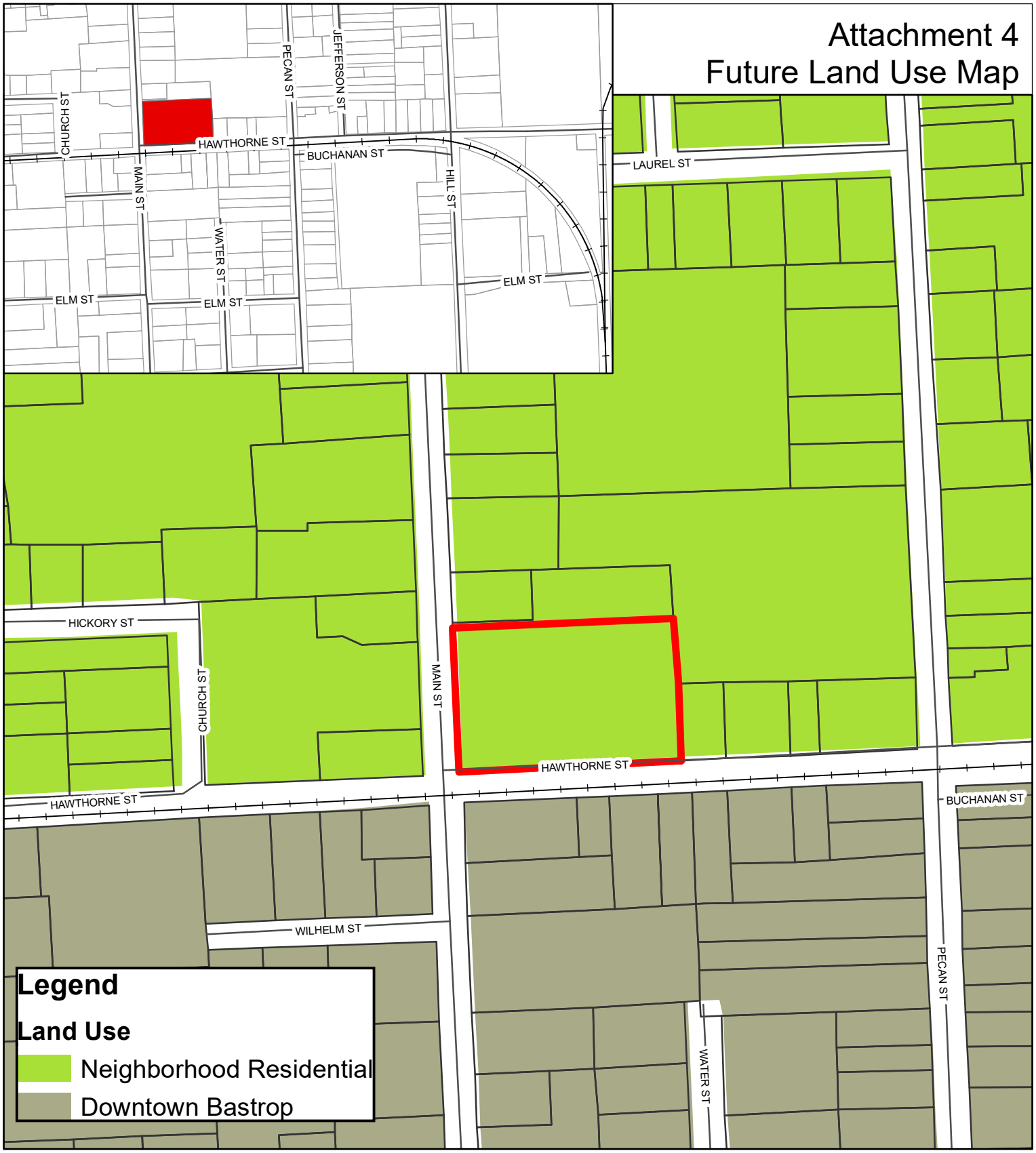
Location Map
Zoning Change
1903 Main St

Date: 11/1/2019

N

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

Attachment 4
Future Land Use Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 70 140 280
Feet

1 inch = 208 feet

1903 Main Street
Rezone Request

Date: 11/13/2019

N

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

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing 1.866 acres of Bradford Subdivision, Lot 2 Fraction, located at 1903 Main Street, from the existing Form-Based Code – Neighborhood District (which is being rezoned to P-3 Neighborhood with the B³ Code rezoning) to P-4 Mix, within the City Limits of Bastrop, Texas.

Property Address:	1903 Main Street
Property ID/Parcel Number:	28823
Current Zoning:	Form-Based Code - Neighborhood
Proposed B³ Code Zoning (Place Type):	P-3 Neighborhood
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☑ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: Steve B & Kerry L Fossler

Property Address: 1903 Main St. Bastrop, TX 78602

Mailing Address (if different than property address): _____

Phone (optional): 713.882.7218 Email (optional): Kerry111@gmail.com

Property Owner's Signature: _____

Additional Comments (Optional): _____

Re: Place Type Change 28823_Bradford Subdivision, Lot 2 Fraction_1903 Main Street

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☑ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: Brittney Benton

Property Address: 1905 main Street

Mailing Address (if different than property address): _____

Phone (optional): 512-786-7531 Email (optional): alchemysapothecary@gmail.com

Property Owner's Signature: Brittney Benton

Additional Comments (Optional): _____

Re: Place Type Change 28823_Bradford Subdivision, Lot 2 Fraction_1903 Main Street

RECEIVED
NOV 13 2019
By _____

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- [x] I am in favor of the change.
- [ ] I am opposed to the change.
- [ ] I have no objection to the change.

RECEIVED
NOV 18 2019
By

Property Owner Name: Byron C Rentfro

Property Address: 1908 Main St. Bastrop, TX 78602

Mailing Address (if different than property address): _____

Phone (optional): 512-321-2045 Email (optional): bcrentfro@yahoo.com

Property Owner's Signature: Byron C. Rentfro

Additional Comments (Optional): _____

Re: Place Type Change 28823_Bradford Subdivision, Lot 2 Fraction_1903 Main Street

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- [x] I am in favor of the change.
- [ ] I am opposed to the change.
- [ ] I have no objection to the change.

Property Owner Name: Geo. G. & Alice E. Traugott

Property Address: 1902 Main St. Bastrop, TX 78602

Mailing Address (if different than property address): _____

Phone (optional): 512-636-2447 Email (optional): _____

Property Owner's Signature: Alice E. Traugott

Additional Comments (Optional): _____

Re: Place Type Change 28823_Bradford Subdivision, Lot 2 Fraction_1903 Main Street

RECEIVED
NOV 18 2019
By _____

From:	David Barrow
To:	Planning Dept; Allison Land
Subject:	Property Owner Response for Zone Change - 1903 Main St.
Date:	Thursday, November 21, 2019 2:38:01 PM

SUBJECT LINE: Property Owner Response for Zone Change - 1903 Main St.

Good afternoon Allison and Planning Dept,
Could you kindly add this response form the P&Z and City Council Packets:

Property Address: 1903 Main St, Bastrop, TX 78602
Property ID: 28823
Current Zoning: Form-Based Code - Neighborhood
Proposed B3 Code Zoning: P-3 Neighborhood
Requested Zoning: P-4 Mix

PROPERTY OWNER RESPONSE:

I AM IN FAVOR OF THE CHANGE

Property Owner's Name: Sonya Coté & David Barrow
Property Address: 1910 Main St, Bastrop, TX 78602
Phone: 510-501-5505
Email: edeneastfarm@gmail.com

Thank you!
Sonya Coté & David Barrow

--
Eden East Farm

https://edeneastaustin.com/
https://www.facebook.com/edeneastfarm/
https://www.instagram.com/farmeredeneast/?hl=en

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1903 Main Street

Public hearing and consider action to deny the first reading of Ordinance 2019-73 of the City Council of the City of Bastrop, Texas, rezoning 1.866 acres of Bradford Subdivision, Lot 2 Fraction from P-3 Neighborhood, to P-4 Mix, located at 1903 Main Street, within the city limits of Bastrop, Texas, as shown in Exhibit A; including a severability clause; and establishing and effective date.

BASTROPTX
Heart of the Lost Pines
Est. 1832

Request

Change zoning from P-3 Neighborhood to P-4 Mix to allow a small commercial kitchen for take-out orders that would operate on a limited basis.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Location Map



BASTROPTX
Heart of the Lost Pines / Est. 1832

Staff Recommendation

Hold public hearing and consider action to approve the first reading of Ordinance 2019-73 of the City Council of the City of Bastrop, Texas, rezoning 1.866 acres of Bradford Subdivision, Lot 2 Fraction from P-3 Neighborhood, to P-4 Mix, located at 1903 Main Street, within the city limits of Bastrop, Texas, as shown in Exhibit A; including a severability clause; and establishing and effective date and move to include on the December 10, 2019 Consent Agenda for second reading.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Planning & Zoning Recommendation

At the regular meeting on November 21, 2019, the Commission motion to approve the request failed by a vote of 3 for and 4 against, thus denying the request.

City Council must have a minimum vote of **4 out of 5** to overrule the recommendation of denial and approve the request.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Questions?

BASTROPTX
Heart of the Lost Pines / Est. 1832

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9D

TITLE:
Consider action to approve Resolution No. R-2019-100 of the City Council of the City of Bastrop, Texas, adopting a wholesale wastewater agreement with West Bastrop Village Municipal Utility District of Bastrop County and West Bastrop Village, Ltd.; attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

STAFF REPRESENTATIVE:
Lynda Humble, City Manager
Trey Job, Assistant City Manager of Development Services

BACKGROUND/HISTORY:
The City of Bastrop hired NewGen Services to assist with the development of a wholesale wastewater rate that will allow the City of Bastrop to manage the imminent growth while remaining fiscally sustainable. As Austin continues to grow and be consistently named one of the most desirable places to live, growth will continue to move east toward Bastrop. It is vital that the City of Bastrop be poised and ready to handle development. The current City Council has made a commitment to be prepared for the expected growth. The daunting task of managing a Certificate of Convenience and Necessity (CCN) that is three times larger than the present city limits is important to future growth and fiscal sustainability.

A standardized draft wholesale wastewater agreement was approved by Council in April of 2019 by Resolution R-2019-32. Since that time, the City of Bastrop has acquired a wholesale customer and has had the opportunity to better vet the standardized agreement. The attached agreement reflects the following changes:

- Better defining the “Connecting Facilities” and associated cost.
- Providing the current impact fees for water & wastewater.
- Simplifying the impact fee calculations and the cost of reserving capacity in the wastewater treatment plant (WWTP).
- Meter specifications and ownership of the meters.
- Current and future WWTP capacity and the ability of the developer to assign to another project.
- Term of the agreements. (50 yrs.)
- Inflow & infiltration testing requirements and limits.
- Sewer strength surcharge fees.

This resolution will repeal R-2019-32 and replace the standardized wholesale wastewater agreement with this document, which will now serve as the standardized wholesale wastewater agreement template.

POLICY EXPLANATION:
The City Charter grants the City Council the authority in Section 3.01 Powers and Duties (13) provide for a sanitary sewer and water system and require property owners to connect with such sewer system and provide for penalties for failure to make sanitary sewer connections. The City's Code of Ordinance further established areas of service and utility rates.

FUNDING SOURCE:
N/A

RECOMMENDATION:
Consider action to approve Resolution No. R-2019-100 of the City Council of the City of Bastrop, Texas, adopting a wholesale wastewater agreement with West Bastrop Village Municipal Utility District of Bastrop County and West Bastrop Village, Ltd.; attached as Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

ATTACHMENTS:
- Resolution
- Wholesale Wastewater Agreement



RESOLUTION NO. R-2019-100

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, ADOPTING A WHOLESALE WASTEWATER AGREEMENT WITH WEST BASTROP VILLAGE MUNICIPAL UTILITY DISTRICT OF BASTROP COUNTY AND WEST BASTROP VILLAGE, LTD.; ATTACHED IN EXHIBIT A; 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 importance of fiscal sustainability; and

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 the standardization of wastewater wholesales and providing fairness and consistency; and

WHEREAS, the City of Bastrop adopted a standardized wholesale wastewater agreement on April 23, 2019 by Resolution R-2019-32; and

WHEREAS, the City of Bastrop choses to approve the attached wholesale wastewater agreement shown as exhibit A; and

WHEREAS this Resolution R-2019-100 expressly repeals and replaces Resolution R-2019-32; 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. The City Manager is hereby authorized to execute a wholesale wastewater contract between the City of Bastrop and West Bastrop Village Municipal Utility District of Bastrop County and West Bastrop Village Ltd. (attached as Exhibit A) as well as all other necessary documents.

Section 2. The City Council adopts a standardized wholesale wastewater agreement, as attached in Exhibit A, for use with future wholesale customers.

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. 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 26th day of November 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Style Definition: ARTICLE I.

WHOLESALE WASTEWATER AGREEMENT BETWEEN THE CITY OF BASTROP, WEST BASTROP VILLAGE MUNICIPAL UTILITY DISTRICT OF BASTROP COUNTY AND WEST BASTROP VILLAGE, LTD.

This WHOLESALE WASTEWATER AGREEMENT ("**Agreement**") is made and entered into by and between the CITY OF BASTROP, a home rule city located in Bastrop County ("**Bastrop**" or "**City**") and the West Bastrop Village Municipal Utility District of Bastrop County, a political subdivision of the state operating under Chapters 49 and 54, Texas Water Code ("**District**"), and West Bastrop Village, LTD., a Texas limited partnership ("**Developer**") (collectively referred to herein as the **"Parties"**). The Parties hereby mutually agree as follows:

RECITALS

WHEREAS, the City and the Developer entered into a Planned Development Agreement, to be known in this Agreement as "the PDA" on August 11, 2006, requiring a wholesale utility agreement; and

WHEREAS, by Resolution R-2006-24, on September 13, 2006, the City granted consent for creation of West Bastrop Village Municipal Utility District; and

WHEREAS, by Order signed on April 24, 2007, the Texas Commission on Environmental Quality granted the Petition for Creation of West Bastrop Village Municipal Utility District; and

WHEREAS, by Resolution R-2007-12 the City confirmed its consent for creation of the West Bastrop Village Municipal Utility District, on June 26, 2007; and

WHEREAS, the District encompasses approximately 347.9 acres of land within the extraterritorial jurisdiction ("ETJ") of the City (the "Tract"). The Tract is more particularly described in Exhibit "A"; and

WHEREAS, Developer intends to develop the Tract as a master-planned, mixed-use community, initially to be referred to as "West Bastrop Village" projected to consist primarily of residential uses, expected at the time of execution of this Agreement to include approximately 1,500 homes, and also will include other limited nonresidential uses (the "Development"); and

WHEREAS, the Tract is within Bastrop's sewer CCN (20466) (Exhibit "B"), from which the City will provide wastewater services to the District; and

WHEREAS, Bastrop, District and Developer wish to enter into this Agreement, to provide the terms of wholesale wastewater service for the benefit of the present and future residents of the City and the District; and

NOW, THEREFORE, for and in consideration of the agreements set forth below, the City, District and Developer agree as follows:

ARTICLE I. DEFINITIONS

Section 1.01 Definitions of Terms.

In addition to the terms otherwise defined in the above recitals; in the City's ordinances; or the provisions of this Agreement, the terms used in this Agreement will have the meanings set forth below.

Agreement: means this Wholesale Wastewater Agreement by and among the City of Bastrop, Texas, District, and Developer.

***Bastrop System*:** means all of the Wastewater equipment, lines, components and facilities of Bastrop that are used for the collection, transportation, treatment, monitoring, regulation and disposal of Wastewater received from the District, including the Existing Wastewater Treatment Plant, and WWTP#3.

Billing Period: means the monthly billing period established by Bastrop in its sole discretion, which may be a calendar month, or other monthly period as established by Bastrop.

CCN: means a certificate of convenience and necessity or similar permit authorizing a specified entity to be the retail water or sewer service provider in a specified area.

City: means The City of Bastrop, Texas, a home rule municipality, organized and operating pursuant to the applicable laws of the State of Texas

City Manager: means the City of Bastrop's City Manager

Commission or TCEQ: means the Texas Commission on Environmental Quality or its successor agency.

Connecting Facilities: means District-owned infrastructure and facilities utilized to connect any Internal Facilities to a Point of Entry, including but not limited to a lift station, meter vault, check valves, air release valves or a manhole.

Costs of the System: means all of Bastrop's costs of acquiring, constructing, developing, permitting, implementing, expanding, improving, enlarging, bettering, extending, replacing, repairing, maintaining, and operating the Bastrop System, including, without limiting the generality of the foregoing, the costs of property, interests in property, capitalized interest, land, easements and rights-of-way, damages to land and property, leases, facilities, equipment, machinery, pumps, pipes, tanks, valves, fittings, mechanical devices, office equipment, assets, contract rights, wages and salaries, employee benefits, chemicals, stores, material, supplies, power, supervision, engineering, testing, auditing, franchises, charges, assessments, claims, insurance, engineering, financing, consultants, administrative expenses, auditing expenses, legal expenses and other similar or dissimilar expenses and costs required for the Bastrop System in accordance with policies of Bastrop's City Council.

Daily BOD loading*:* means the daily biochemical oxygen demand loading as measured based on the arithmetic average of all samples, grab or composite, within a calendar month, consisting of at least four separate representative samples taken in accordance with the Permit.

Developer: means West Bastrop Village, LTD., a Texas limited partnership, its successors or assigns.

Development: means the mixed-use development of the Tract, including residential and non-residential land uses, together with parkland, open space, recreational amenities and related facilities, intended to produce developed lots.

District: means the municipal utility district organized and operating in accordance with Section 54.016, Texas Water Code and Section 42.042, Texas Local Government Code, encompassing the Tract, known as West Bastrop Village Municipal Utility District.

District System: means the Wastewater facilities of the District for collection and transportation of Wastewater from its retail customers to the Points of Entry into the Bastrop System.

District Service Area: means the retail wastewater service territory of the West Bastrop Municipal Utility District, which shall be the boundaries of the West Bastrop Municipal Utility District.

Effective Date: means the last date of execution by all of the Parties.

ETJ: means extraterritorial jurisdiction.

Emergency: means a sudden unexpected happening; an unforeseen occurrence or condition; exigency; pressing necessity; or a relatively permanent condition or insufficiency of service or of facilities resulting from causes outside of the reasonable control of Bastrop. The term includes Force Majeure and acts of third parties that cause the Bastrop System to be unable to provide the Wholesale Wastewater Services agreed to be provided herein.

EPA: means the United States Environmental Protection Agency.

Existing Wastewater Treatment Plant: means the City-owned 1.4 MGD wastewater treatment plant operating pursuant to TPDES Permit No. WQ001107600, a copy of which is attached as Exhibit "C".

Force Majeure: means acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of any governmental entity other than Bastrop or any civil or military authority, acts, orders or delays of any regulatory authorities with jurisdiction over the parties, insurrections, riots, acts of terrorism, epidemics, landslides, lightning, earthquakes, fires, hurricanes, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or any other conditions which are not within the control of a party.

Governmental Authority: means and includes any federal, state, local or other governmental body, any governmental or quasi-governmental, regulatory or administrative agency, commission, body, or other authority exercising or entitled to exercise any administrative, executive, judicial,

legislative, policy, regulatory or taxing authority or power; or any court or other governmental tribunal.

Infiltration: means water that enters Bastrop's System through defects in the District's System such as cracks or breaks in the piping, manholes or other appurtenances.

Inflow: means water that enters the Bastrop System through direct sources in the District's System such as drain spouts, manholes, clean-outs, or other appurtenances.

***Initial Wastewater Impact Fee*:** means the Wastewater Impact Fee paid to the City within one hundred twenty (120) days of the Effective Date to reserve wastewater capacity equivalent to 53 Wastewater SUEs for the District, as further described in Section 5.05 of this Agreement.

Initial Wholesale Wastewater Service: means the reception, transportation, treatment, and disposal of no more than 24,000 GPD Wastewater to be provided by Bastrop to District, during the period before WWTP#3 is capable of providing service to the District.

Interceptors: means any wastewater mains, including, Trunk Main West, or other wastewater facilities constructed by or on behalf of Bastrop after the Effective Date of this Agreement that connect the City's Existing Wastewater Treatment Plant or WWTP#3 to a Point of Entry.

Internal Facilities: means the internal Wastewater collection and lift station facilities and related equipment, facilities, and appurtenances within the boundaries of the District to be constructed by or on behalf of District for the District's System to the Point of Entry.

Metering Facility: means the Wastewater flow meter, meter vault, and all metering and telemetering equipment, if any, to be installed as, when mutually agreed upon by the parties, but in no event sooner than the time 500 homes are constructed in the District and to be located at a Point of Entry to measure infiltration and inflow from District.

***Monthly Fixed Charge*:** means the City's wastewater Monthly Fixed Charge to be paid by District for wholesale wastewater service, per Water Meter, as adopted in Bastrop Code of Ordinances Section A13.02.002(c) as amended, currently $2.23 per Water Meter.

Parties: means the City, the District, and the Developer.

Planned Development Agreement or PDA: means the agreement entered into by the City and the Developer on August 11, 2006.

Planned Outage: means a shut-down by Bastrop in the operation of all or a portion of Bastrop's System, such that no wastewater service is provided to District (i) which shut-down is scheduled by Bastrop in order to carry out foreseeable preventive, corrective, and other maintenance activities on such System or which may be required by any Governmental Authority; (ii) for which Bastrop has notified District; (iii) which occurs no more than two (2) times in one (1) calendar year; and (iv) lasts for no more than three (3) Days unless another time period is mutually agreed-to in writing by both Parties.

Points of Entry: means the locations, to be approved by Bastrop, District and Developer, in Bastrop's System at which all Wastewater will pass from District's Connecting Facilities to Bastrop's System generally shown on Exhibit "D". Future Points of Entry, if any, shall be agreed upon by Bastrop and District in connection with the acquisition or construction and commencement of operation of new Connecting Facilities, after the Effective Date, that connect to Bastrop's System.

Prohibited Waste: means those substances and wastes prohibited from being discharged into Bastrop's System as identified in Bastrop's Code of Ordinances.

SUE: means Service Unit Equivalent which is currently equivalent to 250 gallons per day of wastewater.

Subsequent Wastewater Impact Fee: means any Wastewater Impact Fee paid after the Initial Wastewater Impact Fees is paid to City, as further described in Section 5.05 of this Agreement.

Tract: means the approximately 347.9 acres of land within the District's boundaries.

Trunk Main West: means the wastewater interceptor that will connect the District to the City's Existing Wastewater Treatment Plant and WWTP#3, as further described in Section 3.07, and shown generally on Exhibit "E".

Waste or Wastewater: means liquid or water borne waste, including without limitation, sewage.

Wastewater Impact Fee: means the City's wastewater Impact Fee in the amount of $5,020 per SUE, as adopted in Bastrop Code of Ordinances Section 10.02.093 as amended.

Wastewater Meter or Wastewater Flow Meter means the meter that may be installed and operated in accordance with Sections 4.01 - 4.03 for the purpose of measuring Inflow/Infiltration into the Bastrop System

Water Meter: means the water meter(s) installed to monitor the flow of wholesale water delivered to the District by the City pursuant to the Wholesale Water Agreement between the District and City entered into as of the same date of this Agreement.

Wholesale Wastewater Service: means the treatment by Bastrop of Wastewater in accordance with the terms and conditions of this Agreement

Wholesale Wastewater Service Area: means the entire Tract.

WWTP#3: The planned wastewater treatment plant to be built by the City in which the District's ultimate capacity needs will be reserved. Its planned location is shown on Exhibit "D".

Section 1.02 Captions.

The captions appearing at the first of each numbered section or paragraph in this Agreement are inserted and included solely for convenience and shall never be considered or given any effect in construing this Agreement.

ARTICLE II. PROVISION OF WHOLESALE WASTEWATER SERVICE

Section 2.01 Wholesale Wastewater Service Commitment.

a. Subject to the terms and conditions of this Agreement and the requirements of applicable law, Bastrop agrees to provide Wholesale Wastewater Service to District for the Wholesale Wastewater Service Area in a quantity not to exceed 375,000 GPD in phases as set-forth in Section 2.02 of this Agreement. The City's obligation set-forth in this Section 2.01(a) shall hereinafter be referred to as the "Wholesale Wastewater Service Commitment." The amount of the Wholesale Wastewater Service Commitment, up to 375,000 GPD, is based on a quantity of gallons and is not limited to a number of SUEs. Initially, with SUEs calculated at a flow rate of 250 GPD per connection, 375,000 GPD is sufficient to provide service to approximately 1,500 SUEs. However, in the event (i) the City determines that SUEs in Bastrop's System should be based on less than 250 GPD or (ii) the District determines, based on actual flows, that the connections in the District that are sending wastewater to the Bastrop System are using less than 250 GPD, City, at City's sole discretion may determine that a figure lower than 250 GPD may be used to calculate the number of SUEs that may receive wastewater service pursuant to this Agreement. Any such additional SUEs that receive wastewater service pursuant to this Agreement will require payment of Subsequent Wastewater Impact Fees in accordance with Section 5.05 of this Agreement. The payment of additional Impact Fees shall not apply to capacity paid for, or that is being paid for in installments, prior to the date the flow factor is decreased by the City.

b. The Wholesale Wastewater Service Commitment may be reduced in accordance with Section 5.05 of this Agreement.

c. District or Developer may request that Bastrop increase the Wholesale Wastewater Service Area and/or the Wholesale Wastewater Service Commitment. In such event, Bastrop, District and Developer will enter into good faith negotiations to amend this Agreement to increase the Wholesale Wastewater Service Commitment and/or the Wholesale Wastewater Service Area, as appropriate. Provided, however, to allow flexibility to respond to market conditions, subject to prior written notice by the District or Developer to the City, the Wholesale Wastewater Service Commitment can be increased without the need for amending this Agreement so long as the Bastrop System has capacity available and such increase does not exceed the Wholesale Wastewater Service Commitment set forth herein by more than 25%. In such event, Bastrop City Manager shall provide a letter to the District and Developer, within sixty (60) days of receipt of notice from the District and/or Developer requesting such increase in Wholesale Wastewater Service Commitment, approving the increased Wholesale Wastewater Service Commitment. Impact Fees for additional SUEs that receive service pursuant to this Agreement as a result from such increase in Wholesale Wastewater Service Commitment shall be paid for in accordance with Section 5.05(b) of this Agreement.

Section 2.02 Phasing of Wholesale Wastewater Service.

Subject to the provisions of the foregoing paragraph 2.01, Bastrop shall make Wholesale Wastewater Service available within the Wholesale Wastewater Service Area on a phased basis as follows:

a. Phase 1: Initial Wholesale Wastewater Service in the amount of up to 24,000 GPD shall be made available from the City's Existing Wastewater Treatment Plant to the Wholesale Wastewater Service Area upon acceptance by the City of Connecting Facilities to a Point of Entry.

b. Phase 1A: The Parties recognize and acknowledge that the City, by agreement, has access to 24,000 GPD of committed but unutilized capacity from the Existing Wastewater Treatment Plant to serve the District until such time as WWTP #3 is operational. Notwithstanding, the City is diligently pursuing the permitting, design, construction and operation of WWTP#3 and at the time WWTP#3 is operational, the City's Wholesale Wastewater Service Commitment under this Agreement will be provided through WWTP#3. Although the City may physically provide additional Wholesale Wastewater Service to the Development prior to the operation of WWTP#3, the City's existing wastewater capacity has already been fully committed to others. Therefore, in exchange for the City's Wholesale Wastewater Service Commitment, the Parties agree that if the District or the Developer desire more than 24,000 GPD prior to the time that WWTP#3 is operational, the City may provide additional unutilized capacity if such is available, or the District may temporarily pump and haul wastewater and, if determined necessary by the District, construct and operate at its own expense temporary pump and haul facilities subject to the following conditions, as applicable:

(1) District will bear all the costs of the design, construction, maintenance and operation of any pump and haul facilities;

(2) District is responsible for obtaining any necessary approvals for the pump and haul facilities and for compliance with any applicable laws or regulations.

(3) All parties agree that pump and haul treatment is not preferred and that no more than 250 SUEs will utilize pump and haul for wastewater service, unless determined necessary by the District in the event City is unable to provide sufficient Wholesale Wastewater Service or WWTP#3 is not completed at such time the District needs additional capacity from WWTP#3;

(4) District is responsible for monitoring any pump and haul facilities to ensure there are no overflows of Wastewater. A TCEQ licensed wastewater disposal company will conduct pump and haul operations. District will provide the City a copy of monthly invoices for pump and haul operations. This should include verification of proper disposal and the total volume of wastewater pumped each month via disposal manifests or similar;

Commented [A1]: Verify that this is the simplified language agreed upon

(5) Upon receiving notice from the City that WWTP#3 is operational, District will cease operation of any pump and haul facilities and will be responsible for all costs associated with removing pump and haul facilities;

(6) Prior to constructing any pump and haul facilities, detailed plans, signed and sealed by a Texas Licensed Professional Engineer, must be submitted and approved by the City. Plans shall include, if determined necessary by the District's engineer, all weather access road to collection site and calculations of projected flow;

(7) Any storage tanks for the pump and haul facilities must have constant storage tank level monitoring with auto-dialer capabilities;

(8) District shall provide the storage deemed reasonably sufficient by the District engineer, and approved by the City; and

(9) District understands and agrees that it will not likely recoup the costs of pump and haul from users of any pump & haul facilities, and that District or Developer is responsible for any deficiency in its operation. Neither the District nor the Developer will receive any impact fee credit or reimbursement from the City for the pump & haul facilities or for the removal of any pump & haul facilities unless City fails to provide sufficient Wholesale Wastewater Service in accordance with this Agreement. Provided, however, District shall not be responsible for paying the City any rates, charges or fees attributable to the quantity of wastewater pumped or hauled by District.

c. Phase 2: Up to 375,000 GPD of Wholesale Wastewater Service shall be made available from WWTP #3 to the Wholesale Wastewater Service Area upon acceptance of Connecting Facilities to a Point of Entry.

Section 2.03 Wastewater Strength Limitations.

The Wholesale Wastewater Service Commitment shall be subject to the following additional limitations:

The daily BOD Loading, as measured based on the arithmetic average of all samples, grab or composite, within a calendar month, consisting of at least four (4) separate representative samples taken in accordance with the Permit shall not exceed an average of 0.425 pounds (BOD-5) per SUE allocated to a Phase. The daily BOD Loading for Phase l shall not exceed 76.5 pounds (BOD-5). The daily BOD loading for all subsequent phases shall be calculated in accordance with this subsection.

Daily BOD Loading (BOD-5) = (0.425 pounds) x (number of SUEs requested per phase).

The Parties agree that any increase in the agreed daily BOD of Wholesale Wastewater Service that Bastrop provides to District under this Agreement will require a written amendment of this Agreement duly authorized by the governing bodies of the Parties. Provided, however, City agrees,

if requested by the District, to amend this Agreement to reflect increases to the daily BOD limits, if such rate or limit (i) is inconsistent with industry standards or (ii) should be increased to reflect changes in rules, regulations or technologies, as agreed upon by the City and the District.

Section 2.04 Sole Provider; Waste Disposal Permit Application.

a. For so long as Bastrop meets its obligations under this Agreement, Bastrop will be the sole source of Wholesale Wastewater Service to District for the Wholesale Wastewater Service Area unless: i) Bastrop consents in writing to District's conversion to another wholesale provider; or, ii) Bastrop refuses or fails to provide Wholesale Wastewater Service in accordance with the terms of this Agreement, in which event District shall be free to find an alternative Wholesale Wastewater Service provider or build a wastewater treatment plant to serve the District.

b. Under the terms and conditions set forth herein, Bastrop shall be entitled to provide Wholesale Wastewater Service to District for the Wholesale Wastewater Service Area from any source of treatment capacity available to Bastrop.

Section 2.05 Transferability of Wholesale Service Commitment.

a. Bastrop's commitment to provide Wholesale Wastewater Service under this Agreement is solely to District and solely for the Wholesale Wastewater Service Area. District may not assign or transfer in whole or in part Bastrop's service commitment to any person or entity without Bastrop's approval, which consent shall not be unreasonably withheld, and any assignment will be subject to the terms and conditions of this Agreement.

b. Bastrop may not assign or transfer in whole or in part its obligations under this Agreement to any other person or entity, without District's prior written consent, which consent shall not be unreasonably withheld.

Section 2.06 District Responsible for Retail Connections.

District will be solely responsible for ensuring compliance by its retail customers with the applicable terms of this Agreement and for the proper and lawful application of District's policies and regulations governing connection to the District System.

Section 2.07 Retail Billing and Collection.

District agrees that it will be solely responsible for retail billings to and collections from its customers within the Wholesale Wastewater Service Area.

Section 2.08 Curtailment of Service.

The Parties agree that if Wastewater Service is curtailed by Bastrop to customers of the Bastrop System due to a Planned Outage or Emergency, Bastrop may impose a like curtailment, with notice to District, on Wholesale Wastewater Service provided to District under this Agreement. Bastrop will impose such curtailments in a nondiscriminatory fashion. The curtailment Bastrop imposes on District shall be equal in duration to the curtailment imposed on Bastrop's retail members.

For Planned Outages, Bastrop shall provide notice to District of the date and duration of any Planned Outages to be conducted by Bastrop that may affect wastewater service to the District at least thirty (30) days prior to the Planned Outage. To the extent reasonably possible, Bastrop shall coordinate the timing of any Planned Outage with District and shall cooperate with District to minimize the impact of any Planned Outage on the operation and maintenance of District System.

When an Emergency occurs curtailing wastewater service to District, Bastrop shall notify District of the existence, nature, and expected duration of the Emergency as soon as reasonably practical. Bastrop shall use its best efforts to ensure that any interruption in the provision of wastewater service due to an Emergency shall continue only for so long as reasonably necessary. Bastrop shall immediately inform District of any changes in the nature and expected duration of such Emergency.

Section 2.09 Cooperation during Maintenance or Emergency.

District will reasonably cooperate with Bastrop during periods of Emergency or required maintenance of the Bastrop System. If necessary, upon prior notice, District will operate and maintain the District System in a manner reasonably necessary for the safe and efficient completion of repairs or the replacement of facilities, the restoration of service, and the protection of the public health, safety, and welfare.

Section 2.10 Retail Service and CCN.

The Parties acknowledge and agree that District shall be the retail provider of sewer service to lands within the Wholesale Wastewater Service Area. Bastrop agrees that it will not oppose or protest an application by District to obtain a sewer CCN for the Wholesale Wastewater Service Area within the District boundaries. Bastrop will not provide retail sewer service within the Wholesale Wastewater Service Area and shall amend any agreements providing for Bastrop to provide retail wastewater service within the Wholesale Wastewater Service Area to be consistent with the retail sewer service area boundaries and the agreements regarding inspection of Internal Facilities set forth in this Agreement. The District shall not provide retail wastewater service outside of the District Service Area, without the prior written approval of the City.

ARTICLE III. DESIGN AND CONSTRUCTION OF FACILITIES

Section 3.01 Design and Construction of the Internal Facilities.

a. District will be responsible for design and construction of, or for causing one or more third parties to design and construct, the Internal Facilities within the District System.

b. District agrees to be responsible for and pay for all costs of rights-of-way, easements, design, engineering, contracting, construction and inspection of the Internal Facilities; provided that District may require Developer to be responsible and pay for all or a portion of the costs of rights-of-way, easements, design, engineering, contracting, construction, and inspection of the Internal Facilities. Notwithstanding the foregoing, in the event any Internal Facilities will serve an area outside the District, the City agrees to pay or cause the user(s) of such Internal Facilities to pay its proportionate share of such facilities based on allocated capacity in such facility.

c. The Internal Facilities will be designed and constructed in accordance with applicable regulations and specifications of Bastrop in effect as of the Effective Date, the State of Texas and United States, and with the terms and conditions of this Agreement.

Section 3.02 Design and Construction of the Connecting Facilities.

a. District shall be responsible for design and construction of, or for causing one or more third parties to design and construct, any Connecting Facilities, or modification to the existing Connecting Facilities, required for the transmission of Wastewater to the Bastrop System.

b. Subject to the terms and conditions of this Agreement, District agrees to engage or cause to be engaged the services of a professional engineer registered in Texas to produce the engineering design, including detailed plans and specifications for Connecting Facilities in conformance with Bastrop's design criteria and construction standards in effect as of the Effective Date, and any approved variances. Notwithstanding the foregoing, at the option of the District or Developer, District or Developer may avail itself of any change to laws, rules, regulations or ordinances affecting the Tract. The plans and specifications will address the sizing, routing, material selection, service method, cost estimates, proposed construction schedule, easements, and such other requirements and information required in Bastrop's Construction Standards Manual, Ordinance or other City regulation related to the design and construction of public improvements that are reasonably necessary or advisable for proper review and assessment of the plans and specifications. The design for the Connecting Facilities shall be procured at District's sole expense; provided that District may cause Developer to be responsible for designing the Connecting Facilities, and the cost thereof. The plans and specifications for the Connecting Facilities will be submitted to Bastrop for review and comment before District approves said plans and specifications. Bastrop shall approve the plans and specifications or provide written comments in accordance with any applicable state-mandated timeframes and applicable City policies and processes. District shall cause any comments provided by Bastrop that comply with the applicable design criteria and construction standards to be addressed.

c. District solely shall be responsible for the construction of the Connecting Facilities, or for causing Developer to be responsible for the construction of the Connecting Facilities. District solely shall be responsible for funding construction, and all costs related thereto, of the Connecting Facilities, or for causing one or more third party developers or owners of land within the Wholesale Wastewater Service Area to be responsible for funding construction, and all costs related thereto, of the Connecting Facilities.

d. District agrees to be responsible for, and pay for all costs of rights-of-way, easements, design, engineering, contracting, construction and inspection of the Connecting Facilities required to be constructed for the connection to the Bastrop System, or for causing Developer to be responsible for and to pay all costs of rights-of-way, easements, design, engineering, contracting, construction and inspection of the Connecting Facilities required to be constructed for the connection to the Bastrop System. Provided, however, if any such facilities are oversized to serve land outside the District, the City shall pay or cause to be paid the costs related to such oversizing.

e. The parties will cooperate in good faith to determine the location of Connecting Facilities that are located in Bastrop's ETJ and within the District boundaries. Bastrop agrees to cause the dedication of easements or rights-of-way that may be necessary for the location and installation of Connecting Facilities within the ETJ of Bastrop. Pursuant to separate written instruments, Bastrop will further allow District to access and use rights-of-way and easements owned or controlled by City for the purpose of installing, constructing, repairing, replacing, maintaining, and operating or causing to be installed, constructed, repaired, replaced, maintained and operated, Connecting Facilities.

Section 3.03 Notification of Commencement of Construction on Connecting Facilities.

After all required approvals for construction of the Connecting Facilities are obtained but prior to commencement of construction, District will provide, or cause to be provided, written notice to Bastrop of the date on which construction of the Connecting Facilities is scheduled to commence. Bastrop must receive this written notice at least five (5) days before the scheduled construction date.

Section 3.04 Inspection and Acceptance of a Portion or All of the Connecting Facilities.

The Parties agree that Bastrop has the right to make periodic inspections during the construction phase of the Connecting Facilities. Acceptance of the Connecting Facilities by District is subject to final inspection by Bastrop.

Section 3.05 Agreement to Submit As-Built or Record Drawings and Final Plats.

District agrees to provide, or cause to be provided, to Bastrop: a) as-built or record drawings of all Internal Facilities and Connecting Facilities that contribute directly to the Bastrop System; and b) final plats for property located within the Wholesale Wastewater Service Area; within thirty (30) days of District receiving them, not to exceed sixty (60) days following completion and acceptance of the construction of such facilities or recording of the final plat, as appropriate.

Section 3.06 Ownership and Operation of Connecting Facilities.

Except as set forth below or otherwise agreed, District shall own and operate all Connecting Facilities located on its side of a Point of Entry after completion of construction by District or the Developer, and acceptance of the Connecting Facilities by Bastrop.

Section 3.07 Design and Construction of Interceptors.

a. The District at District's cost, which may be paid by Developer, (including easement acquisition for the easement shown on Exhibit "F", which easement has been acquired) will design and construct Trunk Main West in a size sufficient to provide capacity to serve the District, as determined by the District's engineer. City retains the right to inspect all construction to confirm compliance with applicable City ordinances and plumbing codes. Upon completion of construction, District will dedicate and convey Trunk Main West to the City. The City will own, operate and maintain Trunk Main West upon its completion, acceptance and conveyance by the District to the City. The District shall have the right to utilize the percentage of the Trunk Main West line's capacity necessary to transport sewage

at a flow rate of 375,000 GPD, which amount will be increased to the amount equal to the Wholesale Wastewater Service Commitment in the event the Wholesale Wastewater Service Commitment is increased as provided in this Agreement, to serve the District at full buildout.

b. City may participate in the upsizing of Trunk Main West. In such event, the City agrees to pay the District, prior to construction of Trunk Main West, for the increased material costs for the difference between the line necessary to serve the District's planned 12" line and the City's proposed 24" line plus the additional design and construction costs associated with upsizing ("City's Oversize Costs"). Subject to the conditions of a Development Agreement regarding oversizing of Trunk Main West, if such agreement is completed within ninety (90) days of the Effective Date of this Agreement, or, if not completed within ninety (90) days of the Effective Date of this Agreement, then without such Development Agreement, ~~T~~the District, at its option, may proceed with construction of Trunk Main West prior to receiving payment from the City for City Oversize Costs. In such event, the City's Oversize Costs shall be paid by the City to the District upon completion of construction of the Trunk Main West or may be applied as a credit towards the amounts owed for Wastewater Impact Fees under this Agreement, as determined by the District. The Parties agree to coordinate, in the future, cost sharing for any additional facilities that are oversized or serving land outside the District.

Commented [A2]: New sentence added that says subject to conditions of development agreement… I added language to the sentence that we can move forward with Trunk Main West without a development agreement if the agreement is not completed within ninety days.

c. Except as described in Subsection 3.07(a) and (b) or as otherwise agreed by the Parties, Bastrop shall be responsible for design and construction of the Interceptors, including the acquisition of all easements required for the construction, ownership and operation of the Interceptors.

d. Bastrop agrees that the Interceptors shall be designed and constructed with sufficient capacity to make wholesale service available to District in an amount not less than required for Bastrop to fulfill its obligations under this Agreement.

e. Under no circumstances shall District construct any Interceptors that would connect to or contribute Wastewater into the Bastrop System without Bastrop's prior written approval.

Section 3.08 Design and Construction of Improvements to the Bastrop System and WWTP#3

a. Bastrop shall be responsible for the design and construction of WWTP#3 (Permit No. WQ0011076002) and the portions of the Bastrop System that serve the Wholesale Wastewater Service Area.

b. For the term of this Agreement, Bastrop agrees that it will provide Wholesale Wastewater Service to District up to the Wholesale Wastewater Commitment under the terms and conditions of this Agreement and payment of the Wastewater Impact Fees, as further described in Section 5.05, shall guarantee capacity in the WWTP#3 and the Bastrop System for the number of SUE's for which the Wastewater Impact Fee is paid, or a portion of which is paid pursuant to 5.05(c)(2).

ARTICLE IV. WASTEWATER METER

Section 4.01 Wastewater Meter.

The District, at District or Developer expense, shall install a Wastewater Meter, the type, specifications and location of which shall be agreed upon by the Parties, for the purpose of measuring Inflow/Infiltration into the Bastrop System. Such metering device shall be installed when determined reasonably necessary by the Parties, provided, however, such metering device shall not be required to be installed prior to the completion of 500 homes in the District. Upon completion of installation, the wastewater meter(s) shall be dedicated to Bastrop.

Section 4.02 Wastewater Flow Meter Calibration and Testing.

a. Bastrop agrees to calibrate and routinely service the Wastewater flow meter no less than once during each twelve (12) month period as a Cost of the System. Calibration will be accomplished according to Bastrop's standard methods.

b. Bastrop will notify District in writing of proposed calibrations in advance of such occurrences so that District may observe if desired.

c. It will be the duty of the Parties to this Agreement to notify the other Party in the event any Party becomes aware that a Wastewater flow meter is registering inaccurately or malfunctioning. Any Party will have the right to test a flow meter at any time. Notification of a proposed test will be provided at least forty (48) hours before conducting the test except in the case of emergencies. Any Party will have the right to witness Wastewater flow meter tests. Payment for meter calibration and testing under this Section 4.02(c) will be the responsibility of the Party requesting the meter calibration and testing.

Section 4.03 Ownership, Operating and Maintenance of the Wastewater Flow Meters.

Following completion of the wastewater meter by District, and acceptance by Bastrop, Bastrop will own, operate and maintain the wastewater meter.

Section 4.04 Billing Adjustments.

If measured flows from the Wastewater Meter and/or alternate data available from the District that measures wastewater flows ("Alternate Data"), calculated on a per SUE basis (measured flows divided by the number of then existing SUEs), are more than 10 percent over the monthly winter average of water consumption, as described in Section 5.03, per SUE, indicating potential inflow and infiltration from the District such that additional flows are being sent to the Bastrop System from the District, District shall pay for ~~the~~ such additional flows that are in excess of 10 percent over the monthly winter average of water consumption, per SUE, as measured by the Wastewater Meter or Alternate Data. The calculation described above to determine the potential inflow and infiltration is based on a per connection (SUE) basis rather than on the gross usage.

Commented [A3]: Language added to clarify that this is calculated on a per unit basis rather than gross—because we will be adding additional connections throughout development, usage and flows will always increase based on the continual increase in the number of connections.

Needs to be average per unit, because number of connection will increase throughout year

If, for any reason, the Water Meter is out of service or inoperative, or if, upon any test, a Water Meter(s) is found to be inaccurate (variance of five percent (5%) or more), Bastrop will calibrate the meter to measure within five percent (5%) accuracy, Bastrop will adjust billings by an amount

that corresponds to the percentage that the meter varies from accurate measurement for one-half of the months since the most recent calibration of the same meter but not to exceed six (6) months. If adjustment results in credit to District, Bastrop may provide such credit against future billings to District. If adjustment results in additional amounts due to Bastrop, District will pay such amounts to Bastrop in accordance with the billing terms provided in this Agreement.

Section 4.05 Wastewater Flow Monitoring.

If Bastrop discovers a wastewater flow problem, as determined in its reasonable discretion, associated with a Point of Entry, Bastrop may, at any time with notice to District, conduct smoke testing, television of lines, or other methods to determine the cause of the problem. The Parties agree to fully cooperate in this investigation. If the cause of the problem is determined to be solely in Bastrop's System, then Bastrop will solely pay for all investigation costs. If the cause of the problem is determined to be solely in District's System, then District will solely pay for al1 investigation costs. If the cause of the problem is determined to be in both District and Bastrop Systems, then investigation costs wil1 be proportionally distributed based on the relative cost to investigate each part of the District and Bastrop Systems, as mutually agreed upon by the District and the City. District agrees to reimburse Bastrop for District's portion of this investigation costs within forty-five (45) days of receipt of invoice, which invoice shall include supporting data in reasonable detail. District agrees to correct any problems in the District's System identified in the investigation, and agreed upon by District, with reasonable promptness, depending on the nature of the problem.

ARTICLE V. WASTEWATER RATES AND CHARGES

Section 5.01 Wholesale Wastewater Rate Fees and Charges.

a. In accordance with the terms and conditions of this Agreement, Bastrop, through City Council, will establish and District (as set forth below) will pay Bastrop rates, charges and fees for the Wholesale Wastewater Service provided under this Agreement. The rates, charges and fees for Wholesale Wastewater Service shall consist of:

   (1) the Wholesale Wastewater Rate, which shall consist of a Volume Charge, and Monthly Fixed Charge, as set forth in Section 5.03; and

   (2) Wastewater Impact Fee.

b. Bastrop specifically agrees that the Volume Charge will be calculated so that all Costs of the System on which the charges are based are properly allocated between District, any other wholesale customers of the System, and Bastrop's retail customers in a just, reasonable and nondiscriminatory manner and in accordance with this Agreement.

c. Any subsequent changes in rates shall be shall be set in accordance with the following principles:

   (1) The Wholesale Wastewater Rate shall be calculated in accordance with industry standards;

(2) Rates shall be just, reasonable, and non-discriminatory, and shall be based on Costs of the System related to the provision of Wholesale Wastewater Service under this Agreement;

(3) The Wholesale Wastewater Rate shall not include any capital costs recovered through the Wastewater Impact Fee for infrastructure and facilities, or portions thereof constructed to serve the District;

(4) Costs attributable to Bastrop's retail customers only will be identified and not included in the rates charged for Wholesale Wastewater Service under this Agreement; and

(5) The Wholesale Wastewater Rate shall be calculated based on cash basis.

d. Bastrop agrees that it will review the Costs of the System that form the basis for the Wholesale Wastewater Rate not less than once every three (3) years; provided, however, that Bastrop shall not be required to employ persons other than Bastrop employees for purposes of doing so unless Bastrop wishes to increase the Wholesale Wastewater Rate, or unless the Bastrop employee is not qualified to conduct a wastewater rate study.

Section 5.02 Notice to and Review by District.

a. Bastrop will provide District with at least thirty (30) days prior written notice of any changes to the Wholesale Wastewater Rate. Written notice shall include the proposed new rates and/or fees, and an updated cost of service study with reasonable detail that allows District to identify the methodology used to revise the rates (including enough detail to allow District to evaluate the exclusion of retail-only service costs from the Wholesale Wastewater Rate), the Costs of the System that necessitate the change, along with the allocation of Costs of the System between District, and all other customers of the Bastrop System (wholesale and retail).

b. District will have the right to inspect and copy, at its expense, Bastrop's books and records to verify any statement, billing, charge, computation or demand made to District by Bastrop. Bastrop agrees to make all such information available to District for inspection and copying with reasonable promptness during normal business hours.

Section 5.03 Volumetric Charges and Monthly Fixed Charges.

a. Bastrop will charge a monthly Volumetric Charge as reflected in Bastrop Code of Ordinances Section A13.02.002(c), as may be amended, currently in the amount of $3.83 per 1,000 gallons, based on the "winter average" of the water consumption for the months of December, January and February as such winter average is calculated in accordance with the rules of the City. Bastrop shall provide District written notice thirty (30) days prior to revision of the monthly Volumetric Charge.

b. Bastrop will bill District as provided in Article VI of this Agreement for the Volumetric Charge based on the "winter average" of the water consumption measured at the Water Meter for the months of December, January and February. Provided, however, prior to

provision of service to any commercial users within the District, the Parties agree to evaluate whether winter averaging shall apply for commercial users and agree to amend this Agreement related to billing methodology for commercial users if, in the City's reasonable opinion, a different billing methodology should be utilized for commercial users.

c. Bastrop will charge a Monthly Fixed Charge consisting of a customer charge per Water Meter at the rate adopted in Bastrop Code of Ordinances Section A13.02.002(c), as may be amended, currently $2.23. Bastrop shall provide District written notice thirty (30) days prior to revision of the Monthly Fixed Charge.

Section 5.04 Wholesale Wastewater Rates.

The City shall invoice the District for wholesale wastewater delivery and treatment service at the same rate that the City charges its other wholesale customers per GPD of use. The District shall pay the City monthly, one month in arrears, as more fully described in Article 6 of this Agreement.

Section 5.05 Wastewater Impact Fees.

a. *Initial Wastewater Impact Fee.* The District, or the Developer if the District does not have sufficient funds, will pay to the City the Wastewater Impact Fee within one hundred twenty (120) days of the Effective Date to reserve wastewater capacity equivalent to 53 Wastewater SUEs for the District. The Wastewater Impact Fees specified by this Section 5.05(a) shall hereinafter be referred to as the Initial Wastewater Impact Fees.

(1) If the District or Developer fails to pay to the City the Initial Wastewater Impact Fees within one hundred twenty (120) days of the Effective Date to reserve wastewater capacity equivalent to 53 Wastewater SUEs for the District, this Agreement terminates immediately, the Agreement becomes null and void, and the City is released from any and all obligations imposed by this Agreement, including, without limitation, the Wholesale Wastewater Service Commitment.

b. *Subsequent Wastewater Impact Fees.* Within one hundred twenty (120) days of receiving written notice from the City that WWTP#3 is capable of providing service to the District, the District shall pay, or cause to be paid, to Bastrop to guarantee capacity in the Bastrop System, the Wastewater Impact Fee for the remaining SUEs that have been platted in the Wholesale Wastewater Service Area. For lots that have not been platted at the time WWTP#3 is completed, the District shall pay, or cause to be paid, to Bastrop, the Wastewater Impact Fee for the SUEs included in a final plat approved by the City within 120 days of such approval, in accordance with one of the payment methods authorized by Section 5.05(c). The Wastewater Impact Fees specified by this Section 5.05(b) shall hereinafter be referred to as the Subsequent Wastewater Impact Fees. Subsequent Wastewater Impact Fees may be paid in accordance with any method authorized by Section 5.05(c) below. Payment of the Subsequent Wastewater Impact Fee in accordance with any method authorized by Section 5.05(c) below will secure the right to capacity in the Bastrop

System only for the number of SUEs for which fees are paid or are being paid pursuant to 5.05(c)(2).

(1) If, after one hundred twenty (120) days of receiving written notice from the City that WWTP#3 is capable of providing service to the District, payment is not made to the City for the SUEs that have been platted, prior to completion of WWTP #3, in the Wholesale Wastewater Service Area, in accordance with Section 5.05(c) below, the City's Wholesale Wastewater Service Commitment is reduced by the amount for which payment is not made until such time payment is made.

c. Payment Options for Subsequent Wastewater Impact Fees:

(1) Lump Sum based on one hundred percent of the Wastewater Impact Fee Per SUE to be reserved, or

(2) Monthly installments paid on the first day of every month as follows: (i) for lots that have been platted at the time of completion of WWTP#3, monthly installments shall be paid beginning with the month immediately after notice is received by the District and the first installment is paid in accordance with Section 5.05(b) and (ii) for SUEs that are platted subsequent to completion of WWTP#3, monthly installments shall be paid beginning with the month immediately after a final plat is approved by the City and the first installment is paid in accordance with Section 5.05(b). The monthly installments shall be paid over time (36-60 months) based on the following formula: I = WIF x S x (WAC + 2.5%) / M

A. "I" means the Installment Fee Amount;

B. "WIF" means the Wastewater Impact Fee reflected in City Code of Ordinances Section 10.02.093, as amended;

C. "S" means the number of SUEs being reserved;

D. "WAC" means the City's weighted average cost of debt;

E. "M" means the number of months the installments are paid (the number of months may be between 36 and 60 as determined by the District);

d. District may require Developer to pay for or to reimburse District for the Wastewater Impact Fee.

e. Bastrop and District shall each keep accurate records of the Wastewater Impact Fee paid. For each payment of Wastewater Impact Fees made by District or the Developer, Bastrop shall give District a certificate stating the total Wastewater Impact Fees paid and the number of SUE's guaranteed by such payment. The parties may inspect each other's records during normal business hours.

f. Bastrop agrees to provide, annually, by September 1 of each year, a report to the District and the Developer identifying the capacity committed in the Bastrop System, including WWTP#3, remaining capacity available and anticipated expansions thereto. City further agrees to provide notice to District and Developer when the City has commenced design of any expansions to the Bastrop System.

g. On the first business day of each new quarter (January, April, July, October,) District shall deliver to Bastrop the total number of SUEs connected to the System during the previous quarter.

Section 5.06 Reasonableness of Rates and Right of Appeal.

District agrees that the Wholesale Wastewater Rates, charges and fees as defined and described in this Article V, initially charged by City and the policies defined in this Agreement are just and reasonable, and do not adversely affect the public interest. The rates charged by City are subject to modification as provided herein. District agrees that it is reasonable for City to adjust the rates periodically as provided herein and understands that any adjustments made in accordance with this Agreement are part of the consideration for this Agreement. Notwithstanding any provision to the contrary, District does not waive any right it has under Texas law to file and pursue an appeal of any increase in wholesale wastewater rates proposed or adopted by City.

Section 5.07 Other Service Fees.

District acknowledges and agrees that Bastrop, through its City Council, may adopt charges and fees for Wholesale Wastewater Service in addition to the Volume Charge and Monthly Fixed Charge. These additional charges and fees are limited to review fees and inspection fees related to review and inspection of plans for the Internal Facilities and the Connecting Facilities, and any ~~new or increased charges for any new or revised Governmental Authority restrictions, impositions, rental fees or charges~~ fines or penalties levied, assessed or imposed on Bastrop by any ~~new or amended~~ Governmental Authority ~~law or regulation~~as a result of violations caused by the District System. These charges or fees shall be just and reasonable, and nondiscriminatory and are not to exceed the actual costs imposed by the Governmental Authority or by Bastrop for ~~cost~~ review and inspection. Plan review, inspection, and similar fees or charges relating to the design and/or construction of the Internal Facilities and Connecting Facilities shall be charged to and paid by the constructing party.

Section 5.08 District Wastewater Rates and Charges.

District will determine and charge its retail Wastewater customers such rates as are determined by its governing body. During the term of this Agreement, District will fix and collect rates and charges for retail Wastewater service that are, in the opinion of its governing body, sufficient, together with any other revenues available to District, to produce the amount necessary to operate, repair, and maintain the District System, and to pay the cost of Wholesale Wastewater Service from Bastrop. District will establish retail rates consistent with industry standards. District will be solely responsible for ensuring that its retail rates and charges are determined and collected in accordance with applicable law.

Section 5.09 District Wastewater Fees.

The Parties acknowledge that District has the right to the extent allowed under applicable law to assess, charge, and collect such impact fees, capital recovery fees, connection fees, meter fees, or other service fees, rates, truces, or other charges as its governing body will deem appropriate. This Agreement will not be construed to require, limit, or restrict the governmental power of District to implement the same. District will be solely responsible for the proper exercise of its governmental power to assess and collect such fees and charges and for ensuring that all fees, rates, and charges District elects to charge are in compliance with applicable law.

Section 5.10 Verification of District Wastewater Connections.

For verification of the Wholesale Wastewater Rates and fees as described in this Article V, paid to Bastrop and for any other purpose, District will make available for inspection and copying during regular business hours, all records for retail connections to the District System. In addition, Bastrop will have the right to inspect the District System at any reasonable time, at Bastrop's sole expense, after giving District written notice of its intention to inspect and allowing the opportunity for District to be present, to verify the type and amount of retail connections made or the condition of the District System (related to contractual compliance issues) and District will provide lawful access to Bastrop for this purpose.

ARTICLE VI. WASTEWATER WHOLESALE BILLING METHODOLOGY

Section 6.01 Monthly Statement.

a. For each monthly Billing Period, Bastrop will forward to District a bill providing a statement of the total amount owed by District for Wholesale Wastewater Service provided to District during the previous monthly Billing Period. The invoice shall contain sufficient detail to allow District to verify the charges. District shall not be charged for Wholesale Wastewater Services until such services commence. District will pay Bastrop for each bill submitted by Bastrop to District by check or bank-wire on or before thirty (30) days from the date of the invoice.

b. Payments by District shall be mailed to the address indicated on the invoice or can be hand-delivered to Bastrop's City Hall in Bastrop, Bastrop County, Texas, upon prior arrangement. If payments will be made by bank-wire, District shall verify wiring instructions with Bastrop's Finance Department. Payment must be received at Bastrop's bank by the due date in order not to be considered past due or late, unless District timely contests a bill, or a portion thereof, in accordance with Section 6.04. In the event District fails to make payment of an uncontested bill within said thirty (30) day period, District shall pay a one-time late payment charge of five percent (5%) of the unpaid balance of the invoice. In addition, District shall pay interest on the unpaid uncontested balance at a rate equal to one and one-half percent (l.5%) per month.

Section 6.02 Monthly Billing Calculations.

a. Bastrop will compute the Volume Charge included in the monthly billing for Wholesale Wastewater Service on the basis of "winter average" of the water consumption measured

at the Water Meter(s) for the months of December, January and February. The winter average amount multiplied by the Wholesale Wastewater rate, set from time to time by the Bastrop City Council, will be used to compute the monthly bill for the Volume Charge.

b. The District shall provide, annually, the projected number of SUEs for which wastewater service is expected to be provided for the future twelve Billing Periods.

Section 6.03 Infiltration and Inflow.

District acknowledges that water entering the Bastrop System from the District System emanating from any source whatsoever must be given treatment and handling whether or not its source is revenue producing for District. Therefore, subject to the conditions of Section 4.04, ~~including any penalty assessed,~~ the District agrees to pay, as part of the Volume Charge, for Infiltration and Inflow originating within the District S~~s~~ystem without abatement in the same manner and cost as other Wastewater entering Bastrop's System from the District System.

Section 6.04 Effect of Nonpayment.

With respect to monthly billings, including billings for the Wholesale Wastewater Rate and any other fees or charges applicable under this Agreement, if Bastrop has not received payment from District by the due date, the bill will be considered delinquent, unless contested in good faith. In such event, Bastrop will notify District in accordance with this Agreement, of such delinquency in writing. If District fails to make payment of the delinquent billing within thirty (30) calendar days from the date of transmittal of such written notice of delinquency from Bastrop, then Bastrop may, at its discretion, suspend or reduce the level of Wastewater service to District until payment is made. District may exercise its right to dispute its obligation to pay all or a portion of a bill during the cure period following the procedure set forth in Section 6.05.

Section 6.05 Billing Disputes.

Should District dispute its obligation to pay all or any part of the amount stated in any statement or notice, District may pay such amount along with a written notice of protest, in which event such amount shall be deposited by Bastrop in a separate interest-bearing account mutually acceptable to both Bastrop and District pending final resolution of such dispute in accordance with this Agreement. Bastrop may not terminate this contract or deny Wastewater service that is otherwise in accordance with this Agreement for failure to pay the amount stated in any statement or notice if District pays such amount under protest.

ARTICLE VII. WASTEWATER QUALITY

Section 7.01 Condition of Wastewater Delivered.

a. District shall have the right to discharge Wastewater into the Bastrop System meeting the requirements of quality as set forth in this Section and not containing Prohibited Wastes identified in Bastrop's Code of Ordinances.

b. Discharges into the Bastrop System shall consist only of domestic Wastewater and Wastewater that the Bastrop System is capable of handling:

(1) So that the effluent and sludge from the Bastrop System meets the current legal standards of the EPA, the TCEQ, or any governmental body having legal authority to set standards for such effluent;

(2) Without causing damage or corrosion to the Bastrop System that would result in increased maintenance costs;

(3) Without causing excessive treatment costs; and

(4) That meets any applicable requirements of the EPA Pretreatment Regulations, 40 CFR Part 403.

c. EPA and TCEQ periodically modify standards on prohibited discharges. It is the intention of the Parties, therefore, that the Prohibited Wastes be reviewed periodically by Bastrop and that they are revised by Bastrop in accordance with the latest standards of EPA, TCEQ or any federal or state agency having regulatory authority over discharges made to the Bastrop System. Any required revisions shall be made by Bastrop and upon the effective date, District shall be responsible for integrating such changes into its regulations and notifying all affected users of the change.

Section 7.02 Remedies for Delivery of Prohibited Wastes or Exceedances of Wastewater Quality.

a. In the event Wastewater delivered from the District System to the Bastrop System fails to meet the standards specified in this Agreement, and Bastrop reasonably determines that the addition of oxidizing chemicals or another acceptable method of pretreatment of Wastewater or operation of the District System is necessary in order for Wastewater delivered from the District System to the Bastrop System to be non-corrosive and non-injurious to the Bastrop System, District agrees to, ~~install such facilities~~ within forty-eight (48) hours of receiving notice from Bastrop ~~or immediately,~~ implement such methods of operation and maintenance, at its sole expense, as are reasonably deemed by Bastrop to be necessary, and agreed upon by the District, for the Wastewater delivered by District to meet the requirements of this Article.

Commented [A4]: Ryan – any further changes ?

b. In the event Wastewater delivered from the District System to the Bastrop System fails to meet the standards specified in this Agreement, District shall pay to Bastrop, in the same manner provided in this Agreement for the payment of the Volume Charges, a surcharge calculated in accordance with and subject to the requirements of this section (the "Treatment Surcharge") rounded to the nearest pound.

(1) The Treatment Surcharge shall be based on the following formula:

$$S = V \times 8.34 (A [BOD - 200] + B [TSS - 200]), \text{ where:}$$

A. "S" means the surcharge that will appear on District's monthly bill;

B. "V" means volume of wastewater actually billed in millions of gallons during the Billing Period;

C. 8.34 = pounds per gallon of water;

D. "A" means the unit charge in dollars per pound of BOD which unit charge shall be based on the unit charge adopted by the Bastrop City Council for wastewater service from the Bastrop System, as amended from time to time, which unit charge is $0.441603 per pound as of the Effective Date; provided that increases in such charge shall not be effective as to District until notice of the increase has been given to District;

E. "BOD" means biological oxygen demand measured in milligrams per liter by weight; "200" means 200 mg/l;

F. "B" means the unit charge in dollars per pound of total suspended solids. which unit charge shall be based on the unit charge adopted by the Bastrop City Council for wastewater service from the Bastrop System, as amended from time to time, which unit charge is $0.441603 per pound as of the Effective Date; provided that increases in such charge shall not be effective as to District until notice of the increase has been given to District; and,

G. "TSS" means total suspended solids measured in milligrams per liter by weight.

(2) The Treatment Surcharge shall be charged for each month following sampling completed in accordance with this Agreement that measures BOD in excess of 200 mg/I or TSS in excess of 200 mg/I until subsequent sampling measures both BOD and TSS below those levels. In the event any Treatment Surcharge is based on sampling performed by Bastrop, Bastrop will provide written notice of the sampling results prior to charging the Treatment Surcharge to District and shall give District an opportunity to be present during the testing.

c. In the event District delivers Wastewater to Bastrop that fails to meet the standards specified in this Agreement, District agrees to pay Bastrop for all damages and costs of repair to the Bastrop System and/or regulatory fines reasonably incurred by Bastrop that were caused by District's delivery of Wastewater that fails to meet the standards specified in this Agreement. Unless such damages, repairs, costs or fines are disputed by the District, Bastrop may require payment of the cost of repair of damaged facilities and/or regulatory fines as a condition to the further provision of Wholesale Wastewater Service, restrict District's flows to the extent necessary to protect Bastrop's System, file suit to recover for any and all damages to the Bastrop System caused by such failure on the part of District, or seek such other and further relief, at law or in equity, as Bastrop will deem advisable.

Section 7.03 Sampling and Testing.

a. District will perform sampling of Wastewater at the Point(s) of Entry and provide an analysis to Bastrop due every June 1, (year) and September 1, (year) after the Connecting Facilities are completed.

(1) AU samples will be Composite Samples, that is, a series of at least twelve (12) samples taken from a waste stream without regard to the flow in the waste stream and over a period of time not less than twenty-four (24) hours at intervals of not less than one (1) hour, which samples shall be averaged in accordance with standard industry practice.

(2) The analysis of the sample shall be performed by a National Environmental Laboratory Accreditation Conference (NELAC) approved laboratory. District will require a copy of the report to include at a minimum, levels of pH, BOD-5, COD TSS and oil and grease. The report also must contain the chain of custody for the sample and the Quality Assurance/Quality Control (QA-QC) report.

(3) District will be responsible for the cost of sampling and analysis.

(4) District will provide written notice to Bastrop or Bastrop's current plant operator at least five (5) business days prior to conducting Wastewater sampling and shall allow Bastrop or Bastrop's current plant operator representatives to observe the sampling.

(5) In the event District fails to perform sampling by the deadlines provided in this section, after notice and an opportunity to cure within thirty (30) days, District shall pay to Bastrop a sampling surcharge calculated in accordance with Subsection 7.02(b). In addition, if the District does not perform the sampling within the cure period, the District will pay Bastrop for Bastrop's actual costs to perform the sampling if Bastrop does so during the next thirty (30) days after the expiration of the cure period.

b. District agrees that Bastrop or Bastrop's current operator will have the right, at its option and expense, to sample Wastewater discharges within the District System at:

(1) the site of discharge;

(2) Points of Entry to the Bastrop System; and

(3) other locations as required for the purpose of determining the source, type, and strength of discharge.

c. District will use reasonable efforts to make necessary arrangements for and provide assistance to Bastrop in obtaining lawful access to sampling points within areas served by District. Bastrop will provide written notice to District at least five (5) business days prior to conducting Wastewater sampling and shall allow one or more District representatives to observe the sampling.

d. District agrees that to the extent authorized by applicable laws, any of its individual customers found in violation of allowable discharges or any of its individual customers who refuse access for the purpose of sampling may be disconnected from District and Bastrop's Wastewater System in accordance with applicable regulations of District or Bastrop and federal law.

e. Notwithstanding any other provision in this Agreement to the contrary, the Parties agree as follows:

(1) no Party shall be obligated to perform any sampling of Wastewater except at Points of Entry constructed with sampling ports; and

(2) all future sampling ports at Points of Entry shall be identified on plans and specifications for Connecting Facilities to be approved by Bastrop.

ARTICLE VIII. STANDARDS FOR WASTEWATER CONNECTIONS TO DISTRICT SYSTEM

Section 8.01 District Prevention of Infiltration and Inflow.

It will be District's responsibility to undertake such measures as are reasonably necessary or prudent to minimize Infiltration and Inflow to District's System. District will prohibit the discharge of drainage water and storm water run-off into the District System.

Section 8.02 Construction and Testing Criteria for District Sewer Connections.

a. All tests required by the design criteria and specifications of the State of Texas for connections to the District System within the Wholesale Wastewater Area will be at District's or its customer's expense.

b. District agrees that the physical connection of each service line to the local Wastewater facility within the Wholesale Wastewater Area will be the responsibility of District and will not be left to the discretion of the plumber or contractor unless said plumber or contractor is under the direct supervision of or whose work is inspected by District's authorized representative.

c. Connections made to the District System after the date of execution of this Agreement will be made using only materials permitted by applicable codes and development criteria manuals of the State of Texas. District will inspect all connections to the District System in accordance with its own rules and regulations in order to insure compliance with it.

d. A failure on the part of District to provide and enforce such regulations governing connections to the District System will, at the option of Bastrop after: (i) notice to District in writing of the specific violation, and (ii) failure within thirty (30) days to correct said violation or, if the violation is of a nature that it cannot be corrected within thirty (30) days, to begin to correct such violation and to diligently pursue such curative action in accordance with a plan to be reasonably agreed upon by the City and the District, constitutes sufficient grounds for Bastrop to restrict or limit Wastewater flows, to such extent Bastrop deems reasonably necessary in order to protect the Bastrop System from

damage or excessive flows, until such time as the District complies with this provision~~complies with this provision has completed all necessary corrective action~~. In the event the District determines a violation is of a nature that cannot be corrected within thirty (30) days, the District will submit in writing to the City a plan to correct such violation, which shall be reasonably agreed upon by the City and the District.

Commented [A5]: Ryan to add language

ARTICLE IX. LIABILITY FOR DAMAGES AND RESPONSIBILITY FOR TREATMENT AND DISPOSAL OF WASTEWATER

Section 9.01 Liability of District.

As between the Parties and except as otherwise provided herein, District shall bear responsibility for damages, if any, claimed by third persons arising from the reception, transportation, delivery, and disposal of all Wastewater discharged while it remains within the District System, and District, to the extent authorized by law, holds Bastrop harmless therefrom. Notwithstanding the foregoing, Bastrop shall bear responsibility for damages, if any, claimed by third persons because Bastrop does not accept Wastewater at a Point of Entry in a quantity that it is contractually obligated to accept under this Agreement, and Bastrop, to the extent authorized by law, agrees to hold District harmless therefrom.

Section 9.02 Liability of Bastrop.

Bastrop will bear the responsibility as between the Parties for the proper reception, transportation, treatment, and disposal of Wastewater received by it at Points of Entry in accordance with the Agreement. However, the Parties agree that they will not construe this Agreement to cause Bastrop to bear responsibility for damages to the Bastrop System or to third persons arising from the delivery by District of Prohibited Wastes or Wastewater that is in violation of this Agreement and corrosive or otherwise damaging to the Bastrop System or to persons or property.

ARTICLE X. REGULATORY COMPLIANCE

Section 10.01 Agreement Subject to Applicable Law.

The Agreement will be subject to all valid rules, regulations, and applicable laws of the United States of America, the State of Texas and/or any other governmental body or agency having lawful jurisdiction or any authorized representative or agency of any of them.

Section 10.02 Cooperation to Assure Regulatory Compliance.

Since the Parties must comply with all federal, state, and local requirements to obtain permits, grants, and assistance for system construction, studies, etc., each Party will cooperate in good faith with the other Party at all times to assure compliance with any such governmental requirements where noncompliance or non-cooperation may subject the Parties to penalties, loss of grants or other funds, or other adverse regulatory action in the performance of this Agreement.

ARTICLE XI. TERM, TERMINATION, DEFAULT, REMEDIES

Section 11.01 Term and Termination.

a. This Agreement shall become effective upon the Effective Date and shall extend until _____, 2069 unless terminated earlier as provided herein. Provided, however, unless the District provides at least six (6) months' written notice to the City prior to the end of the first fifty-year term, the Agreement shall be renewed for one additional term of fifty (50) years.

b. District may terminate this Agreement by providing not less than sixty (60) days written notice of termination to Bastrop.

Section 11.02 Default.

a. Except as otherwise provided herein, in the event District shall default in the payment of any amounts due to Bastrop under this Agreement, or in the performance of any material obligation to be performed by District under this Agreement, then Bastrop shall give District at least thirty (30) days' written notice of such default and the opportunity to cure same. Thereafter, Bastrop shall have the right to pursue any remedy available at law or in equity, pending cure of such default by District.

b. In the event Bastrop shall default in the performance of any material obligation to be performed by Bastrop under this Agreement, then District shall give Bastrop at least thirty (30) days' written notice of such default and the opportunity to cure same. Thereafter, in the event such default remains uncured, the District shall have the right to pursue any remedy available at law or in equity, pending cure of such default by Bastrop.

Section 11.03 Additional Remedies upon Default.

It is not intended hereby to specify (and this Agreement shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies existing at law or in equity may be availed of by any party and shall be cumulative of the remedies provided. Recognizing however, that Bastrop's undertaking to provide Wholesale Wastewater Service to the District System is an obligation, failure in the performance of which cannot be adequately compensated in money damages alone, Bastrop agrees, in the event of any default on its part, that District shall have available to it the equitable remedies of mandamus and specific performance in addition to any other legal or equitable remedies (other than termination of this Agreement) that may also be available. In recognition that failure in the performance of District's obligations could not be adequately compensated in money damages alone, District agrees in the event of any default on its part that Bastrop shall have available to it the equitable remedies of mandamus and specific performance in addition to any other legal or equitable remedies (other than termination of this Agreement) that may also be available to Bastrop including the right to obtain a writ of mandamus or an injunction against District requiring the District to collect rates and charges sufficient to pay the amounts owed to Bastrop by District under this Agreement. If either party institutes legal proceedings to seek adjudication of an alleged default under this Agreement, the prevailing party in the adjudication shall be entitled to its reasonable and necessary attorneys' fees. THE PARTIES

ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS SUBJECT TO SUBCHAPTER I, CHAPTER 271, TEXAS LOCAL GOVERNMENT CODE.

ARTICLE XII. GENERAL PROVISIONS

Section 12.01 Assignability.

Assignment of this Agreement is prohibited without the prior written consent of the other parties, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding anything herein to the contrary, the rights and obligations of the Developer, in whole or in part, may be sold or assigned by Developer to a subsequent owner or developer of all or a portion of the Tract or another person or entity in the City's sewer CCN.

Section 12.02 Amendment.

This Agreement may be amended or modified only by written agreement duly authorized by the respective governing bodies of District and Bastrop and executed by duly authorized representatives of each.

Section 12.03 Necessary Documents and Actions.

Each Party agrees to execute and deliver all such other and further instruments and undertake such actions as are or may become necessary or convenient to effectuate the purposes and intent of this Agreement.

Section 12.04 Entire Agreement.

This Agreement constitutes the entire agreement of the Parties and this Agreement supersedes any prior or contemporaneous oral or written understandings or representations of the Parties regarding Wholesale Water Service by Bastrop to District for the District Service Area.

Section 12.05 Applicable Law.

This Agreement will be construed under and in accordance with the laws of the State of Texas.

Section 12.06 Venue.

All obligations of the Parties created in the Agreement are performable in Bastrop County, Texas, and venue for any action arising under this Agreement will be in Bastrop County, Texas.

Section 12.07 Third Party Beneficiaries.

Nothing in this Agreement, express or implied, is intended to confer upon any person or entity, other than to the Parties, any rights, benefits, or remedies under or by reason of this Agreement.

Section 12.08 Duplicate Originals.

This Agreement may be executed in duplicate originals each of equal dignity.

Section 12.09 Notices.

Any notice required under this Agreement may be given to the respective Parties by deposit in regular first-class mail or by hand-delivery to the address of the other party shown below:

DISTRICT:	West Bastrop Village Municipal Utility District Allen Boone Humphries Robinson, LLP 1108 Lavaca, Suite 510 Austin, TX 78701 Attn: D. Ryan Harper
DEVELOPER:	West Bastrop Village, Ltd. 610 West 5th St., Ste. 601 Austin, TX 78701 Attn: David C. Mahn
CITY OF BASTROP:	City of Bastrop P. O. Box 427 Bastrop, TX 78602 Attn: City Manager
WITH REQUIRED COPY TO:	Alan Bojorquez Bojorquez Law Firm, PC 12325 Hymeadow Drive, Suite 2-100 Austin, Texas 78750

Notices shall be deemed received on the date of hand delivery or within three (3) days of deposit in first-class mail.

Section 12.10 Consents and Approvals.

Wherever this Agreement requires any Party, or its agents or employees to provide a consent, approval or similar action, the parties agree that such consent, approval or similar action will not be unreasonably withheld or delayed.

Section 12.11 Severability.

Should any court declare or determine that any provisions of this Agreement is invalid or unenforceable under present or future laws, that provision shall be fully severable; this Agreement shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in place of each such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision

as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. Texas law shall govern the validity and interpretation of this Agreement.

Section 12.12 Records.

Bastrop and District each agree to preserve, for a period of at least two (2) years from their respective dates of origin, all books, records, test data, charts and other records pertaining to this Agreement. Bastrop and District shall each, respectively, have the right during reasonable business hours to inspect such records to the extent necessary to verify the accuracy of any statement, charge or computation made pursuant to any provisions of this Agreement.

Section 12.13 State Approval; Compliance with TCEQ Rules and Applicable Federal Regulations.

Anything herein to the contrary notwithstanding, it is the intention of the parties that this Agreement fully comply with the requirements of the TCEQ and EPA applicable to domestic wastewater systems, effluent limitations and permitting requirements. The parties each agree to provide any information which may be requested by the other in order to respond to any inquiries or reports required by the TCEQ or EPA. If, at any time, it is determined that this Agreement does not comply with all applicable TCEQ or EPA requirements, the parties agree to cooperate to modify this Agreement in order to effect such compliance.

Section 12.14 Force Majeure.

If any party is rendered unable, wholly or in part, by Force Majeure to carry out any of its obligations under this Agreement, other than an obligation to pay or provide money, then such obligations of that party to the extent affected by such Force Majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. Such cause, as far as possible, shall be remedied with all reasonable diligence. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the affected party, and that the above requirements that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demand of the opposing party or parties when such settlement is unfavorable to it in the judgment of the affected party.

Section 12.15 Good Faith.

Each party agrees that, notwithstanding any provision herein to the contrary (i) it will not unreasonably withhold or condition or unduly delay any consent, approval, decision, determination or other action which is required or permitted under the terms of this Agreement, and (ii) it will act in good faith and shall at all times deal fairly with the other party.

Section 12.16 Authority of Parties Executing Agreement, Validity.

By their execution, each of the individuals executing this Agreement on behalf of a Party represents and warrants to the other Party that he or she has the authority to execute the document in the

capacity shown on this document. Each of the Parties further represent and warrant that this Agreement constitutes a valid and binding contract, enforceable against it in accordance with its terms.

Section 12.17 Exhibits.

The following exhibits are attached to and incorporated into this Agreement for all purposes:

Exhibit A: Metes and Bounds Description of the Land
Exhibit B: Map of Bastrop's Sewer CCN No. 20466
Exhibit C: Bastrop TPDES Permit No. WQ001107600
Exhibit D: Map Showing Locations of Wastewater Delivery Points, WWTP#3
Exhibit E: Map Showing Trunk Main West
Exhibit F: Easement for Trunk Main West

Section 12.18 Effective Date and Counterparts.

This Agreement will be effective from and after the last date of due execution by all Parties. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original.

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CITY OF BASTROP, TEXAS

By: _____
Name: Lynda Humble
Title: City Manager
Date: _____

ATTEST: _____
City Secretary

WEST BASTROP VILLAGE MUNICIPAL UTILITY DISTRICT OF BASTROP COUNTY

By: _____
Name: _____
Title: _____
Date: _____

STATE OF _____ §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2019, by _____, _____ of West Bastrop Village Municipal Utility District of Bastrop County, a Political Subdivision of the State of Texas, on behalf of said District.

_____

Notary Public, State of _____

WEST BASTROP VILLAGE, LTD.
A Texas limited partnership
By: WBV GP, LLC
A Texas limited liability company, general partner

By: _____
David C. Mahn
Title: Manager
Date: _____

STATE OF _____ §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2019, by David C. Mahn, Manager of WBV GP, LLC, a Texas limited liability company, General Partner of West Bastrop Village, Ltd., a Texas limited partnership, on behalf of said limited liability company as general partner of the general partner of the limited partnership.

_____

Notary Public, State of _____

Exhibit "A"

Metes and Bounds Description of the Land

Exhibit "B"

Map of Bastrop's Sewer CCN No. 20466

Exhibit "C"

Bastrop TPDES Permit No. WQ001107600

Exhibit "D"

Map Showing Locations of Wastewater Delivery Points, WWTP #3

Exhibit "E"

Map Showing Trunk Main West

Exhibit "F"

Easement for Trunk Main West

THE STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission.
Given under my hand and the seal of office on
APR 30 2007
LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AN ORDER GRANTING THE PETITION FOR CREATION OF WEST BASTROP VILLAGE MUNICIPAL UTILITY DISTRICT OF BASTROP COUNTY AND APPOINTING TEMPORARY DIRECTORS

A petition by J.D. Weaver/Bastrop, Ltd., (hereafter "Petitioner") was presented to the Executive Director of the Texas Commission on Environmental Quality (hereafter "Commission") for approval of the creation of West Bastrop Village Municipal Utility District of Bastrop County (hereafter "District") pursuant to Article XVI, Section 59 of the TEXAS CONSTITUTION and TEX. WATER CODE, Chapters 49 and 54.

The Commission, after having considered the petition, application material, and Memorandum from the Executive Director's staff dated April 12, 2007 regarding the petition, a copy of which is attached as Exhibit "B", finds that the petition for creation should be approved.

The Commission finds that the creation of the proposed District as set out in the application is feasible, practicable, necessary and would be a benefit to the land to be included in the proposed District.

The Commission further finds that the proposed District and its system and subsequent development within the proposed District will not have an unreasonable effect on land elevation, subsidence, groundwater level within the region, recharge capability of a groundwater source, natural run-off rates or drainage, water quality, or total tax assessments on all land located within the proposed District.

All of the land and property proposed may properly be included within the proposed District.

All statutory and regulatory requirements for creation of West Bastrop Village Municipal Utility District of Bastrop County have been fulfilled in accordance with TEX. WATER CODE § 54.021 and 30 TEX. ADMIN. CODE §§ 293.11-293.13.

NOW THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The petition for the creation of West Bastrop Village Municipal Utility District of Bastrop County is hereby granted.

2. The District is created under the terms and conditions of Article XVI, Section 59 of the TEXAS CONSTITUTION and TEX. WATER CODE, Chapter 54.

THE STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission.
Given under my hand and the seal of office on
MAY 04 2007
LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

3. The District shall have all of the rights, powers, privileges, authority, and functions conferred and shall be subject to all duties imposed by the Texas Commission on Environmental Quality and the general laws of the State of Texas relating to municipal utility districts.

4. The District shall be composed of the area situated wholly within Bastrop County, Texas, described by metes and bounds in Exhibit "A", attached hereto and incorporated herein for all purposes.

5. The memorandum from the Executive Director's staff dated April 12, 2007 (hereafter "Memorandum") is hereby attached as Exhibit "B" and incorporated as part of this order.

6. The persons listed in Recommendation No. 3 of the Memorandum are hereby named and appointed as temporary directors and shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oaths of office. All such bonds shall be approved by the Board of Directors of the District, and each bond and oath shall be filed with the District and retained in its records.

7. This Order shall in no event be construed as an approval of any proposed agreement or of any particular item in any document provided in support of the petition for creation, nor as a commitment or requirement of the Commission in the future to approve or disapprove any particular item or agreement in future applications submitted by the District for Commission consideration.

8. This Order shall not constitute approval or recognition of the validity of any provision in the City of Bastrop creation consent Resolution No. R-2006-24, effective August 22, 2006, and any other ordinance/resolution incorporated therein by reference to the extent that such provisions exceed the authority granted to the City of Bastrop by the laws of the state of Texas.

9. The Chief Clerk of the Commission shall forward a copy of this Order to all affected persons.

10. If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: APR 24 2007

For the Commission

EXHIBIT "A"

Chaparral
Professional Land Surveying, Inc.
Surveying and Mapping

Office: 512-443-1724
Fax: 512-441-6987

2807 Manchaca Road
Building One
Austin, Texas 78704

348.053 ACRES
NANCY BLAKEY SURVEY A-98
BASTROP COUNTY, TEXAS

A DESCRIPTION OF A 348.053 ACRE TRACT OF LAND IN THE NANCY BLAKEY SURVEY A-98 IN BASTROP COUNTY, TEXAS,

BEING ALL OF A 322.2 ACRE TRACT OF LAND, KNOWN AS THE "SECOND TRACT", CONVEYED TO J. D. WEAVER/BASTROP, LTD. IN A SPECIAL WARRANTY DEED DATED SEPTEMBER 11, 1997 AND RECORDED IN VOLUME 870, PAGE 266 OF THE DEED RECORDS OF BASTROP COUNTY, TEXAS,

BEING A PORTION OF AN 18.969 ACRE TRACT OF LAND CONVEYED TO J. D. WEAVER/BASTROP, LTD. IN A SPECIAL WARRANTY DEED WITH VENDOR'S LIEN DATED JULY 18, 2003 AND RECORDED IN VOLUME 1350, PAGE 917 OF THE DEED RECORDS OF BASTROP COUNTY, TEXAS,

BEING ALL OF A 1.563 ACRE TRACT OF LAND CONVEYED TO J. D. WEAVER/BASTROP LTD. IN AN EXCHANGE DEED DATED SEPTEMBER 12, 2005 AND RECORDED IN VOLUME 1570, PAGE 742 OF THE DEED RECORDS OF BASTROP COUNTY, TEXAS,

AND BEING A PORTION OF TRACTS 7 AND 8, SUBURBIA ESTATES, A SUBDIVISION IN BASTROP COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN CABINET 1, PAGE 14B OF THE PLAT RECORDS OF BASTROP COUNTY, TEXAS;

SAVE AND EXCEPT A 2.00 TRACT OF LAND CONVEYED TO AQUA WATER SUPPLY CORPORATION IN A GENERAL WARRANTY DEED DATED JUNE 4, 1991 AND RECORDED IN VOLUME 619, PAGE 164 OF THE DEED RECORDS OF BASTROP COUNTY, TEXAS AND SAVE AND EXCEPT A 1.504 ACRE TRACT OF LAND CONVEYED TO AQUA WATER SUPPLY CORPORATION IN A SPECIAL WARRANTY DEED DATED APRIL 16, 1998 AND RECORDED IN VOLUME 906, PAGE 291 OF THE DEED RECORDS OF BASTROP COUNTY, TEXAS; SAID 348.053 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar found in the west right-of-way line of F.M. Highway No. 20 (100' right-of-way width), being the southeast corner of the said 322.2 acre tract, being also the northeast corner of a 0.999 acre tract of land described in Volume 1342, Page 709 of the Deed Records of Bastrop County, Texas, from which a 1/2" rebar found in

the east right-of-way line of F.M. Highway No. 20, bears South 23°15'55" East, a distance of 126.22 feet;

THENCE South 86°57'52" West with the south line of the said 322.2 acre tract and the north line of the said 0.999 acre tract, a distance of 980.77 feet to a 1/2" rebar found for the northwest corner of a 7.208 acre tract of land described in Volume 1223, Page 150 of the Deed Records of Bastrop County, Texas, being the northeast corner of a 10.000 acre tract of land described in Volume 858, Page 689 of the Deed Records of Bastrop County, Texas;

THENCE South 88°15'23" West with the south line of the said 322.2 acre tract and the north line of the said 10.000 acre tract, a distance of 451.25 feet to a 1/2" rebar found for the northwest corner of the said 10.000 acre tract, being the northeast corner of a 1.000 acre tract of land described in Volume 973, Page 777 of the Deed Records of Bastrop County, Texas;

THENCE South 87°11'03" West with the south line of the said 322.2 acre tract and the north line of the said 1.000 acre tract, a distance of 966.24 feet to a 1/2" rebar found for the northwest corner of a 5.000 acre tract of land described in Volume 287, Page 685 of the Deed Records of Bastrop County, Texas, being the northeast corner of a 80.549 acre tract of land described in Volume 446, Page 222 of the Deed Records of Bastrop County, Texas;

THENCE South 87°07'57" West with the south line of the said 322.2 acre tract, which varies from the north line of the said 80.549 acre tract, a distance of 2085.75 feet to a 1/2" rebar found for the northwest corner of the said 80.549 acre tract, being the northeast corner of a 27.092 acre tract of land described in Volume 1261, Page 231 of the Deed Records of Bastrop County, Texas;

THENCE with the south line of the said 322.2 acre tract and the north line of the said 27.092 acre tract the following three (3) courses:

1. South 88°41'52" West, a distance of 656.84 feet to concrete monument found;
2. South 87°59'47" West, a distance of 885.88 feet 1/2" rebar with cap set;
3. South 87°35'04" West, a distance of 121.50 feet to a 1/2" rebar found for the northwest corner of the said 27.092 acre tract, being the northeast corner of a 1.188 acre tract of land described in Volume 998, Page 95 of the Deed Records of Bastrop County, Texas;

THENCE South 87°35'04" West with the south line of the said 322.2 acre tract and the north line of the said 1.188 acre tract, a distance of 199.96 feet to a 1/2" rebar with cap found for the northwest corner of the said 1.188 acre tract, being the northeast corner of a 39.262 acre tract of land described in Volume 995, Page 650 of the Deed Records of Bastrop County, Texas;

THENCE South 87°35'04" West with the south line of the said 322.2 acre tract and the north line of the said 39.262 acre tract, a distance of 800.26 feet to 1/2" rebar found for the northwest corner of the said 39.262 acre tract, being the northeast corner of a 16.90 acre tract of land described in Volume 329, Page 359 of the Deed Records of Bastrop County, Texas;

THENCE South 87°35'04" West with the south line of the said 322.2 acre tract and the north line of the said 16.90 acre tract, a distance of 841.96 feet to 5/8" rebar found for the southwest corner of the said 322.2 acre tract, being the southeast corner of Lot 4, Oakwood Estates Subdivision, a subdivision of record in Volume 3, Page 181A of the Plat Records of Bastrop County, Texas, being also in the north line of a 15.000 acre tract of land described in Volume 568, Page 462 of the Deed Records of Bastrop County, Texas;

THENCE North 02°15'16" East with the west line of the said 322.2 acre tract and the east line of said Lot 4, a distance of 1704.79 feet to a concrete monument found for the northwest corner of the said 322.2 acre tract, being the southwest corner of a 4.71 acre tract of land described in Volume 185, Page 573 of the Deed Records of Bastrop County, Texas;

THENCE North 87°23'54" East with the north line of the said 322.2 acre tract and the south line of the said 4.71 acre tract, a distance of 283.71 feet to 1/2" rebar found for the southeast corner of the said 4.71 acre tract, being the southwest corner of a 9.965 acre tract of land described in Volume 1162, Page 823 of the Deed Records of Bastrop County, Texas;

THENCE North 88°18'56" East with the north line of the said 322.2 acre tract and the south line of the said 9.965 acre tract, a distance of 819.18 feet to a 3/8" rebar found for the southeast corner of the said 9.965 acre tract, being the southwest corner of a 44.531 acre tract of land described in Volume 203, Page 618 of the Deed Records of Bastrop County, Texas;

THENCE North 87°34'12" East with the north line of the said 322.2 acre tract and the south line of the 44.531 acre tract, a distance of 1598.97 feet to a fence post found for the southeast corner of the said 44.531 acre tract, being the southwest corner of a

22.78 acre tract of land described in Volume 185, Page 498 of the Deed Records of Bastrop County, Texas;

THENCE North 88°31'12" East with the north line of the said 322.2 acre tract, which varies from the south line of the said 22.78 acre tract, a distance of 1056.69 feet to a fence post found for the southeast corner of the said 22.78 acre tract, being the southwest corner of a 36.557 acre tract of land described in Volume 1096, Page 488 of the Deed Records of Bastrop County, Texas;

THENCE North 87°33'38" East with the north line of the said 322.2 acre tract and the south line of the said 36.557 acre tract, a distance of 2077.19 feet to a nail on top of fence post found for the southwest corner of the said 18.969 acre tract, being the southeast corner of the said 36.557 acre tract;

THENCE North 03°22'26" West with the west line of the said 18.969 acre tract and the east line of the said 36.557 acre tract, a distance of 799.24 feet to a 1/2" rebar with cap set for the northwest corner of the said 18.969 acre tract, being the northeast corner of the said 36.557 acre tract, being also in the south line of Tract 13, of said Suburbia Estates, from which a 1" iron pipe found for the southwest corner of said Tract 13, bears South 87°52'17" West, a distance of 29.26';

THENCE with the north line of the said 18.969 acre tract and the south line of said Suburbia Estates the following two (2) courses:

1. North 87°52'17"East, a distance of 768.71 feet to a 1/2" rebar found;

2. North 88°08'34" East, a distance of 200.05 feet to a fence post found for the southwest corner of said Tract 8, being the southeast corner of Tract 9, of said Suburbia Estates;

THENCE North 02°14'34" West with the west line of said Tract 8 and the east line of said Tract 9, a distance of 770.81 feet to a 1/2" rebar with cap set in the south right-of-way line of State Highway No. 71 (right-of-way width varies), being the northwest corner of said Tract 8, being also the northeast corner of said Tract 9, from which a 1" iron pipe found in the south right-of-way line of State Highway No. 71, being the northwest corner of said Tract 9, bears South 88°19'34" West, a distance of 199.91 feet;

THENCE North 87°42'55" East with the south right-of-way line of State Highway No. 71 and the north line of said Tract 8, a distance of 199.92 feet to a 1/2" rebar with cap found at highway station 834+61.74, right 162', being the northeast corner of said Tract 8, being also the northwest corner of said Tract 7;

THENCE North 87°42'55" East with the south right-of-way line of State Highway No. 71 and the north line of said Tract 7, a distance of 199.70 feet to a 1/2" rebar with cap found at highway station 836+61.36, right 162', being the northeast corner of said Tract 7, being also the northwest corner of the said 1.563 acre tract;

THENCE North 87°42'55" East with the south right-of-way line of State Highway No. 71 and the north line of the said 1.563 acre tract, a distance of 126.56 feet to a 1/2" rebar with cap set;

THENCE leaving the south right-of-way line of State Highway No. 71, with the north line of the said 1.563 acre tract the following three (3) courses:

1. South 02°16'25" East, a distance of 75.00 feet to a 1/2" rebar with cap set;
2. North 87°42'55" East, a distance of 40.00 feet to a 1/2" rebar with cap set;
3. North 02°16'25" West, a distance of 75.00 feet to a 1/2" rebar with cap set in the south right-of-way line of State Highway No. 71;

THENCE with the south right-of-way line of State Highway No. 71 and the north line of the said 1.563 acre tract the following two (2) courses:

1. North 87°42'55" East, a distance of 33.00 feet to a 1/2" rebar with cap found at highway station 838+60.98, right 162';
2. North 87°38'38" East, a distance of 25.00 feet to a 1/2" rebar with cap set for the northeast corner of the said 1.563 acre tract, from which a 1/2" rebar found in the south right-of-way line of State Highway No. 71, being the northeast corner of Tract 5, of said Suburbia Estates, bears North 87°38'38" East, a distance of 174.54 feet;

THENCE with the east line of the said 1.563 acre tract the following three (3) courses:

1. South 02°16'25" East, a distance of 95.22 feet to a 1/2" rebar with cap set;
2. Along a curve to the right, an arc length of 267.15 feet, having a radius of 300.00 feet and a chord which bears South 23°14'13" West, a distance of 258.41 feet to a 1/2" rebar with cap set;

3. South 48°44'51" West, a distance of 146.00 feet to a 1/2" rebar with cap set for the southernmost corner of the said 1.563 acre tract, being the northernmost corner of a 1.363 acre tract of land described in Volume 1570, Page 742 of the Deed Records of Bastrop County, Texas;

THENCE with the west line of the said 1.363 acre tract the following four (4) courses:

1. South 48°44'51" West, a distance of 164.51 feet to a 1/2" rebar with cap set;

2. Along a curve to the left, an arc length of 104.34 feet, having a radius of 257.78 feet and a chord which bears South 37°09'06" West, a distance of 103.63 feet to a 1/2" rebar with cap set;

3. South 25°33'20" West, a distance of 161.54 feet to a 1/2" rebar with cap set;

4. South 61°42'45" East, a distance of 50.27 feet to a 1/2" rebar with cap set for a southwest corner of the said 1.363 acre tract, being the westernmost corner of a 0.200 acre tract of land described in Volume 1570, Page 742 of the Deed Records of Bastrop County, Texas;

THENCE South 61°42'45" East with the south line of the said 0.200 acre tract, a distance of 176.18 feet to a 1/2" rebar with cap set in the east line of the said 18.969 acre tract, being the west line of the remainder of a 59.2 acre tract of land described in Volume 245, Page 502 of the Deed Records of Bastrop County, Texas;

THENCE with the east line of the said 18.969 acre tract and the west line of the remainder of the said 59.2 acre tract the following three (3) courses:

1. Along a curve to the right, an arc length of 252.12 feet, having a radius of 545.00 feet and a chord which bears South 41°29'37" West, a distance of 249.88 feet to a 1/2" rebar with cap set;

2. Along a curve to the left, an arc length of 490.59 feet, having a radius of 555.00 feet and a chord which bears South 29°27'23" West, a distance of 474.77 feet to a 1/2" rebar with cap found;

3. South 04°09'32" West, a distance of 122.43 feet to a 1/2" rebar with cap found for the southeast corner of the said 18.969 acre tract, being in the north line of the said 322.2 acre tract,

THENCE North 87°45'26" East with the north line of the said 322.2 acre tract and the south line of the remainder of the said 59.2 acre tract, a distance of 2189.13 feet to a 1/2" rebar with cap set in the west right-of-way of F.M. Highway No. 20, being the northeast corner of the said 322.2 acre tract, being also the southeast corner of the remainder of the said 59.2 acre tract, from which a concrete monument found in the west right-of-way line of F.M. Highway No. 20, bears North 29°08'35" East, a distance of 317.96 feet;

THENCE South 29°08'35" West with the west right-of-way of F.M. Highway No. 20 and the east line of the said 322.2 acre tract, a distance of 1941.61 feet to the **POINT OF BEGINNING,** containing 348.053 acres of land, more or less.

Surveyed on the ground in September, 2004. Bearing basis is grid azimuth for Texas central zone, 1983/93 HARN values from LCRA control network. Attachments: Survey Drawing 143-023-SK6.

Robert C. Watts, Jr.
Registered Professional Land Surveyor
State of Texas No. 4995

STATE OF TEXAS
REGISTERED
ROBERT C. WATTS, JR.
4995
PROFESSIONAL
LAND SURVEYOR

4-5-06

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To: Michael D. Cowan, Division Director, Water Supply Division — Date: April 12, 2007

Thru: RC Doug Holcomb, P.E., Manager, Utilities & Districts

RC Robert Cummins, P.E., Leader, Districts Review Team

From: RN Districts Review Team

Subject: Petition by J.D. Weaver/Bastrop, Ltd., for Creation of West Bastrop Village Municipal Utility District of Bastrop County; Pursuant to Texas Water Code Chapters 49 and 54.
TCEQ Internal Control No. 10262006-D15(TC)
CN: 603113952 - RN: 105093371

A. GENERAL INFORMATION

The petition within the application requests Texas Commission on Environmental Quality (the "Commission") approval of the creation of West Bastrop Village Municipal Utility District of Bastrop County (the "District"). The petition was signed by John Dale Weaver, Jr., President of and William S. Walters, III, Attorney-In-Fact for Brodie-Weaver, Inc., general partner of J.D.Weaver/Bastrop, Ltd (the "Petitioner"). According to the petition, the Petitioner states that there is one lien holder on the property, Plains Capital Bank, to be included in the proposed District. By separate affidavit, the lien holder has consented to the creation.

The District is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59, of the Texas Constitution, and Chapters 49 and 54 of the Texas Water Code.

Location and Access

The proposed District is located just southwest of the intersection of F.M. 20 and State Highway 71 in Bastrop County. Application material indicates that the proposed District is located about 2 miles east of the City of Bastrop. Access will be provided via S.H. 71 and F.M. 20.

Metes and Bounds Description

The proposed District contains one tract of land totaling 348.05 (351.56 less 3.51) acres. The metes and bounds description of the proposed District has been checked by the Commission's staff and has been found to form an acceptable closure.

City Consent

The petition asserts that the land within the proposed District is located within the extraterritorial jurisdiction of the City of Bastrop. By Resolution No. R-2006-24, effective August 22, 2006, the City of Bastrop, Texas, granted its consent to the creation of the proposed District. Accordingly, the requirements of Tex. Water Code 54.016 and Tex. Loc. Gov't. Code 42.042 have been met.

Statements of Filing Petition

Evidence of filing the petition with the Bastrop County Clerk's office and TCEQ's Austin Regional office has been provided.

Type of Project

The proposed District will be considered a "developer project" as defined by Commission rules. Therefore, developer cost participation, in accordance with Commission Rule, 30 TAC Section 293.47, will be required.

Certificate of Ownership

By certificate dated March 19, 2007, the Bastrop Central Appraisal District has certified that the tax rolls indicate that J.D. Weaver/Bastrop LTD., is the owner of the property in the proposed District. The documents provided support that the petitioner owns a majority in value of the land in the proposal District.

Temporary Director Affidavits

The Commission has received affidavits for Commission consideration of the appointment of temporary directors for the following:

Jeanmarie Ficken	Lynn Frank	Kalinda Howe
Julie Huls	Mike Schoenfeld, Jr.	

Each of the above persons named is qualified, as required by 30 TAC Section 293.32(a), to serve as a temporary director of the proposed District since each: (1) is at least 18 years old; (2) is a resident of the State of Texas; and (3) either owns land subject to taxation within the proposed District, or is a qualified voter within the District.

Developer Qualifications

The information provided states that the developer will be Bastrop Village, Ltd. which includes Mr. Dave Mahn and Mr. Terry Mitchell. Mr. Terry Mitchell will be the project manager of the proposed District, and has extensive experience in single family home development.

Notice

Proper notice of the application was published in the Bastrop Advertizer a newspaper regularly published or circulated in Bastrop County where the district is proposed to be located, on December 23 and 30, 2006, and posted in Bastrop County Courthouse on a bulletin board used for posting legal notices, on December 22, 2006. Accordingly, the notice requirements of 30 TAC Section 293.12 (b) have been satisfied.

B. SPECIAL CONSIDERATIONS

None.

C. CONCLUSIONS

1. Based on Commission policy, compliance with Commission rules, and review of the engineering report and supporting documents, the proposed District is considered feasible, practicable, would be a benefit to the land within the proposed District, and would be necessary as a means to finance utilities and to provide utility service to future customers.

2. Based on a review of the preliminary engineering report, market study, the proposed District funding a portion of water, wastewater, and drainage facilities, a combined projected tax rate of $1.00, proposed District obtaining a 6.0% bond coupon interest rate, and other supporting data, the proposed District is considered feasible under the feasibility limits prescribed by Commission Rule, 30 TAC Section 293.59.

3. The recommendations are made under the authority delegated by the Executive Director of the Texas Commission on Environmental Quality.

D. RECOMMENDATIONS

1. Grant the petition for creation of West Bastrop Village Municipal Utility District of Bastrop County.

2. The order granting the petition should include the following statements:

   "This order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the Commission in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for Commission consideration."

   "This order shall not constitute approval or recognition of the validity of any provision in the City of

Bastrop creation consent Resolution No. R-2006-24, effective August 22, 2006, and any other ordinance/resolution incorporated therein by reference to the extent that such provisions exceed the authority granted to the City of Bastrop by the laws of the State of Texas."

3. Appoint the following persons to serve as temporary directors until permanent directors are elected and qualified:

Jeanmarie Ficken	Lynn Frank	Kalinda Howe
Julie Huls	Mike Schoenfeld, Jr.	

E. FEASIBILITY OF PROJECT

Market Study

A market study, prepared by Capitol Market Research, Inc., has been submitted in support of the creation of the proposed District. The market study indicates the proposed District will contain 1,100 single-family homes ranging in value from $115,000 to $200,000 per unit on 35 to 60-foot lots, and are expected to be absorbed at a rate of approximately 120 to 125 units per year. Absorption is expected to begin in June 2007.

Project Financing

The estimated total assessed valuation of the proposed District at completion is as follows:

Units	Number of Units Planned	Average Unit Value	Total Value at Build-out
1,095	Single Family Homes	$165,753	$181,500,000
		Total Assessed Value:	**$181,500,000**

Considering an estimated bond issue requirement of $44,830,000 (assuming 70% financing), a coupon bond interest rate of 6.0%, and a 25-year bond life, the average annual debt service requirement would be approximately $3,506,904. Assuming a 95% collection rate and an ultimate assessed valuation of $181,500,000, a tax rate of approximately $2.03 per $100 assessed valuation would be necessary to meet the annual debt service requirements.

However, a preliminary cash flow analysis was provided showing the issuance of $20,300,000 in bonds, an estimated interest rate of 6.0%, a tax collection rate of 95%, an ultimate assessed valuation of $181,500,000, and a tax rate of approximately $0.95 per $100 to meet the annual debt service requirement. Application material projects a $0.05 per $100 assessed value operation and maintenance tax. The application recognizes that the developer will need to contribute additional amounts (above the standard 30%) toward facilities costs to keep the tax rate within required limits.

The total year 2005 overlapping tax rates on land within the proposed District are shown in the following table:

Taxing Jurisdiction	Tax per $100 valuation
Bastrop County General Fund	$0.5153
Bastrop County Road District	$0.1230
Bastrop ISD	$1.7280
Proposed West Bastrop Village MUD	$1.0000
Total tax per $100 valuation	**$3.3663**

Based on the proposed District tax rate and the year 2005 overlapping tax rate on land within the proposed District, the project is considered economically feasible.

Water and Wastewater Rates

According to information provided, the following single-family water and wastewater rates are anticipated:

Water:	Monthly charge	$19.95
	0 - 10,000 gallons	$2.95 per 1,000 gallons
Wastewater:	Monthly Charge (0 – 3,000 gallons)	$14.58
	3,000 - 5,000 gallons	$1.32 per 1,000 gallons
	5,001 – 10,000 gallons	$1.49 per 1,000 gallons

Based on the above rates, the estimated monthly fee for 10,000 gallons of water and wastewater would be $74.12.

Comparative Water District Tax Rates

An overlapping tax rate of $3.37 for the proposed District is on the high end compared to other districts in the area. Based on the requirements of Commission Rule 293.59, this project is economically feasible.

F. PURPOSE

Land Use

The land use for the proposed District is projected in the following table:

Development	Acres	ESFCs
Single-Family Residential	233.73	955
Condo/Townhome	14.12	140
Commercial/Retail/Office	3.03	25
Amenity Center	1.42	16
School	13.61	35
Fire Station	2.60	10
Open Space	51.64	0
Detention Pond	7.88	0
Floodplain	19.87	0
Total	**347.90**	**1,181**

Availability of Comparable Service

The creation engineering report indicates the proposed District is entirely within the Certificate of Convenience and Necessity ("CCN") of Aqua Water Supply Corporation ("Aqua"). The proposed District is negotiating with Aqua to obtain its water supply. The proposed District is also planning to negotiate wastewater treatment services from the City of Bastrop. No other water supply or wastewater treatment services are available in the area. All water, wastewater, and drainage projects will be designed and constructed in accordance with criteria of the City of Bastrop, Bastrop County, Aqua and the TCEQ.

Water Supply and Distribution Improvements

The proposed District intends on receiving water from and being a wholesale customer of Aqua. The proposed District will pay impact fees to Aqua, and plans to fund storage and pump station improvements. The proposed District will construct and own its water distribution system. The water distribution system at full development is anticipated to consist of a network of arterial and connecting loop mains, including 51,975 linear feet ("LF") of 8 – 12-inch pipe.

Wastewater Collection and Treatment Improvements

The proposed District is located within the ETJ of the City and plans to obtain wastewater treatment from the City. The proposed District will pay impact fees to the City. Wastewater will be collected in a gravity system to pump stations where it will be pumped into an off-site gravity line to the City's

wastewater treatment plant. The internal wastewater collection system will consist of 46,980 LF of 6 – 12-inch pipe.

Drainage Improvements

The storm drainage within the proposed District will consists of curb inlets, and 38,270 LF of storm sewer lines with pipe diameters ranging from 18 inches to 60 inches. The proposed drainage system will convey flows to detention ponds, before discharging into Cedar Creek and eventually into the Colorado River.

G. DESCRIPTION AND IMPACT ON NATURAL RESOURCES

The preliminary engineering report includes the following findings:

Topography

The area within the proposed District is relatively flat. The land elevation ranges from approximately 400 feet mean sea level (msl) to 475 feet msl. The developer has no plans to significantly alter the topography of the land in the proposed District.

Floodplain

Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Map Number 48021C0335E, dated January 19, 2006, indicates approximately 19.87 acres of land in the proposed District lies within the 100-year flood plain. All of this area will be designated as open space or detention sites.

Land Elevation

The development planned for the proposed District is not expected to significantly alter land elevations. Some portions of the land will be lowered for detention and drainage, and some portions will be raised to provide for effective drainage.

Subsidence

The proposed District plans to obtain its water supply from Aqua. Aqua's current source is wells located in the Carrizo-Wilcox Aquifer. The Lost Pines Underground Water District permits wells in Bastrop County. There are no significant issues with subsidence in the area and the proposed District is expected to have negligible effect on subsidence.

Groundwater Levels

The proposed District water supply will be obtained from Aqua. Aqua's main source of water is from wells located in the Carrizo-Wilcox aquifer, which has a substantial amount of water to serve the area. Therefore, the proposed District should have little to no effect on groundwater levels.

Groundwater Recharge

The proposed District is within the outcrop zone of the Carrizo-Wilcox aquifer. However, compared to the overall size of the recharge zone, the proposed District is not expected to significantly affect recharge capability of the aquifer.

Natural Run-off and Drainage

The surface drainage will flow into the tributaries of Cedar Creek, which is a tributary of the Colorado River. Detention storage will mitigate the impact of development on downstream landowners. Therefore, there should be minimal effects on downstream runoff rates.

Water Quality

The proposed District should be minimal effect on the water quality.

H. SUMMARY OF COSTS

Construction Costs	Total Cost	District Cost[1]
A. Developer Contribution Items		
1. Water Distribution System	$ 6,367,500	$ 4,457,250
2. Wastewater Collection	9,444,000	6,610,800
3. Storm Drainage System	4,564,000	3,194,800
4. Detention Ponds	2,352,550	1,646,785
5. Excavation	604,430	423,101
6. 404 Permitting & Mitigation	1,750,000	1,225,000
7. Contingency (23% of items 1-6)	5,768,970	4,038,279
8. Engineering (15% of items 1-6)	3,762,372	2,633,660
Total Developer Contribution Items	$34,613,822	$ 24,229,675
B. District Items		
1. Water Connection Fees		$ 2,800,000
2. Wastewater Connection Fees		2,500,000
3. Off-site Water Storage Facilities		472,400
4. Water Pump Station		400,000
5. Off-site Wastewater Improvements		450,000
6. Contingency (23% of items 3-5)		304,152

7. Engineering, Surveying & Permitting (15% of items 3-5)	198,360
8. Land Costs	80,000
Total District Items	$ 7,204,912
TOTAL CONSTRUCTION COSTS (70.1% of BIR)	**$31,434,587**

Non-Construction Costs	
A. Legal Fees (3.0%)	$ 1,344,900
B. Fiscal Fees (2.0%)	896,600
C. Interest Costs	
1. Capitalized Interest (2 years @ 6.0%)	5,379,600
2. Developer Interest (2 years @ 6.0%)	3,772,150
D. Bond Discount (3.0%)	1,344,900
E. Operating Costs	150,358
F. Creation Costs	100,000
G. Bond Application Report	250,000
H. Attorney General's Fee (0.1% of BIR)	44,830
I. TCEQ Bond Issuance Fee (0.25%)	112,075
TOTAL NON-CONSTRUCTION COSTS (30.0%BIR)	**$ 13,395,413**
TOTAL BOND ISSUE REQUIREMENT	**$44,830,000**
PROPOSED ELIGIBLE BOND ISSUE REQUIREMENT	**$20,300,000**

Note: (1) Consider that the District pays 70% and the developer contributes 30%.

Eligibility of costs and 30% developer contribution requirements will be determined in accordance with Commission rules in effect at the time bond applications are reviewed.

I. ADDITIONAL INFORMATION

The petitioner's professional representatives are as follows:

Attorney: Ms. Sue Brooks Littlefield – Armbrust & Brown L.L.P.
Engineer: Mr. Sam W. Jones, P.E – Sam Jones Consulting, Inc.
Market Analyst: Mr. Charles H. Heimsath - Capitol Market Research

Greg Charles
Districts Review Team

Bastrop Area Waste Water CCNs

LRCA

CHASCO

CITY OF BASTROP

WCID #2

AQUA WSC

Legend

- City of Bastrop
- Aqua WSC
- WCID #2
- Chasco
- LCRA

Bastrop ETJ

- Statutory
- Area A
- Area B

Date: 8/9/2017

1 inch = 2,100 feet

N

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

TPDES PERMIT NO. WQ0011076001
[For TCEQ office use only - EPA I.D. No. TX0032671]

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P.O. Box 13087
Austin, Texas 78711-3087

This is a renewal that replaces TPDES Permit No. WQ0011076001 issued October 16, 2009.

PERMIT TO DISCHARGE WASTES
under provisions of
Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

City of Bastrop

whose mailing address is

P. O. Box 427
Bastrop, Texas 78602-0427

is authorized to treat and discharge wastes from the East Bastrop Wastewater Treatment Facility, SIC Code 4952

located at 300 Water Street, Bastrop in Bastrop County, Texas 78602

directly to the Colorado River Above La Grange in Segment No. 1434 of the Colorado River Basin

only according with effluent limitations, monitoring requirements and other conditions set forth in this permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the TCEQ. The issuance of this permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation, or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This permit shall expire at midnight, **September 1, 2019**.

ISSUED DATE: December 3, 2014

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:

   The annual average flow of effluent shall not exceed 1.4 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 2,722 gallons per minute (gpm).

Effluent Characteristic	Discharge Limitations				Min. Self-Monitoring Requirements Report Daily Avg. & Daily Max.	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (117)	15	25	35	Two/week	Composite
Total Suspended Solids	15 (175)	25	40	60	Two/week	Composite
Ammonia Nitrogen	2 (23)	4	10	15	Two/week	Composite
E. coli, CFU or MPN/100 ml	126	N/A	399	N/A	One/week	Grab

2. The effluent shall contain a chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and shall be monitored daily by grab sample. The permittee shall dechlorinate the chlorinated effluent to less than 0.1 mg/l chlorine residual and shall monitor chlorine residual daily by grab sample after the dechlorination process. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

3. The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units and shall be monitored once per week by grab sample.

4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.

6. The effluent shall contain a minimum dissolved oxygen of 5.0 mg/l and shall be monitored twice per week by grab sample.

7. The annual average flow and maximum 2-hour peak flow shall be reported monthly.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

As required by Title 30 Texas Administrative Code (TAC) Chapter 305, certain regulations appear as standard conditions in waste discharge permits. 30 TAC § 305.121 - 305.129 (relating to Permit Characteristics and Conditions) as promulgated under the Texas Water Code (TWC) §§ 5.103 and 5.105, and the Texas Health and Safety Code (THSC) §§ 361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit. All definitions in TWC § 26.001 and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

1. Flow Measurements

   a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder and limited to major domestic wastewater discharge facilities with one million gallons per day or greater permitted flow.

   b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.

   c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.

   d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.

   e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.

   f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

2. Concentration Measurements

   a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.

      i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.

ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.

b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.

c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.

d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the sampling day.

The daily discharge determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily discharge determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that day.

e. Bacteria concentration (*E. coli* or Enterococci) - Colony Forming Units (CFU) or Most Probable Number (MPN) of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the nth root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substituted value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.

f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).

g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.

3. Sample Type

a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).

b. Grab sample - an individual sample collected in less than 15 minutes.

4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.

5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.

6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4 - 319.12. Unless otherwise specified, a monthly effluent report shall be submitted each month, to the Enforcement Division (MC 224), by the 20th day of the following month for each discharge which is described by this permit whether or not a discharge is made for that month. Monitoring results must be reported on an approved self-report form that is signed and certified as required by Monitoring and Reporting Requirements No. 10.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Clean Water Act (CWA); TWC §§ 26, 27, and 28; and THSC § 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

2. Test Procedures

a. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§ 319.11 - 319.12. Measurements, tests, and calculations shall be accurately accomplished in a representative manner.

b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC § 25, Environmental Testing Laboratory Accreditation and Certification.

3. Records of Results

a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.

b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period

of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR § 264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.

c. Records of monitoring activities shall include the following:

i. date, time and place of sample or measurement;

ii. identity of individual who collected the sample or made the measurement.

iii. date and time of analysis;

iv. identity of the individual and laboratory who performed the analysis;

v. the technique or method of analysis; and

vi. the results of the analysis or measurement and quality assurance/quality control records.

The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that may be instituted against the permittee.

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in the calculation and reporting of the values submitted on the approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

5. Calibration of Instruments

All automatic flow measuring or recording devices and all totalizing meters for measuring flows shall be accurately calibrated by a trained person at plant start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually unless authorized by the Executive Director for a longer period. Such person shall verify in writing that the device is operating properly and giving accurate results. Copies of the verification shall be retained at the facility site and/or shall be readily available for review by a TCEQ representative for a period of three years.

6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the Regional Office and the Enforcement Division (MC 224).

7. Noncompliance Notification

a. In accordance with 30 TAC § 305.125(9) any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:

i. Unauthorized discharges as defined in Permit Condition 2(g).

ii. Any unanticipated bypass that exceeds any effluent limitation in the permit.

iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.

c. In addition to the above, any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.

d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.

8. In accordance with the procedures described in 30 TAC §§ 35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.

9. Changes in Discharges of Toxic Substances

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the Regional Office, orally or by facsimile transmission within 24 hours, and both the Regional Office and the Enforcement Division (MC 224) in writing within five (5) working days, after becoming aware of or having reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

i. One hundred micrograms per liter (100 µg/L);

ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;

iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or

iv. The level established by the TCEQ.

b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

i. Five hundred micrograms per liter (500 µg/L);

ii. One milligram per liter (1 mg/L) for antimony;

iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or

iv. The level established by the TCEQ.

10. Signatories to Reports

All reports and other information requested by the Executive Director shall be signed by the person and in the manner required by 30 TAC § 305.128 (relating to Signatories to Reports).

11. All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Executive Director of the following:

a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to CWA § 301 or § 306 if it were directly discharging those pollutants;

b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and

c. For the purpose of this paragraph, adequate notice shall include information on:

i. The quality and quantity of effluent introduced into the POTW; and

ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

PERMIT CONDITIONS

1. General

a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.

b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:

   i. Violation of any terms or conditions of this permit;

   ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or

   iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

2. Compliance

a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.

b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation, or suspension, or for denial of a permit renewal application or an application for a permit for another facility.

c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.

e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.

f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and TWC§ 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.

h. In accordance with 30 TAC § 305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility which does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.

i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC §§ 7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§ 402 (a)(3) or 402 (b)(8).

3. Inspections and Entry

a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC § 361.

b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in TWC § 7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

4. Permit Amendment and/or Renewal

a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:

i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC § 305.534 (relating to New Sources and New Dischargers); or

ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9;

iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.

c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.

d. Prior to accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.

e. In accordance with the TWC § 26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.

f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA § 307(a) for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under CWA § 307(a) for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Permit Transfer

a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.

b. A permit may be transferred only according to the provisions of 30 TAC § 305.64 (relating to Transfer of Permits) and 30 TAC § 50.133 (relating to Executive Director Action on Application or WQMP update).

6. Relationship to Hazardous Waste Activities

This permit does not authorize any activity of hazardous waste storage, processing, or disposal that requires a permit or other authorization pursuant to the Texas Health and Safety Code.

7. Relationship to Water Rights

Disposal of treated effluent by any means other than discharge directly to water in the state must be specifically authorized in this permit and may require a permit pursuant to TWC Chapter 11.

8. Property Rights

A permit does not convey any property rights of any sort, or any exclusive privilege.

9. Permit Enforceability

The conditions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

10. Relationship to Permit Application

The application pursuant to which the permit has been issued is incorporated herein; provided, however, that in the event of a conflict between the provisions of this permit and the application, the provisions of the permit shall control.

11. Notice of Bankruptcy

a. Each permittee shall notify the Executive Director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:

i. the permittee;

ii. an entity (as that term is defined in 11 USC, § 101(14)) controlling the permittee or listing the permit or permittee as property of the estate; or

iii. an affiliate (as that term is defined in 11 USC, § 101(2)) of the permittee.

b. This notification must indicate:

i. the name of the permittee and the permit number(s);

ii. the bankruptcy court in which the petition for bankruptcy was filed; and

iii. the date of filing of the petition.

OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.

2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§ 319.21 - 319.29 concerning the discharge of certain hazardous metals.

3. Domestic wastewater treatment facilities shall comply with the following provisions:

   a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.

   b. The permittee shall submit a closure plan for review and approval to the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.

4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.

6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under TWC § 7.302(b)(6).

7. Documentation

   For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information required for TPDES permit applications, effluent data, including effluent data in permits, draft permits and permit applications, and other information specified as not

confidential in 30 TAC §§ 1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim must be asserted in the manner prescribed in the application form or by stamping the words confidential business information on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

8. Facilities that generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.

   a. Whenever flow measurements for any domestic sewage treatment facility reach 75% of the permitted daily average or annual average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment and/or collection facilities. Whenever the flow reaches 90% of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities. In the case of a domestic wastewater treatment facility which reaches 75% of the permitted daily average or annual average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee shall submit an engineering report supporting this claim to the Executive Director of the Commission.

      If in the judgment of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 169) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

   b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.

   c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment, and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and

related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.

9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.

10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.

11. Facilities that generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:

    a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.

    b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.

    c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Environmental Cleanup Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.

    d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Registration, Review, and Reporting Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC § 335.5.

    e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.

    f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC § 335 and must include the following, as it pertains to wastewater treatment and discharge:

        i. Volume of waste and date(s) generated from treatment process;
        ii. Volume of waste disposed of on-site or shipped off-site;

iii. Date(s) of disposal;
iv. Identity of hauler or transporter;
v. Location of disposal site; and
vi. Method of final disposal.

The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.

12. For industrial facilities to which the requirements of 30 TAC § 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with THSC § 361.

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SLUDGE PROVISIONS

The permittee is authorized to dispose of sludge only at a Texas Commission on Environmental Quality (TCEQ) authorized land application site or co-disposal landfill. **The disposal of sludge by land application on property owned, leased or under the direct control of the permittee is a violation of the permit unless the site is authorized with the TCEQ. This provision does not authorize Distribution and Marketing of sludge. This provision does not authorize land application of Class A Sludge. This provision does not authorize the permittee to land apply sludge on property owned, leased or under the direct control of the permittee.**

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE LAND APPLICATION

A. General Requirements

1. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC § 312 and all other applicable state and federal regulations in a manner that protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present in the sludge.

2. In all cases, if the person (permit holder) who prepares the sewage sludge supplies the sewage sludge to another person for land application use or to the owner or lease holder of the land, the permit holder shall provide necessary information to the parties who receive the sludge to assure compliance with these regulations.

3. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge disposal practice.

B. Testing Requirements

1. Sewage sludge shall be tested annually in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I Toxicity Characteristic Leaching Procedure (TCLP) or other method that receives the prior approval of the TCEQ for the contaminants listed in 40 CFR Part 261.24, Table 1. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal. Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division and the Regional Director (MC Region 11) within seven (7) days after failing the TCLP Test.

   The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to:

Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 11) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

2. Sewage sludge shall not be applied to the land if the concentration of the pollutants exceeds the pollutant concentration criteria in Table 1. The frequency of testing for pollutants in Table 1 is found in Section I.C.

TABLE 1

Pollutant	Ceiling Concentration (Milligrams per kilogram)*
Arsenic	75
Cadmium	85
Chromium	3000
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
PCBs	49
Selenium	100
Zinc	7500

* Dry weight basis

3. Pathogen Control

All sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following methods to ensure that the sludge meets either the Class A or Class B pathogen requirements.

a. Six alternatives are available to demonstrate compliance with Class A sewage sludge. The first 4 options require either the density of fecal coliform in the sewage sludge be less than 1000 Most Probable Number (MPN) per gram of total solids (dry weight basis), or the density of Salmonella sp. bacteria in the sewage sludge be less than three MPN per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. Below are the additional requirements necessary to meet the definition of a Class A sludge.

Alternative 1 - The temperature of the sewage sludge that is used or disposed shall be maintained at or above a specific value for a period of time. See 30 TAC § 312.82(a)(2)(A) for specific information.

Alternative 2 - The pH of the sewage sludge that is used or disposed shall be raised to above 12 std. units and shall remain above 12 std. units for 72 hours.

The temperature of the sewage sludge shall be above 52° Celsius for 12 hours or longer during the period that the pH of the sewage sludge is above 12 std. units.

At the end of the 72-hour period during which the pH of the sewage sludge is above 12 std. units, the sewage sludge shall be air dried to achieve a percent solids in the sewage sludge greater than 50%.

Alternative 3 - The sewage sludge shall be analyzed for enteric viruses prior to pathogen treatment. The limit for enteric viruses is less than one Plaque-forming Unit per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 30 TAC § 312.82(a)(2)(C)(i-iii) for specific information. The sewage sludge shall be analyzed for viable helminth ova prior to pathogen treatment. The limit for viable helminth ova is less than one per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 30 TAC § 312.82(a)(2)(C)(iv-vi) for specific information.

Alternative 4 - The density of enteric viruses in the sewage sludge shall be less than one Plaque-forming Unit per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. The density of viable helminth ova in the sewage sludge shall be less than one per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed.

Alternative 5 (PFRP) - Sewage sludge that is used or disposed of shall be treated in one of the processes to Further Reduce Pathogens (PFRP) described in 40 CFR Part 503, Appendix B. PFRP include composting, heat drying, heat treatment, and thermophilic aerobic digestion.

Alternative 6 (PFRP Equivalent) - Sewage sludge that is used or disposed of shall be treated in a process that has been approved by the U.S. Environmental Protection Agency as being equivalent to those in Alternative 5.

b. Three alternatives are available to demonstrate compliance with Class B criteria for sewage sludge.

Alternative 1

i. A minimum of seven random samples of the sewage sludge shall be collected within 48 hours of the time the sewage sludge is used or disposed of during each monitoring episode for the sewage sludge.

ii. The geometric mean of the density of fecal coliform in the samples collected shall be less than either 2,000,000 MPN per gram of total solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

Alternative 2 - Sewage sludge that is used or disposed of shall be treated in one of the Processes to Significantly Reduce Pathogens (PSRP) described in 40 CFR Part 503, Appendix B, so long as all of the following requirements are met by the generator of the sewage sludge.

i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;

ii. An independent Texas Licensed Professional Engineer must make a certification to the generator of a sewage sludge that the wastewater treatment facility generating the sewage sludge is designed to achieve one of the PSRP at the permitted design loading of the facility. The certification need only be repeated if the design loading of the facility is increased. The certification shall include a statement indicating the design meets all the applicable standards specified in Appendix B of 40 CFR Part 503;

iii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U.S. Environmental Protection Agency final guidance;

iv. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review; and

v. If the sewage sludge is generated from a mixture of sources, resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the PSRP, and shall meet the certification, operation, and record keeping requirements of this paragraph.

Alternative 3 - Sewage sludge shall be treated in an equivalent process that has been approved by the U.S. Environmental Protection Agency, so long as all of the following requirements are met by the generator of the sewage sludge.

i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;

ii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U.S. Environmental Protection Agency final guidance;

iii. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review;

iv. The Executive Director will accept from the U.S. Environmental Protection Agency a finding of equivalency to the defined PSRP; and

v. If the sewage sludge is generated from a mixture of sources resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the Processes to Significantly Reduce Pathogens, and shall meet the certification, operation, and record keeping requirements of this paragraph.

In addition, the following site restrictions must be met if Class B sludge is land applied:

i. Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of sewage sludge.

ii. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for 4 months or longer prior to incorporation into the soil.

iii. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of sewage sludge when the sewage sludge remains on the land surface for less than 4 months prior to incorporation into the soil.

iv. Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of sewage sludge.

v. Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.

vi. Turf grown on land where sewage sludge is applied shall not be harvested for 1 year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn.

vii. Public access to land with a high potential for public exposure shall be restricted for 1 year after application of sewage sludge.

viii. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.

ix. Land application of sludge shall be in accordance with the buffer zone requirements found in 30 TAC § 312.44.

4. Vector Attraction Reduction Requirements

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following Alternatives 1 through 10 for vector attraction reduction.

Alternative 1 - The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38%.

Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30° and 37° Celsius. Volatile solids must be reduced by less than 17% to demonstrate compliance.

Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20° Celsius. Volatile solids must be reduced by less than 15% to demonstrate compliance.

Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20° Celsius.

Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40° Celsius and the average temperature of the sewage sludge shall be higher than 45° Celsius.

Alternative 6 - The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then remain at a pH of 11.5 or higher for an additional 22 hours at the time the sewage sludge is prepared for sale or given away in a bag or other container.

Alternative 7 - The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75% based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids prior to mixing with other materials at the time the sludge is used. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

Alternative 9 -

i. Sewage sludge shall be injected below the surface of the land.

ii. No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.

iii. When sewage sludge that is injected below the surface of the land

is Class A with respect to pathogens, the sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

Alternative 10- i. Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.

ii. When sewage sludge that is incorporated into the soil is Class A with respect to pathogens, the sewage sludge shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

C. Monitoring Requirements

Toxicity Characteristic Leaching Procedure (TCLP) Test	- annually
PCBs	- annually

All metal constituents and fecal coliform or Salmonella sp. bacteria shall be monitored at the appropriate frequency shown below, pursuant to 30 TAC § 312.46(a)(1):

Amount of sewage sludge (*) metric tons per 365-day period	Monitoring Frequency
0 to less than 290	Once/Year
290 to less than 1,500	Once/Quarter
1,500 to less than 15,000	Once/Two Months
15,000 or greater	Once/Month

(*) *The amount of bulk sewage sludge applied to the land (dry weight basis).*

Representative samples of sewage sludge shall be collected and analyzed in accordance with the methods referenced in 30 TAC § 312.7

SECTION II. REQUIREMENTS SPECIFIC TO BULK SEWAGE SLUDGE FOR APPLICATION TO THE LAND MEETING CLASS A or B PATHOGEN REDUCTION AND THE CUMULATIVE LOADING RATES IN TABLE 2, OR CLASS B PATHOGEN REDUCTION AND THE POLLUTANT CONCENTRATIONS IN TABLE 3

For those permittees meeting Class A or B pathogen reduction requirements and that meet the cumulative loading rates in Table 2 below, or the Class B pathogen reduction requirements and contain concentrations of pollutants below listed in Table 3, the following conditions apply:

A. Pollutant Limits

Table 2

Pollutant	Cumulative Pollutant Loading Rate (pounds per acre)*
Arsenic	36
Cadmium	35
Chromium	2677
Copper	1339
Lead	268
Mercury	15
Molybdenum	Report Only
Nickel	375
Selenium	89
Zinc	2500

Table 3

Pollutant	Monthly Average Concentration (milligrams per kilogram)*
Arsenic	41
Cadmium	39
Chromium	1200
Copper	1500
Lead	300
Mercury	17
Molybdenum	Report Only
Nickel	420
Selenium	36
Zinc	2800

*Dry weight basis

B. Pathogen Control

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, a reclamation site, shall be treated by either Class A or Class B pathogen reduction requirements as defined above in Section I.B.3.

C. Management Practices

1. Bulk sewage sludge shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk sewage sludge enters a wetland or other waters in the State.

2. Bulk sewage sludge not meeting Class A requirements shall be land applied in a manner which complies with the Management Requirements in accordance with 30 TAC § 312.44.

3. Bulk sewage sludge shall be applied at or below the agronomic rate of the cover crop.

4. An information sheet shall be provided to the person who receives bulk sewage sludge sold or given away. The information sheet shall contain the following information:

   a. The name and address of the person who prepared the sewage sludge that is sold or given away in a bag or other container for application to the land.

   b. A statement that application of the sewage sludge to the land is prohibited except in accordance with the instruction on the label or information sheet.

   c. The annual whole sludge application rate for the sewage sludge application rate for the sewage sludge that does not cause any of the cumulative pollutant loading rates in Table 2 above to be exceeded, unless the pollutant concentrations in Table 3 found in Section II above are met.

D. Notification Requirements

1. If bulk sewage sludge is applied to land in a State other than Texas, written notice shall be provided prior to the initial land application to the permitting authority for the State in which the bulk sewage sludge is proposed to be applied. The notice shall include:

   a. The location, by street address, and specific latitude and longitude, of each land application site.

   b. The approximate time period bulk sewage sludge will be applied to the site.

   c. The name, address, telephone number, and National Pollutant Discharge Elimination System permit number (if appropriate) for the person who will apply the bulk sewage sludge.

2. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge disposal practice.

E. Record keeping Requirements

The sludge documents will be retained at the facility site and/or shall be readily available for review by a TCEQ representative. The person who prepares bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative for a

period of five years. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply.

1. The concentration (mg/kg) in the sludge of each pollutant listed in Table 3 above and the applicable pollutant concentration criteria (mg/kg), or the applicable cumulative pollutant loading rate and the applicable cumulative pollutant loading rate limit (lbs/ac) listed in Table 2 above.

2. A description of how the pathogen reduction requirements are met (including site restrictions for Class B sludge, if applicable).

3. A description of how the vector attraction reduction requirements are met.

4. A description of how the management practices listed above in Section II.C are being met.

5. The following certification statement:

   "I certify, under penalty of law, that the applicable pathogen requirements in 30 TAC § 312.82(a) or (b) and the vector attraction reduction requirements in 30 TAC § 312.83(b) have been met for each site on which bulk sewage sludge is applied. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practices have been met. I am aware that there are significant penalties for false certification including fine and imprisonment."

6. The recommended agronomic loading rate from the references listed in Section II.C.3. above, as well as the actual agronomic loading rate shall be retained. The person who applies bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative indefinitely. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply:

   a. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii), as applicable, and to the permittee's specific sludge treatment activities.

   b. The location, by street address, and specific latitude and longitude, of each site on which sludge is applied.

   c. The number of acres in each site on which bulk sludge is applied.

   d. The date and time sludge is applied to each site.

   e. The cumulative amount of each pollutant in pounds/acre listed in Table 2 applied to each site.

   f. The total amount of sludge applied to each site in dry tons.

The above records shall be maintained on-site on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

F. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 11) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30 of each year the following information:

1. Results of tests performed for pollutants found in either Table 2 or 3 as appropriate for the permittee's land application practices.
2. The frequency of monitoring listed in Section I.C. that applies to the permittee.
3. Toxicity Characteristic Leaching Procedure (TCLP) results.
4. Identity of hauler(s) and TCEQ transporter number.
5. PCB concentration in sludge in mg/kg.
6. Date(s) of disposal.
7. Owner of disposal site(s).
8. Texas Commission on Environmental Quality registration number, if applicable.
9. Amount of sludge disposal dry weight (lbs/acre) at each disposal site.
10. The concentration (mg/kg) in the sludge of each pollutant listed in Table 1 (defined as a monthly average) as well as the applicable pollutant concentration criteria (mg/kg) listed in Table 3 above, or the applicable pollutant loading rate limit (lbs/acre) listed in Table 2 above if it exceeds 90% of the limit.
11. Level of pathogen reduction achieved (Class A or Class B).
12. Alternative used as listed in Section I.B.3.(a. or b.). Alternatives describe how the pathogen reduction requirements are met. If Class B sludge, include information on how site restrictions were met.
13. Vector attraction reduction alternative used as listed in Section I.B.4.
14. Annual sludge production in dry tons/year.
15. Amount of sludge land applied in dry tons/year.
16. The certification statement listed in either 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii) as applicable to the permittee's sludge treatment activities, shall be attached to the annual reporting form.
17. When the amount of any pollutant applied to the land exceeds 90% of the cumulative pollutant loading rate for that pollutant, as described in Table 2, the permittee shall report the following information as an attachment to the annual reporting form.

a. The location, by street address, and specific latitude and longitude.

b. The number of acres in each site on which bulk sewage sludge is applied.

c. The date and time bulk sewage sludge is applied to each site.

d. The cumulative amount of each pollutant (i.e., pounds/acre) listed in Table 2 in the bulk sewage sludge applied to each site.

e. The amount of sewage sludge (i.e., dry tons) applied to each site.

The above records shall be maintained on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

SECTION III. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE DISPOSED IN A MUNICIPAL SOLID WASTE LANDFILL

A. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC § 330 and all other applicable state and federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present. The permittee shall ensure that the sewage sludge meets the requirements in 30 TAC § 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.

B. If the permittee generates sewage sludge and supplies that sewage sludge to the owner or operator of a municipal solid waste landfill (MSWLF) for disposal, the permittee shall provide to the owner or operator of the MSWLF appropriate information needed to be in compliance with the provisions of this permit.

C. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge disposal practice.

D. Sewage sludge shall be tested annually in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I (Toxicity Characteristic Leaching Procedure) or other method, which receives the prior approval of the TCEQ for contaminants listed in Table 1 of 40 CFR § 261.24. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal.

   Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division and the Regional Director (MC Region 11) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

   The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 11) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

E. Sewage sludge shall be tested as needed, in accordance with the requirements of 30 TAC Chapter 330.

F. Record keeping Requirements

   The permittee shall develop the following information and shall retain the information for five years.

1. The description (including procedures followed and the results) of all liquid Paint Filter Tests performed.

2. The description (including procedures followed and results) of all TCLP tests performed.

The above records shall be maintained on-site on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

G. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 11) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year the following information:

1. Toxicity Characteristic Leaching Procedure (TCLP) results.

2. Annual sludge production in dry tons/year.

3. Amount of sludge disposed in a municipal solid waste landfill in dry tons/year.

4. Amount of sludge transported interstate in dry tons/year.

5. A certification that the sewage sludge meets the requirements of 30 TAC § 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.

6. Identity of hauler(s) and transporter registration number.

7. Owner of disposal site(s).

8. Location of disposal site(s).

9. Date(s) of disposal.

The above records shall be maintained on-site on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

OTHER REQUIREMENTS

1. The permittee shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and Registrations and in particular 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.

   This Category B facility must be operated by a chief operator or an operator holding a Category B license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week. Where shift operation of the wastewater treatment facility is necessary, each shift that does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.

2. The facility is not located in the Coastal Management Program boundary.

3. Chronic toxic criteria apply at the edge of the mixing zone. The mixing zone is defined as 300 feet downstream and 100 feet upstream from the point of discharge.

4. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 1434 of the Colorado River Basin and any subsequent updating of the water quality model for Segment No. 1434, in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC §305.62, as a result of such review. The permittee is also hereby placed on notice that effluent limits may be made more stringent at renewal based on, for example, any change to modeling protocol approved in the TCEQ Continuing Planning Process.

5. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.

6. In accordance with 30 TAC §319.9, a permittee that has at least twelve months of uninterrupted compliance with its bacteria limit may notify the commission in writing of its compliance and request a less frequent measurement schedule. To request a less frequent schedule, the permittee shall submit a written request to the TCEQ Wastewater Permitting Section (MC 148) for each phase that includes a different monitoring frequency. The request must contain all of the reported bacteria values (Daily Avg. and Daily Max/Single Grab) for the twelve consecutive months immediately prior to the request. If the Executive Director finds that a less frequent measurement schedule is protective of human health and the environment, the permittee may be given a less frequent measurement schedule. For this permit, 1/week may be reduced to 2/month. **A violation of any bacteria limit by a facility that has been granted a less frequent measurement schedule will require the permittee to return to the standard frequency schedule and submit written notice to the TCEQ Wastewater Permitting Section (MC 148).** The permittee may not apply for another reduction in measurement frequency for at least 24 months from the date of the last violation. The Executive Director may establish a more frequent measurement schedule if necessary to protect human health or the environment.

CONTRIBUTING INDUSTRIES AND PRETREATMENT REQUIREMENTS

1. The following pollutants may not be introduced into the treatment facility:

   a. Pollutants which create a fire or explosion hazard in the publicly owned treatment works (POTW), including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR § 261.21;

   b. Pollutants which will cause corrosive structural damage to the POTW, but in no case shall there be discharges with pH lower than 5.0 standard units, unless the works are specifically designed to accommodate such discharges;

   c. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, resulting in Interference;

   d. Any pollutant, including oxygen demanding pollutants (e.g., BOD), released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW;

   e. Heat in amounts which will inhibit biological activity in the POTW resulting in Interference but in no case shall there be heat in such quantities that the temperature at the POTW treatment plant exceeds 104 degrees Fahrenheit (40 degrees Celsius) unless the Executive Director, upon request of the POTW, approves alternate temperature limits;

   f. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through;

   g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; and

   h. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

2. The permittee shall require any indirect discharger to the treatment works to comply with the reporting requirements of Sections 204(b), 307, and 308 of the Clean Water Act, including any requirements established under 40 CFR Part 403*rev. Federal Register/ Vol. 70/ No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798.*

3. The permittee shall provide adequate notification to the Executive Director care of the Wastewater Permitting Section (MC 148) of the Water Quality Division within 30 days subsequent to the permittee's knowledge of either of the following:

   a. Any new introduction of pollutants into the treatment works from an indirect discharger which would be subject to Sections 301 and 306 of the Clean Water Act if it were directly discharging those pollutants; and

   b. Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of the permit.

Any notice shall include information on the quality and quantity of effluent to be introduced into the treatment works, and any anticipated impact of the change on the quality or quantity of effluent to be discharged from the POTW.

Revised July 2007

48-HOUR ACUTE BIOMONITORING REQUIREMENTS: FRESHWATER

The provisions of this Section apply to Outfall 001 for whole effluent toxicity (WET) testing.

1. Scope, Frequency and Methodology

a. The permittee shall test the effluent for toxicity in accordance with the provisions below. Such testing will determine if an appropriately dilute effluent sample adversely affects the survival of the test organisms.

b. The permittee shall conduct the following toxicity tests utilizing the test organisms, procedures, and quality assurance requirements specified in this section of the permit and in accordance with "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition" (EPA-821-R-02-012), or its most recent update

1) Acute static renewal 48-hour definitive toxicity test using the water flea (*Daphnia pulex* or *Ceriodaphnia dubia*). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution. This test shall be conducted once per quarter.

2) Acute static renewal 48-hour definitive toxicity test using the fathead minnow (*Pimephales promelas*). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution. This test shall be conducted once per quarter.

The permittee must perform and submit a valid test for each test species during the required reporting period for that species. A minimum of five replicates with eight organisms per replicate shall be used in the control and each dilution. A repeat test shall include the control and all effluent dilutions and use the appropriate number of organisms and replicates, as specified above. An invalid test is herein defined as any test failing to satisfy the test acceptability criteria, procedures, and quality assurance requirements specified in the test methods and permit.

c. The permittee shall use five effluent dilution concentrations and a control in each toxicity test. These additional effluent concentrations are 3%, 4%, 5%, 7%, and 9% effluent. The critical dilution, defined as 7% effluent, is the effluent concentration representative of the proportion of effluent in the receiving water during critical low flow or critical mixing conditions.

d. This permit may be amended to require a WET limit, a Chemical-Specific (CS) limit, a Best Management Practice (BMP), or other appropriate actions to address toxicity. The permittee may be required to conduct a Toxicity Reduction Evaluation after multiple toxic events.

e. Testing Frequency Reduction

1) If none of the first four consecutive quarterly tests demonstrates significant lethal effects, the permittee may submit this information in writing and, upon approval, reduce the testing frequency to once per six

months for the invertebrate test species and once per year for the vertebrate test species.

2) If one or more of the first four consecutive quarterly tests demonstrates significant lethal effects, the permittee shall continue quarterly testing for that species until the permit is reissued. If a testing frequency reduction had been previously granted and a subsequent test demonstrates significant lethal effects, the permittee will resume a quarterly testing frequency for that species until the permit is reissued.

2. Required Toxicity Testing Conditions

a. Test Acceptance - The permittee shall repeat any toxicity test, including the control and all effluent dilutions, which fails to meet any of the following criteria:

1) a control mean survival of 90% or greater;

2) a Coefficient of Variation percent (CV%) of 40 or less for both the control and critical dilution. However, if significant lethality is demonstrated, a CV% greater than 40 shall not invalidate the test. The CV% requirement does not apply when significant lethality occurs.

b. Statistical Interpretation

1) For the water flea and fathead minnow tests, the statistical analyses used to determine if there is a significant difference between the control and an effluent dilution shall be in accordance with the manual referenced above, or its most recent update.

2) The permittee is responsible for reviewing test concentration-response relationships to ensure that calculated test-results are interpreted and reported correctly. The EPA manual, "Method Guidance and Recommendation for Whole Effluent Toxicity (WET) Testing (40 CFR Part 136)" (EPA 821-B-00-004), provides guidance on determining the validity of test results.

3) If significant lethality is demonstrated (that is, there is a statistically significant difference in survival at the critical dilution when compared to the control), the conditions of test acceptability are met, and the survival of the test organisms are equal to or greater than 90% in the critical dilution and all dilutions below that, then the permittee shall report a survival No Observed Effect Concentration (NOEC) of not less than the critical dilution for the reporting requirements.

4) The NOEC is defined as the greatest effluent dilution at which no significant lethality is demonstrated. The Lowest Observed Effect Concentration (LOEC) is defined as the lowest effluent dilution at which significant lethality is demonstrated. Significant lethality is herein defined as a statistically significant difference between the survival of the test organism(s) in a specified effluent dilution compared to the survival of the test organism(s) in the control (0% effluent).

5) The use of NOECs and LOECs assumes either a monotonic (continuous) concentration-response relationship or a threshold model of the concentration-response relationship. For any test result that demonstrates a non-monotonic (non-continuous) response, the NOEC should be determined based on the guidance manual referenced in Item 2 above.

6) Pursuant to the responsibility assigned to the permittee in Part 2.b.2), test results that demonstrate a non-monotonic (non-continuous) concentration-response relationship may be submitted, prior to the due date, for technical review. The above-referenced guidance manual will be used when making a determination of test acceptability.

7) Staff will review test results for consistency with rules, procedures, and permit requirements.

c. Dilution Water

1) Dilution water used in the toxicity tests shall be the receiving water collected at a point upstream of the discharge as close as possible to the discharge point, but unaffected by the discharge. Where the toxicity tests are conducted on effluent discharges to receiving waters that are classified as intermittent streams, or where the toxicity tests are conducted on effluent discharges where no receiving water is available due to zero flow conditions, the permittee shall; (a) substitute a synthetic dilution water that has a pH, hardness, and alkalinity similar to that of the closest downstream perennial water unaffected by the discharge, or (b) utilize the closest downstream perennial water unaffected by the discharge.

2) Where the receiving water proves unsatisfactory as a result of preexisting instream toxicity (i.e. fails to fulfill the test acceptance criteria of item 2.a.), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:

a) a synthetic lab water control was performed (in addition to the receiving water control) which fulfilled the test acceptance requirements of item 2.a;

b) the test indicating receiving water toxicity was carried out to completion;

c) the permittee submitted all test results indicating receiving water toxicity with the reports and information required in Part 3 of this Section.

3) The synthetic dilution water shall consist of standard, moderately hard, reconstituted water. Upon approval, the permittee may substitute other appropriate dilution water with chemical and physical characteristics similar to that of the receiving water.

d. Samples and Composites

1) The permittee shall collect a minimum of two composite samples from Outfall 001. The second composite sample will be used for the renewal of the dilution concentrations for each toxicity test.

2) The permittee shall collect the composite samples such that the samples are representative of any periodic episode of chlorination, biocide usage, or other potentially toxic substance discharged on an intermittent basis.

3) The permittee shall initiate the toxicity tests within 36 hours after collection of the last portion of the first composite sample. The holding time for the subsequent composite sample shall not exceed 72 hours. Samples shall be maintained at a temperature of 0-6 degrees Centigrade during collection, shipping, and storage.

4) If Outfall 001 ceases discharging during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum numbers of effluent portions, and the sample holding time, are waived during that sampling period. However, the permittee must have collected an effluent composite sample volume sufficient to complete the required toxicity tests with renewal of the effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days if the discharge occurs over multiple days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report.

5) The effluent samples shall not be dechlorinated after sample collection.

3. Reporting

All reports, tables, plans, summaries, and related correspondence required in any Part of this Section shall be submitted to the attention of the Standards Implementation Team (MC 150) of the Water Quality Division.

a. The permittee shall prepare a full report of the results of all tests conducted in accordance with the manual referenced above, or its most recent update, for every valid and invalid toxicity test initiated whether carried to completion or not.

b. The permittee shall routinely report the results of each biomonitoring test on the Table 1 forms provided with this permit.

1) Annual biomonitoring test results are due on or before January 20th for biomonitoring conducted during the previous 12 month period.

2) Semiannual biomonitoring test results are due on or before July 20th and January 20th for biomonitoring conducted during the previous 6 month period.

3) Quarterly biomonitoring test results are due on or before April 20th, July 20th, October 20th, and January 20th, for biomonitoring conducted during the previous calendar quarter.

4) Monthly biomonitoring test results are due on or before the 20th day of the month following sampling.

c. Enter the following codes for the appropriate parameters for valid tests only:

1) For the water flea, Parameter TEM3D, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."

2) For the water flea, Parameter TOM3D, report the NOEC for survival.

3) For the water flea, Parameter TXM3D, report the LOEC for survival.

4) For the fathead minnow, Parameter TEM6C, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0.

5) For the fathead minnow, Parameter TOM6C, report the NOEC for survival.

6) For the fathead minnow, Parameter TXM6C, report the LOEC for survival.

d. Enter the following codes for retests only:

1) For retest number 1, Parameter 22415, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."

2) For retest number 2, Parameter 22416, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."

4. Persistent Toxicity

The requirements of this Part apply only when a toxicity test demonstrates significant lethality. Significant lethality is defined as a statistically significant difference between the survival of the test organisms at the critical dilution when compared to the survival of the test organisms in the control.

a. The permittee shall conduct a total of 2 additional tests (retests) for any species that demonstrates significant lethality. The two retests shall be conducted monthly during the next two consecutive months. The permittee shall not substitute either of the two retests in lieu of routine toxicity testing. All reports shall be submitted within 20 days of test completion. Test completion is defined as the last day of the test.

b. If one or both of the two retests specified in item 4.a. demonstrates significant lethality, the permittee shall initiate the TRE requirements as specified in Part 5.

c. The provisions of item 4.a. are suspended upon completion of the two retests and

submittal of the TRE Action Plan and Schedule defined in Part 5 of this Section.

5. Toxicity Reduction Evaluation

a. Within 45 days of the retest that demonstrates significant lethality, the permittee shall submit a General Outline for initiating a Toxicity Reduction Evaluation (TRE). The outline shall include, but not be limited to, a description of project personnel, a schedule for obtaining consultants (if needed), a discussion of influent and effluent data available for review, a sampling and analytical schedule, and a proposed TRE initiation date.

b. Within 90 days of the retest that demonstrates significant lethality, the permittee shall submit a TRE Action Plan and Schedule for conducting a TRE. The plan shall specify the approach and methodology to be used in performing the TRE. A TRE is a step-wise investigation combining toxicity testing with physical and chemical analysis to determine actions necessary to eliminate or reduce effluent toxicity to a level not effecting significant lethality at the critical dilution. The TRE Action Plan shall lead to the successful elimination of significant lethality for both test species defined in item 1.b. As a minimum, the TRE Action Plan shall include the following:

1) Specific Activities - The TRE Action Plan shall specify the approach the permittee intends to utilize in conducting the TRE, including toxicity characterizations, identifications, confirmations, source evaluations, treatability studies, and alternative approaches. When conducting characterization analyses, the permittee shall perform multiple characterizations and follow the procedures specified in the document entitled, "Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures" (EPA/600/6-91/003), or alternate procedures. The permittee shall perform multiple identifications and follow the methods specified in the documents entitled, "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081). All characterization, identification, and confirmation tests shall be conducted in an orderly and logical progression;

2) Sampling Plan - The TRE Action Plan should describe sampling locations, methods, holding times, chain of custody, and preservation techniques. The effluent sample volume collected for all tests shall be adequate to perform the toxicity characterization/ identification/ confirmation procedures, and chemical-specific analyses when the toxicity tests show significant lethality. Where the permittee has identified or suspects specific pollutant(s) and source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical-specific analyses for the identified and suspected pollutant(s) and source(s) of effluent toxicity;

3) Quality Assurance Plan - The TRE Action Plan should address record keeping and data evaluation, calibration and standardization, baseline

tests, system blanks, controls, duplicates, spikes, toxicity persistence in the samples, randomization, reference toxicant control charts, as well as mechanisms to detect artifactual toxicity; and

4) Project Organization - The TRE Action Plan should describe the project staff, project manager, consulting engineering services (where applicable), consulting analytical and toxicological services, etc.

c. Within 30 days of submittal of the TRE Action Plan and Schedule, the permittee shall implement the TRE with due diligence.

d. The permittee shall submit quarterly TRE Activities Reports concerning the progress of the TRE. The quarterly reports are due on or before April 20th, July 20th, October 20th, and January 20th. The report shall detail information regarding the TRE activities including:

1) results and interpretation of any chemical specific analyses for the identified and suspected pollutant(s) performed during the quarter;

2) results and interpretation of any characterization, identification, and confirmation tests performed during the quarter;

3) any data and substantiating documentation which identifies the pollutant(s) and source(s) of effluent toxicity;

4) results of any studies/evaluations concerning the treatability of the facility's effluent toxicity;

5) any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant lethality at the critical dilution; and

6) any changes to the initial TRE Plan and Schedule that are believed necessary as a result of the TRE findings.

Copies of the TRE Activities Report shall also be submitted to the U.S. EPA Region 6 office.

e. During the TRE, the permittee shall perform, at a minimum, quarterly testing using the more sensitive species; testing for the less sensitive species shall continue at the frequency specified in Part 1.b.

f. If the effluent ceases to effect significant lethality (herein as defined below) the permittee may end the TRE. A "cessation of lethality" is defined as no significant lethality for a period of 12 consecutive months with at least monthly testing. At the end of the 12 months, the permittee shall submit a statement of intent to cease the TRE and may then resume the testing frequency specified in Part 1.b. The permittee may only apply the "cessation of lethality" provision once.

This provision accommodates situations where operational errors and upsets, spills, or sampling errors triggered the TRE, in contrast to a situation where a

single toxicant or group of toxicants cause lethality. This provision does not apply as a result of corrective actions taken by the permittee. "Corrective actions" are herein defined as proactive efforts which eliminate or reduce effluent toxicity. These include, but are not limited to, source reduction or elimination, improved housekeeping, changes in chemical usage, and modifications of influent streams and effluent treatment.

The permittee may only apply this cessation of lethality provision once. If the effluent again demonstrates significant lethality to the same species, the permit will be amended to add a WET limit with a compliance period, if appropriate. However, prior to the effective date of the WET limit, the permittee may apply for a permit amendment removing and replacing the WET limit with an alternate toxicity control measure by identifying and confirming the toxicant and an appropriate control measure.

g. The permittee shall complete the TRE and submit a Final Report on the TRE Activities no later than 28 months from the last test day of the retest that confirmed significant lethal effects at the critical dilution. The permittee may petition the Executive Director (in writing) for an extension of the 28-month limit. However, to warrant an extension the permittee must have demonstrated due diligence in their pursuit of the TIE/TRE and must prove that circumstances beyond their control stalled the TIE/TRE. The report shall provide information pertaining to the specific control mechanism(s) selected that will, when implemented, result in reduction of effluent toxicity to no significant lethality at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism(s). A copy of the TRE Final Report shall also be submitted to the U.S. EPA Region 6 office.

h. Based upon the results of the TRE and proposed corrective actions, this permit may be amended to modify the biomonitoring requirements, where necessary, to require a compliance schedule for implementation of corrective actions, to specify a WET limit, to specify a BMP, and to specify CS limits.

TABLE 1 (SHEET 1 OF 2)

WATER FLEA SURVIVAL

		Date	Time		Date	Time
Dates and Times Composites Collected	No. 1 FROM:	_____		TO:	_____	
	No. 2 FROM:	_____		TO:	_____	

Test initiated: _____am/pm _____date

Dilution water used: _____ Receiving water _____ Synthetic Dilution water

PERCENT SURVIVAL

Time	Rep	Percent effluent (%)					
		0%	3%	4%	5%	7%	9%
24h	A						
	B						
	C						
	D						
	E						
48h	A						
	B						
	C						
	D						
	E						
Mean at test end							
CV%*							

*Coefficient of Variation = Standard Deviation x 100/mean

Dunnett's Procedure or Steel's Many-One Rank Test as appropriate:

Is the mean survival at 48 hours significantly less than the control survival?

CRITICAL DILUTION (7%): _____ YES _____ NO

Enter percent effluent corresponding to the NOEC below:

1) NOEC survival = _____% effluent

2) LOEC survival = _____% effluent

TABLE 1 (SHEET 2 OF 2)

FATHEAD MINNOW SURVIVAL

Dates and Times Composites Collected

No. 1 FROM: Date Time _____ TO: Date Time _____

No. 2 FROM: _____ TO: _____

Test initiated: _____ am/pm _____ date

Dilution water used: _____ Receiving water _____ Synthetic Dilution water

PERCENT SURVIVAL

Time	Rep	Percent effluent (%)					
		0%	3%	4%	5%	7%	9%
24h	A						
	B						
	C						
	D						
	E						
48h	A						
	B						
	C						
	D						
	E						
Mean at test end							
CV%*							

* Coefficient of Variation = standard deviation x 100/mean

Dunnett's Procedure or Steel's Many-One Rank Test as appropriate:

Is the mean survival at 48 hours significantly less than the control survival?

CRITICAL DILUTION (7%): _____ YES _____ NO

Enter percent effluent corresponding to the NOEC below:

1) NOEC survival = _____% effluent

2) LOEC survival = _____% effluent

24-HOUR ACUTE BIOMONITORING REQUIREMENTS: FRESHWATER

The provisions of this section apply to Outfall 001 for whole effluent toxicity testing (biomonitoring)

1. Scope, Frequency and Methodology

a. The permittee shall test the effluent for lethality in accordance with the provisions in this Section. Such testing will determine compliance with the Surface Water Quality Standard, 307.6(e)(2)(B), of greater than 50% survival of the appropriate test organisms in 100% effluent for a 24-hour period.

b. The toxicity tests specified shall be conducted once per six months. The permittee shall conduct the following toxicity tests utilizing the test organisms, procedures, and quality assurance requirements specified in this section of the permit and in accordance with "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition" (EPA-821-R-02-012), or its most recent update:

1) Acute 24-hour static toxicity test using the water flea (*Daphnia pulex* or *Ceriodaphnia dubia*). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution.

2) Acute 24-hour static toxicity test using the fathead minnow (*Pimephales promelas*). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution.

The permittee must perform and report a valid test for each test species during the prescribed reporting period. An invalid test must be repeated during the same reporting period. An invalid test is herein defined as any test failing to satisfy the test acceptability criteria, procedures, and quality assurance requirements specified in the test methods and permit. All test results, valid or invalid, must be submitted as described below.

c. In addition to an appropriate control, a 100% effluent concentration shall be used in the toxicity tests. The control and dilution water shall consist of standard, synthetic, moderately hard, reconstituted water.

d. This permit may be amended to require a WET limit, a Best Management Practice (BMP), Chemical-Specific (CS) limits, or other appropriate actions to address toxicity. The permittee may be required to conduct a Toxicity Reduction Evaluation after multiple toxic events.

2. Required Toxicity Testing Conditions

a. Test Acceptance – The permittee shall repeat any toxicity test, including the control, if the control fails to meet a mean survival equal to or greater than 90%.

b. Dilution Water - In accordance with item 1.c., the control and dilution water shall consist of standard, synthetic, moderately hard, reconstituted water.

c. Samples and Composites

1) The permittee shall collect one composite sample from Outfall 001.

2) The permittee shall collect the composite samples such that the samples are representative of any periodic episode of chlorination, biocide usage, or other potentially toxic substance discharged on an intermittent basis.

3) The permittee shall initiate the toxicity tests within 36 hours after collection of the last portion of the composite sample. Samples shall be maintained at a temperature of 0-6 degrees Centigrade during collection, shipping, and storage.

4) If Outfall 001 ceases discharging during the collection of the effluent composite sample, the requirements for the minimum number of effluent portions are waived. However, the permittee must have collected a composite sample volume sufficient for completion of the required test. The abbreviated sample collection, duration, and methodology must be documented in the full report required in Part 3 of this Section.

5) The effluent samples shall not be dechlorinated after sample collection.

3. Reporting

All reports, tables, plans, summaries, and related correspondence required in any Part of this Section shall be submitted to the attention of the Standards Implementation Team (MC 150) of the Water Quality Division.

a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this permit in accordance with the manual referenced above, or its most recent update, for every valid and invalid toxicity test initiated.

b. The permittee shall routinely report the results of each biomonitoring test on the Table 2 forms provided with this permit.

1) Semiannual biomonitoring test results are due on or before January 20th and July 20th for biomonitoring conducted during the previous 6 month period.

2) Quarterly biomonitoring test results are due on or before January 20th, April 20th, July 20th, and October 20th, for biomonitoring conducted during the previous calendar quarter.

c. Enter the following codes for the appropriate parameters for valid tests only:

1) For the water flea, Parameter TIE3D, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter "1."

2) For the fathead minnow, Parameter TIE6C, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if

the mean survival is less than or equal to 50%, enter "1."

d. Enter the following codes for retests only:

1) For retest number 1, Parameter 22415, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter "1."

2) For retest number 2, Parameter 22416, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter "1."

4. Persistent Mortality

The requirements of this Part apply when a toxicity test demonstrates significant lethality, here defined as a mean mortality of 50% or greater to organisms exposed to the 100% effluent concentration after 24-hours.

a. The permittee shall conduct 2 additional tests (retests) for each species that demonstrates significant lethality. The two retests shall be conducted once per week for 2 weeks. Five effluent dilution concentrations in addition to an appropriate control shall be used in the retests. These additional effluent concentrations are 6%, 13%, 25%, 50% and 100% effluent. The first retest shall be conducted within 15 days of the laboratory determination of significant lethality. All test results shall be submitted within 20 days of test completion of the second retest. Test completion is defined as the 24th hour.

b. If one or both of the two retests specified in item 4.a. demonstrates significant lethality, the permittee shall initiate the TRE requirements as specified in Part 5 of this Section.

5. Toxicity Reduction Evaluation

a. Within 45 days of the retest that demonstrates significant lethality, the permittee shall submit a General Outline for initiating a Toxicity Reduction Evaluation (TRE). The outline shall include, but not be limited to, a description of project personnel, a schedule for obtaining consultants (if needed), a discussion of influent and effluent data available for review, a sampling and analytical schedule, and a proposed TRE initiation date.

b. Within 90 days of the retest that demonstrates significant lethality, the permittee shall submit a TRE Action Plan and Schedule for conducting a TRE. The plan shall specify the approach and methodology to be used in performing the TRE. A TRE is a step-wise investigation combining toxicity testing with physical and chemical analysis to determine actions necessary to eliminate or reduce effluent toxicity to a level not effecting significant lethality at the critical dilution. The TRE Action Plan shall lead to the successful elimination of significant lethality for both test species defined in item 1.b. As a minimum, the TRE Action Plan shall include the following:

1) Specific Activities - The TRE Action Plan shall specify the approach the

permittee intends to utilize in conducting the TRE, including toxicity characterizations, identifications, confirmations, source evaluations, treatability studies, and alternative approaches. When conducting characterization analyses, the permittee shall perform multiple characterizations and follow the procedures specified in the document entitled, "Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures" (EPA/600/6-91/003), or alternate procedures. The permittee shall perform multiple identifications and follow the methods specified in the documents entitled, "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081). All characterization, identification, and confirmation tests shall be conducted in an orderly and logical progression;

2) Sampling Plan - The TRE Action Plan should describe sampling locations, methods, holding times, chain of custody, and preservation techniques. The effluent sample volume collected for all tests shall be adequate to perform the toxicity characterization/ identification/ confirmation procedures, and chemical-specific analyses when the toxicity tests show significant lethality. Where the permittee has identified or suspects specific pollutant(s) and source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical-specific analyses for the identified and suspected pollutant(s) and source(s) of effluent toxicity;

3) Quality Assurance Plan - The TRE Action Plan should address record keeping and data evaluation, calibration and standardization, baseline tests, system blanks, controls, duplicates, spikes, toxicity persistence in the samples, randomization, reference toxicant control charts, as well as mechanisms to detect artifactual toxicity; and

4) Project Organization - The TRE Action Plan should describe the project staff, manager, consulting engineering services (where applicable), consulting analytical and toxicological services, etc.

c. Within 30 days of submittal of the TRE Action Plan and Schedule, the permittee shall implement the TRE with due diligence.

d. The permittee shall submit quarterly TRE Activities Reports concerning the progress of the TRE. The quarterly TRE Activities Reports are due on or before April 20th, July 20th, October 20th, and January 20th. The report shall detail information regarding the TRE activities including:

1) results and interpretation of any chemical-specific analyses for the identified and suspected pollutant(s) performed during the quarter;

2) results and interpretation of any characterization, identification, and confirmation tests performed during the quarter;

3) any data and substantiating documentation which identifies the pollutant(s) and source(s) of effluent toxicity;

4) results of any studies/evaluations concerning the treatability of the facility's effluent toxicity;

5) any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to eliminate significant lethality; and

6) any changes to the initial TRE Plan and Schedule that are believed necessary as a result of the TRE findings.

Copies of the TRE Activities Report shall also be submitted to the U.S. EPA Region 6 office.

e. During the TRE, the permittee shall perform, at a minimum, quarterly testing using the more sensitive species; testing for the less sensitive species shall continue at the frequency specified in Part 1.b.

f. If the effluent ceases to effect significant lethality (herein as defined below) the permittee may end the TRE. A "cessation of lethality" is defined as no significant lethality for a period of 12 consecutive weeks with at least weekly testing. At the end of the 12 weeks, the permittee shall submit a statement of intent to cease the TRE and may then resume the testing frequency specified in Part 1.b. The permittee may only apply the "cessation of lethality" provision once.

This provision accommodates situations where operational errors and upsets, spills, or sampling errors triggered the TRE, in contrast to a situation where a single toxicant or group of toxicants cause lethality. This provision does not apply as a result of corrective actions taken by the permittee. "Corrective actions" are herein defined as proactive efforts which eliminate or reduce effluent toxicity. These include, but are not limited to, source reduction or elimination, improved housekeeping, changes in chemical usage, and modifications of influent streams and effluent treatment.

The permittee may only apply this cessation of lethality provision once. If the effluent again demonstrates significant lethality to the same species, the permit will be amended to add a WET limit with a compliance period, if appropriate. However, prior to the effective date of the WET limit, the permittee may apply for a permit amendment removing and replacing the WET limit with an alternate toxicity control measure by identifying and confirming the toxicant and an appropriate control measure.

g. The permittee shall complete the TRE and submit a Final Report on the TRE Activities no later than 18 months from the last test day of the retest that demonstrates significant lethality. The permittee may petition the Executive Director (in writing) for an extension of the 18-month limit. However, to warrant an extension the permittee must have demonstrated due diligence in their pursuit of the TIE/TRE and must prove that circumstances beyond their control stalled the TIE/TRE. The report shall specify the control mechanism(s) that will, when

implemented, reduce effluent toxicity as specified in item 5.g. The report will also specify a corrective action schedule for implementing the selected control mechanism(s). A copy of the TRE Final Report shall also be submitted to the U.S. EPA Region 6 office.

h. Within 3 years of the last day of the test confirming toxicity, the permittee shall comply with 307.6(e)(2)(B), which requires greater than 50% survival of the test organism in 100% effluent at the end of 24-hours. The permittee may petition the Executive Director (in writing) for an extension of the 3-year limit. However, to warrant an extension the permittee must have demonstrated due diligence in their pursuit of the TIE/TRE and must prove that circumstances beyond their control stalled the TIE/TRE.

The requirement to comply with 307.6(e)(2)(B) may be exempted upon proof that toxicity is caused by an excess, imbalance, or deficiency of dissolved salts. This exemption excludes instances where individually toxic components (e.g. metals) form a salt compound. Following the exemption, the permit may be amended to include an ion-adjustment protocol, alternate species testing, or single species testing.

i. Based upon the results of the TRE and proposed corrective actions, this permit may be amended to modify the biomonitoring requirements where necessary, to require a compliance schedule for implementation of corrective actions, to specify a WET limit, to specify a BMP, and to specify a CS limit.

TABLE 2 (SHEET 1 OF 2)

WATER FLEA SURVIVAL

GENERAL INFORMATION

	Time	Date
Composite Sample Collected		
Test Initiated		

PERCENT SURVIVAL

Time	Rep	Percent effluent					
		0%	6%	13%	25%	50%	100%
24h	A						
	B						
	C						
	D						
	E						
	MEAN*						

Enter percent effluent corresponding to the LC50 below:

24 hour LC50 = _____% effluent

TABLE 2 (SHEET 2 OF 2)

FATHEAD MINNOW SURVIVAL

GENERAL INFORMATION

	Time	Date
Composite Sample Collected		
Test Initiated		

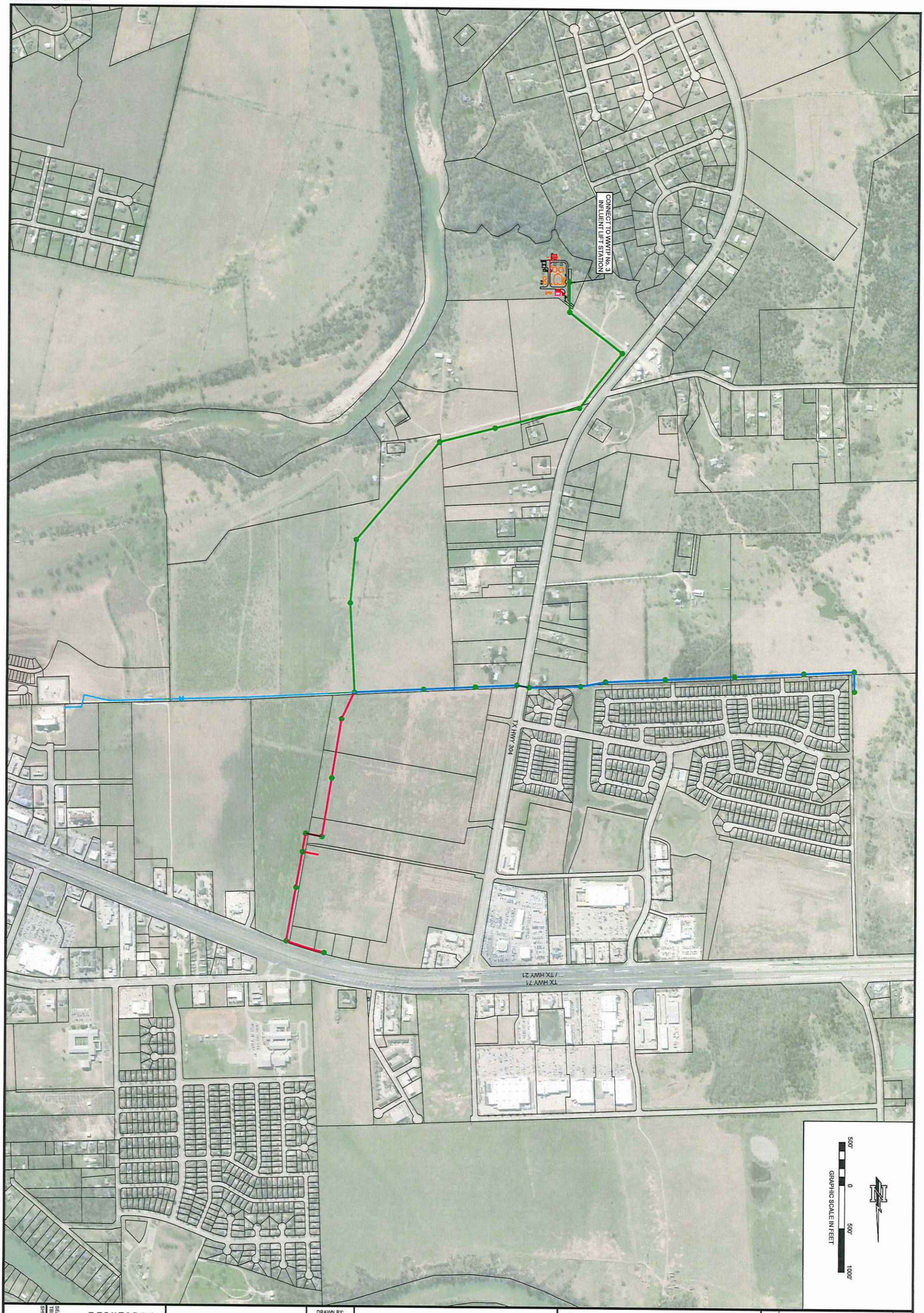
PERCENT SURVIVAL

Time	Rep	Percent effluent					
		0%	6%	13%	25%	50%	100%
24h	A						
	B						
	C						
	D						
	E						
	MEAN						

Enter percent effluent corresponding to the LC50 below:

24 hour LC50 = _____% effluent

LAST SAVED BY: BBOGENSCHUTZ



This document is released for the purpose of interim review under the authority of Jeremy R. Orr, P.E. Lic. # 124911, on June 27, 2019. It is not to be used for construction, bidding, or permit purposes.

SEAL:

TBPE Firm Registration No. F-1356

SHEET NO.

EXHIBIT

KSA

4833 Spicewood Springs Rd., Suite 204
Austin, Texas 78759
T. 512-342-6868 F. 888-224-9418
www.ksaeng.com

DRAWN BY:	BWB
DESIGNED BY:	JRO
LATEST REVISION:	6/27/2019
KSA JOB NO.:	BAS.006C

PROJECT NAME: CITY OF BASTROP, TEXAS WESTSIDE COLLECTION SYSTEM IMPROVEMENTS

SHEET NAME: OPTION 1 WESTSIDE COLLECTION SYSTEM IMPROVEMENTS OVERALL MAP

MARK	REVISION	DATE

\\KSA-AUS-SERVER3\PROJECTS\BAS006C\008 CAD\10 EXHIBITS\02 CIVIL\ BAS006_C-C-EXHB-ALIGNMENT.DWG | OVERALL | 6/27/2019 - 5:01 PM

DRAWING PATH\NAME | LAYOUT | PLOT DATE - TIME

PROJECT TITLE: — - CITY XX, TEXAS

EXHIBIT E: Trunk Main West

NTS

WEST
BASTROP
VILLAGE

S20°00'35"W
1041.61'

EXISTING AQUA WATER LINE

PROPOSED WASTEWATER LINE

WASTEWATER - POINT CONNECTION

PROPOSED WASTEWATER LINE

25' WW ESMT

30' W.S.E.

30' WW ESMT

APPROXIMATELY 5,100 LF

PROPOSED WASTEWATER LINE

PROPOSED WASTEWATER LINE

EXISTING AQUA WATER LINE

EXISTING 12" WATER LINE

HUNTERS CROSSING 3-G

S5°57'52"W
980.77'

Carlson, Brigance & Doering, Inc.
FIRM I.D. #1579

Civil Engineering
5501 West William Cannon
Phone No. (512) 280-5160

Surveying
Austin, Texas 78735
Fax No. (512) 280-5165

DATE: OCTOBER 2014

DRAFTED BY: CB

DESIGNED BY: DRJ

SHEET

JOB NAME: BASTROP VILLAGE WEST

PROJECT

JOB NUMBER: 4740

EXHIBIT F: Easement Trunk Main West

NTS

WEST
BASTROP
VILLAGE

S20°00'35"W
1041.61'

S5°57'52"W
980.77'

EXISTING AQUA WATER LINE

PROPOSED WASTEWATER LINE

WASTEWATER - POINT CONNECTION

PROPOSED WASTEWATER LINE

25' NW ESMT

30' W.S.E.

30' NW ESMT

APPROXIMATELY 5,100 LF

PROPOSED WASTEWATER LINE

PROPOSED WASTEWATER LINE

EXISTING AQUA WATER LINE

EXISTING 12" WATER LINE

HUNTERS CROSSING 3-G

Carlson, Brigance & Doering, Inc.
FIRM I.D. #1579
Civil Engineering
Surveying
5501 West William Cannon ◆◆ Austin, Texas 78749
Phone No. (512) 280-5160 ◆◆ Fax No. (512) 280-5165

DATE: OCTOBER 2014
DRAFTED BY: CB
DESIGNED BY: DRJ
SHEET
JOB NAME: BASTROP VILLAGE WEST
PROJECT
JOB NUMBER: 4740

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9E

TITLE:
Consider action to approve Resolution No. R-2019-99 of the City Council of the City of Bastrop, Texas, adopting a wholesale water agreement with West Bastrop Village Municipal Utility District of Bastrop County and West Bastrop Village Ltd.; attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

STAFF REPRESENTATIVE:
Lynda Humble, City Manager
Trey Job, Assistant City Manager of Development Services

BACKGROUND/HISTORY:
The City of Bastrop hired NewGen Services to assist with the development of a wholesale water rate that will allow the City of Bastrop to manage the growth while remaining fiscally sustainable. As Austin continues to grow and be consistently named one of the most desirable places to live, growth will continue to move east toward Bastrop. It is vital that the City of Bastrop be poised and ready to handle development. The current City Council has made a commitment to be prepared for the expected growth.

In addition to the development of a wholesale water agreement, the City of Bastrop has also entered into an agreement with Aqua Water Supply Corporation that allows the City to sell wholesale water within the City of Bastrop wastewater Certificate of Convenience and Necessity (CCN). As a result of that agreement, this draft wholesale water agreement is being brought for approval.

A standardized draft wholesale water agreement was approved by Council in April of 2019 by Resolution R-2019-33. Since that time, the City of Bastrop has acquired a wholesale customer and has had the opportunity to better vet the standardized agreement. The attached agreement reflects the following changes:
:

- Better defining the “Connecting Facilities” and associated cost.
- Providing the current impact fees for water & wastewater.
- Meter specifications and ownership of the meters.
- Defining fire flow, water quality, and pressure.
- Term of the agreements. (50 yrs.)

The proposed wholesale water agreement will allow the City to better manage the growth and provide new customers that will stabilize future water rates and allow for a one stop shop as it relates to water and wastewater utilities.

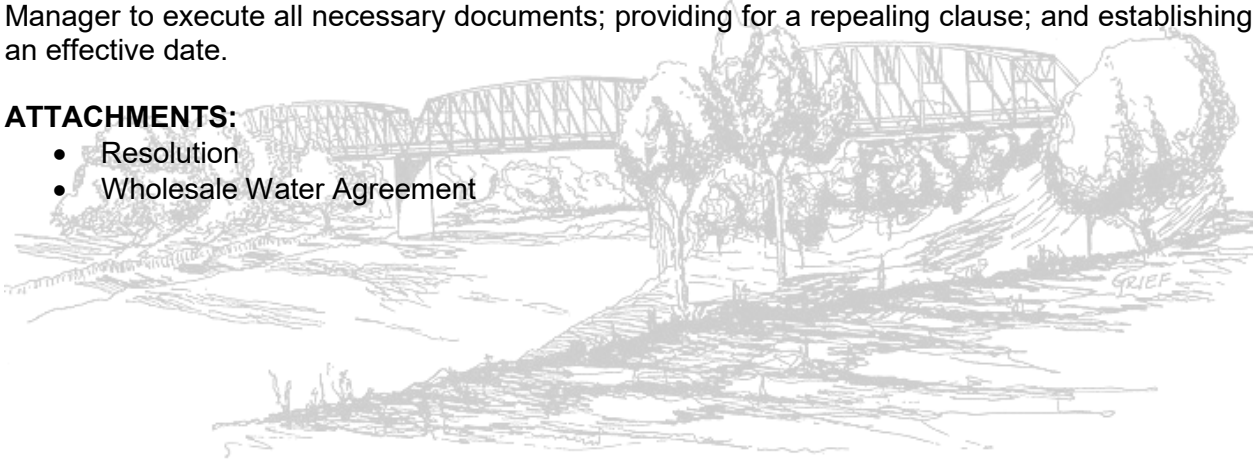
This resolution will repeal R-2019-33 and replace the standardized wholesale water agreement with this document, which will now serve as the standardized wholesale water agreement template.

POLICY EXPLANATION:
The City Charter grants the City Council the authority in Section 3.01 Powers and Duties (13) provide for a sanitary sewer and water system and require property owners to connect with such sewer system and provide for penalties for failure to make sanitary sewer connections. The City's Code of Ordinance further established areas of service and utility rates.

FUNDING SOURCE:
N/A

RECOMMENDATION:
Consider action to approve Resolution No. R-2019-99 of the City Council of the City of Bastrop, Texas, adopting a wholesale water agreement with West Bastrop Village Municipal Utility District of Bastrop County and West Bastrop Village Ltd.; 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
- Wholesale Water Agreement



RESOLUTION NO. R-2019-99

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, ADOPTING A WHOLESALE WATER AGREEMENT WITH WEST BASTROP VILLAGE MUNICIPAL UTILITY DISTRICT OF BASTROP COUNTY AND WEST BASTROP VILLAGE, LTD.; ATTACHED IN EXHIBIT A; 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 importance of fiscal sustainability; and

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 the standardization of water wholesales and providing fairness and consistency; and

WHEREAS, the City of Bastrop adopted a standardized wholesale water agreement on April 23, 2019 by Resolution R-2019-33; and

WHEREAS, the City of Bastrop chooses to approve the attached wholesale water agreement shown as exhibit A; and

WHEREAS this Resolution R-2019-99 expressly repeals and replaces Resolution R-2019-33; 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. The City Manager is hereby authorized to execute a wholesale water contract between the City of Bastrop Texas and West Bastrop Village Municipal Utility District of Bastrop County and West Bastrop Village Ltd. (attached as Exhibit A) as well as all other necessary documents.

Section 2. The City Council adopts a standardized wholesale water agreement, as attached in Exhibit A, for use with future wholesale customers.

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. 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 26th day of November 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

WHOLESALE WATER AGREEMENT
BETWEEN THE CITY OF BASTROP, WEST BASTROP VILLAGE MUNICIPAL UTILITY DISTRICT OF BASTROP COUNTY AND WEST BASTROP VILLAGE, LTD.

This WHOLESALE WATER AGREEMENT ("**Agreement**") is made and entered into by and between the CITY OF BASTROP, a home rule city located in Bastrop County ("**Bastrop**" or "**City**") and the West Bastrop Village Municipal Utility District of Bastrop County, a political subdivision of the state operating under Chapters 49 and 54, Texas Water Code ("**District**"), and West Bastrop Village, LTD., a Texas limited partnership ("**Develope**r") (collectively referred to herein as the **"Parties"**). The Parties hereby mutually agree as follows:

RECITALS

WHEREAS, the City and the Developer entered into a Planned Development Agreement, to be known in this Agreement as "the PDA" on August 11, 2006, requiring a wholesale water agreement; and

WHEREAS, by Resolution R-2006-24, on September 13, 2006, the City granted consent for creation of West Bastrop Village Municipal Utility District; and

WHEREAS, by Order signed on April 24, 2007, the Texas Commission on Environmental Quality granted the Petition for Creation of West Bastrop Village Municipal Utility District; and

WHEREAS, by Resolution R-2007-12 the City confirmed its consent for creation of the West Bastrop Village Municipal Utility District, on June 26, 2007; and

WHEREAS, the District encompasses approximately 347.9 acres of land within the extraterritorial jurisdiction ("ETJ") of the City (the "Tract"). The Tract is more particularly described in Exhibit "A"; and

WHEREAS, Developer intends to develop the Tract as a master-planned, mixed-use community, initially to be referred to as "West Bastrop Village" projected to consist primarily of residential uses, expected at the time of execution of this Agreement to include approximately 1,500 homes, and also will include other limited nonresidential uses (the "Development"); and

WHEREAS, the Tract is within the water CCN of Aqua Water Supply Corporation (10294), from which the City intends to purchase potable water at wholesale rates pursuant to the Bastrop Aqua Agreement (as defined herein), and intends to sell potable water at wholesale rates to the District; and

WHEREAS, Bastrop will have adequate water supply and distribution infrastructure to provide up to a peak hourly flow rate of 200,000 gallons per hour and a maximum daily

flow of 2,785,000 gallons per day to District at the time of final buildout by Developer; and

WHEREAS, City, District and Developer wish to enter into this Agreement, to provide the terms of wholesale water service for the benefit of the present and future residents of City and the District.

NOW, THEREFORE, for and in consideration of the agreements set forth below, the City, District and Developer agree as follows:

ARTICLE I. DEFINITIONS

Section 1.01 Definitions of Terms.

In addition to the terms otherwise defined in the above recitals; in the City's ordinances; or the provisions of this Agreement, the terms used in this Agreement will have the meanings set forth below.

Agreement: means this Wholesale Water Agreement by and among the City of Bastrop, Texas, West Bastrop Village Municipal Utility District, and West Bastrop Village, LTD.

AWWA: means the American Water Works Association.

Bastrop Aqua Agreement: means the Wholesale Water Service Agreement between the City of Bastrop and Aqua Water Supply Corporation ("Aqua"), effective November 28, 2018, a copy of which is attached hereto as Exhibit "B", pursuant to which Aqua will sell potable water at wholesale to the City.

Bastrop's System Agreement: means any agreements necessary to provide wholesale water service to District, including but not limited to the Bastrop Aqua Agreement.

Bastrop System*:* means the facilities, including water production wells, pumps, lines, meters, components, and equipment owned and operated by Bastrop, together with all extensions, expansions, improvements, enlargements, betterments and replacements to monitor, convey, supply, deliver and distribute potable water or Wholesale Water Services to Bastrop's customers, including water storage necessary for peaking and firefighting purposes, including Water Storage West. The Bastrop System does not include any improvements on District's side of the Delivery Point or any facilities on any other wholesale customer's side of its delivery point.

Bastrop Water Conservation and Drought Contingency Plan: means, collectively, the Bastrop Water Conservation Plan and the Bastrop Drought Contingency Plan, as may be amended by the Bastrop City Council from time to time. A copy of the Bastrop Water Conservation and Drought Contingency Plan in effect as of the Effective Date is attached hereto as Exhibit "C".

CCN*:* means a certificate of convenience and necessity or similar permit authorizing a specified entity to be the retail water or sewer service provider in a specified area.

City: means The City of Bastrop, Texas, a home rule municipality, organized and operating pursuant to the applicable laws of the State of Texas

City Manager: means the City of Bastrop's City Manager.

Commission or TCEQ: means the Texas Commission on Environmental Quality or its successor agency.

Connecting Facilities: means District-owned infrastructure and facilities including, but not limited to valves, vault, backflow preventer, meter, and pressure reduction valve if required, utilized to connect any Internal Facilities to a Delivery Point.

County: means Bastrop County, Texas.

Delivery Point: means the point at which Bastrop will deliver treated water to District under this Agreement, which point shall be at the Master Meter to be installed as depicted on Exhibit "D". Future Delivery Point(s), if any, shall be agreed upon by Bastrop, District and Developer.

Developer: means West Bastrop Village, LTD., a Texas limited partnership, its successors or assigns.

Development: means the mixed-use development of the Tract, including residential and non-residential land uses, together with parkland, open space, recreational amenities and related facilities, intended to produce developed lots.

District: means the municipal utility district organized and operating in accordance with Section 54.016, Texas Water Code and Section 42.042, Texas Local Government Code, encompassing the Tract, known as West Bastrop Village Municipal Utility District.

District System: means District's water transmission, distribution and delivery systems that provide service to District's retail customers through the Wholesale Water Services provided under this Agreement. The District System shall be owned, operated and maintained by West Bastrop Village Municipal Utility District and shall not include the Master Meter or any facilities on Bastrop's side of the Delivery Point.

District Service Area: means the retail water service territory of West Bastrop Village Municipal Utility District of Bastrop County, which shall be the boundaries of the West Bastrop Village Municipal Utility District of Bastrop County.

Effective Date: means the last date of execution by all of the Parties.

ETJ: means extraterritorial jurisdiction.

Emergency: means a sudden unexpected happening; an unforeseen occurrence or condition; exigency; pressing necessity; or a relatively permanent condition or insufficiency of service or of

facilities resulting from causes outside of the reasonable control of Bastrop. The term includes Force Majeure and acts of third parties that cause the Bastrop System to be unable to provide the Wholesale Water Services agreed to be provided herein.

EPA: means the United States Environmental Protection Agency.

Force Majeure: means acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of any governmental entity other than Bastrop or any civil or military authority, acts, orders or delays of any regulatory authorities with jurisdiction over the parties, insurrections, riots, acts of terrorism, epidemics, landslides, lightning, earthquakes, fires, hurricanes, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or any other conditions which are not within the control of a party.

Governmental Authority: means and includes any federal, state, local or other governmental body, including but not limited to the Lost Pines Groundwater Conservation District, the Gonzales County Underground Water Conservation District, the Fayette County Underground Water Conservation District, any governmental or quasi-governmental, regulatory or administrative agency, commission, body, or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power; or any court or other governmental tribunal.

Internal Facilities: means the internal Water distribution facilities and related equipment, facilities, and appurtenances within the boundaries of the District to be constructed by or on behalf of District for the District System.

Master Meter: means the water flow meter, meter vault, and all metering and telemetering equipment located at a Delivery Point to measure Wholesale Water Service to District. The Bastrop System shall include the Master Meter.

Parties: means the City, the District, and the Developer.

Planned Development Agreement or PDA: means the agreement that was entered into by the City and the Developer on August 11, 2006.

Planned Outage: means a shut-down by Bastrop in the operation of all or a portion of Bastrop's System or by Aqua for all or part of Aqua's system, such that no water service is provided to District (i) which shut-down is scheduled by Bastrop in order to carry out foreseeable preventive, corrective, and other maintenance activities on such System or which may be required by any Governmental Authority; (ii) for which Bastrop has notified District; (iii) which occurs no more than two (2) times in one (1) calendar year; and (iv) lasts for no more than three (3) Days unless another time period is mutually agreed-to in writing by both Parties.

Subscribed Capacity: means, for purposes of calculating the monthly fixed charge described in Section 6.02, the amount of water that passes through the Master Meter based on monthly readings of the Master Meter.

SUE: means service unit equivalent which is the basis for establishing equivalency among and within various customer classes, based upon the relationship of the continuous duty flow rate in gallons per minute for a water meter of a given size and type compared to the continuous duty maximum flow rate in gallons per minute for a 5/8 " diameter simple water meter, using American Water Works Association C700-C703 standards. For purposes of this Agreement and as reflected in Bastrop Code of Ordinances Section 10.02.004, 5/8 " water meters are considered to equal one SUE; except that for multi-family development, each living unit is equivalent to 0.5 SUE.

Tract: means the approximately 347.9 acres of land within the District's boundaries.

Water Storage West: means the 250,000 gallon-elevated storage tank and 250,000 gallon-ground storage tank to be built by the City in which the District's peaking, storage and fire flow needs will be met once it is connected to the District System. Such facilities may be expanded by the City in the future as needed to meet the needs of the City and District. The City has or will acquire necessary easements and complete construction of Water Storage West on a schedule that serves and protects the property owners and their structures in the District, but in no event later than May 31, 2020. The Water Storage West facilities are shown generally on Exhibit "E."

Wholesale Water Services: means the diversion or the production of water, the transmission thereof to a place or places of treatment, the treatment of the water into potable form, and the transmission of the potable water to the Delivery Point in a quantity not to exceed 2,785,000 gallons per day, unless increased as provided herein.

Section 1.02 Captions.

The captions appearing at the first of each numbered section or paragraph in this Agreement are inserted and included solely for convenience and shall never be considered or given any effect in construing this Agreement.

ARTICLE II. DESIGN AND CONSTRUCTION OF FACILITIES

Section 2.01 Design and Construction of the Internal Facilities.

a. District will be responsible for design and construction of, or for causing one or more third parties to design and construct, the Internal Facilities within the District System.

b. District agrees to be responsible for and pay for all costs of rights-of-way, easements, design, engineering, contracting, construction and inspection of the Internal Facilities; provided that District may require Developer to be responsible and pay for all or a portion of the costs of rights-of-way, easements, design, engineering, contracting, construction, and inspection of the Internal Facilities.

c. The Internal Facilities will be designed and constructed in accordance with applicable regulations and specifications of Bastrop, the State of Texas and United States, and with the terms and conditions of this Agreement.

Section 2.02 Design and Construction of the Connecting Facilities.

a. District shall be responsible for design and construction of, or for causing one or more third parties to design and construct, any Connecting Facilities, or modification to the existing Connecting Facilities, required for the transmission of water from the Bastrop System.

b. Subject to the terms and conditions of this Agreement, District agrees to engage or cause to be engaged the services of a professional engineer registered in Texas to produce the engineering design, including detailed plans and specifications for Connecting Facilities in conformance with Bastrop's design criteria and construction standards in effect as of the Effective Date, and any approved variances. Notwithstanding the foregoing, at the option of the District or Developer, District or Developer may avail itself of any change to laws, rules, regulations or ordinances affecting design and/or construction of facilities for the Tract. The plans and specifications will address the sizing, routing, material selection, service method, cost estimates, proposed construction schedule, easements, and such other requirements and information required in Bastrop's Construction Standards Manual, Ordinance or other City regulation related to the design and construction of public improvements that are reasonably necessary or advisable for proper review and assessment of the plans and specifications. The design for the Connecting Facilities shall be procured at District's sole expense; provided that District may cause Developer to be responsible for designing the Connecting Facilities, and the cost thereof. The plans and specifications for the Connecting Facilities will be submitted to Bastrop for review and comment before District approves said plans and specifications. Review of plans and specifications are subject to applicable City review fees. Bastrop shall approve the plans and specifications or provide written comments in accordance with any applicable state-mandated timeframes and applicable City policies and processes. District shall cause any comments provided by Bastrop that comply with the applicable design criteria and construction standards to be addressed.

c. District solely shall be responsible for funding construction, and all costs related thereto, of the Connecting Facilities, or for causing one or more third party developers or owners of land within the District Service Area to be responsible for funding construction, and all costs related thereto, of the Connecting Facilities.

d. District agrees to be responsible for, and pay for all costs of rights-of-way, easements, design, engineering, contracting, construction and inspection of the Connecting Facilities required to be constructed for the connection to the Bastrop System, or for causing Developer to be responsible for and to pay all costs of rights-of-way, easements, design, engineering, contracting, construction and inspection of the Connecting Facilities required to be constructed for the connection to the Bastrop System.

e. The parties will cooperate in good faith to determine the location of Connecting Facilities that are located in Bastrop's ETJ and within the District boundaries. Bastrop agrees to cause the dedication of easements or rights-of-way that may be necessary for the location and installation of Connecting Facilities within the ETJ of Bastrop. Pursuant to separate written instruments, Bastrop will further allow District to access and use rights-of-way and easements owned or controlled by City for the purpose of installing, constructing, repairing, replacing, maintaining, and operating or causing to be installed, constructed, repaired, replaced, maintained and operated, Connecting Facilities.

Section 2.03 Notification of Commencement of Construction on Connecting Facilities.

After all required approvals for construction of the Connecting Facilities are obtained, but prior to commencement of construction, District will provide, or cause to be provided, written notice to Bastrop of the date on which construction of the Connecting Facilities is scheduled to commence. Bastrop must receive this written notice at least five (5) days before the scheduled construction date.

Section 2.04 Inspection and Acceptance of a Portion or All of the Connecting Facilities.

The Parties agree that Bastrop has the right to make periodic inspections during the construction phase of the Connecting Facilities. Acceptance of the Connecting Facilities constructed by District is subject to final inspection by Bastrop.

Section 2.05 Agreement to Submit As-Built or Record Drawings and Final Plats.

District agrees to provide, or cause to be provided to Bastrop:

a. as-built or record drawings of all Internal Facilities and Connecting Facilities that contribute directly to the Bastrop System; and

b. final plats for property located within the District Service Area; within thirty (30) days of District receiving them, not to exceed sixty (60) days following completion and acceptance of the construction of such facilities or recording of the final plat, as appropriate.

Section 2.06 Ownership and Operation of Connecting Facilities.

Except as set forth below or otherwise agreed, District shall own and operate all Connecting Facilities located on its side of a Delivery Point after completion of construction by District or the Developer, and acceptance of the Connecting Facilities by Bastrop.

ARTICLE III. PROVISION OF WHOLESALE WATER SERVICES

Section 3.01 Wholesale Water Services.

a. Bastrop agrees to provide Wholesale Water Services to District in amount not to exceed 2,785,000 gallons per day (which includes peaking use, storage, and fire flow) and in accordance with the flow limitations and other provisions of this Agreement, all as

hereafter specified. Provided, however, to allow flexibility to respond to market conditions, subject to prior written notice by the District or Developer and approval by the City, the wholesale water service commitment, currently 2,785,000 gallons per day can be increased without the need for amending this Agreement so long as such increase does not exceed the wholesale water service commitment set forth herein by more than 25%. In such event, Bastrop City Manager shall provide a letter to the District and Developer, within sixty (60) days of receipt of notice from the District and/or Developer requesting such increase in wholesale water service commitment, approving the increased wholesale water service commitment.

b. The wholesale water service commitment, initially 2,785,000 GPD, is based on a quantity of gallons per day to be provided to the District and is not limited to a specific number of SUEs. Although such amount is initially calculated at an amount sufficient to provide wholesale water service to at least 1,500 SUEs, the actual number of SUEs that may ultimately be served pursuant to this Agreement may increase if City determines, at any time, that the actual daily water use per connection is less than current use assumptions.

Section 3.02 District Responsible for Retail Connections.

District will be solely responsible for providing retail water service within the District Service Area. District will be solely responsible for the proper and lawful application of District's policies and regulations governing connection to the District System.

Section 3.03 Source.

a. Bastrop, by entering into this Agreement with District and Developer, confers upon District, the right to purchase on a wholesale basis water in amount not to exceed 2,785,000 gallons per day from the water secured by Bastrop from Aqua Water Supply Corporation.

b. In the event that the amount of water supplied by Aqua to Bastrop pursuant to the Bastrop Aqua Agreement is reduced, the amount of water supply available to the District pursuant to this Agreement shall be reduced on a pro rata basis among all City water users. Provided, however, upon completion of the City's water plant, which is anticipated to be completed by 2022, the City will provide sufficient water to the District, subject to the conditions in Section 3.12, such that the water supplied to the District pursuant to this Agreement is not reduced due to any reduction of water by Aqua to Bastrop pursuant to the Bastrop Aqua Agreement.

Section 3.04 Title to and Responsibility for Water; Delivery Point(s).

a. Title to the water diverted, treated and transported to District by Bastrop under this Agreement shall remain with Bastrop at all times until it reaches the Delivery Point. At the Delivery Point, title, control and dominion of the water shall pass to District.

b. District shall be solely responsible for conveying water from the Delivery Point to the District's intended places of use. At its cost and expense, District may change the Delivery

Point from time to time following prior written notice to and written approval by Bastrop, which approval shall not be unreasonably withheld, denied or delayed.

Section 3.05 Quantity and Pressure.

Subject to the terms of this Agreement, Bastrop agrees to deliver to District all potable water needed and requested by District for the District Service Area, up to, but not in excess of: (i) a minimum of 1,855 GPD per SUE (ii) a maximum hourly delivery of 200,000 gallons per hour; (iii) a maximum daily delivery of 2,785,000 gallons per day; (iii) a maximum yearly delivery of 383,250,000 per year; and (iv) a maximum flow rate of 1.5 gallons per minute per connection at a delivery pressure of 35 psi as measured at the Delivery Point. The service provided by Bastrop shall provide for peaking, storage and fire flows, including standards found in 30 Texas Administrative Code, Chapter 290, Subchapter F (the "TCEQ Requirements").

Section 3.06 Quality of Water Delivered to District.

The water delivered by Bastrop at the Delivery Point shall be potable water of a quality conforming to the requirements of any applicable federal or state laws, rules, regulations or orders, including requirements of the TCEQ applicable to water provided for human consumption and other domestic use, specifically to satisfy the TCEQ Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems, 30 Tex. Admin. Code Chapter 290, Subchapter F, as currently in effect or as may be amended from time to time. The water that Bastrop delivers to the District shall be of the same quality of water that Bastrop delivers to its retail members. Each party agrees to provide to the other party, in a timely manner, any information or data regarding this Agreement or the quality of treated water provided through this Agreement as required for reporting to the TCEQ or other state and federal regulatory agencies.

Section 3.07 Maintenance and Operation; Future Construction.

a. Bastrop shall be responsible for operating, maintaining, repairing, replacing, extending, improving and enlarging the Bastrop System, including the Master Meter, in good working condition and shall promptly repair any leaks or breaks in the Bastrop System. Bastrop commits to completing construction, by May 31, 2020, of additional water storage known as Water Storage West to consist of one elevated 250,000-gallon storage tank and one 250,000-gallon ground storage tank in which the District's peaking, storage and fire flow needs will be met once it is connected to the District System. Such facilities may be expanded by the City in the future as needed to meet the needs of the City and the District. The City has or will acquire necessary easements and complete construction of Water Storage West on a schedule that serves and protects the property owners and their structures in the District, but in no event later than May 31, 2020.

b. District shall be responsible for operating, maintaining, repairing, replacing, extending, improving and enlarging the District System in good working condition and shall promptly repair any leaks or breaks in the District System.

Section 3.08 Rights and Responsibilities in Event of Leaks or Breaks.

District shall be responsible for paying for all water delivered to it under this Agreement at the Delivery Point even if such water passed through the Delivery Point as a result of leaks or breaks in the District System.

Section 3.09 Commencement of Wholesale Water Service.

Bastrop will commence the provision of Wholesale Water Service to District upon final inspection and approval of Connecting Facilities to the District.

Section 3.10 Wholesale Service Commitment Not Transferable.

Bastrop's commitment to provide Wholesale Water Services pursuant to this Agreement is solely to District. District may not assign or transfer in whole or in part it's right to receive Wholesale Water Services without Bastrop's prior written approval.

Section 3.11 Conservation and Drought Planning.

Within ninety (90) days of the date the District begins operation of the District Water System, the District shall adopt a water conservation plan consistent with and no less stringent than the City's drought contingency plan then in effect and in compliance with TCEQ Rules, 30 Texas Administrative Code, Chapter 288. A copy of the City's current drought contingency plan is attached as Exhibit "C" to this Agreement.

Section 3.12 Curtailment of Service.

The Parties agree that if Water Service is curtailed by Bastrop due to a Planned Outage or Emergency, Bastrop may impose a like curtailment, with notice to District, on Wholesale Water Service delivered to District under this Agreement. Bastrop will impose such curtailments in a nondiscriminatory fashion. The curtailment Bastrop imposes on District shall be equal in duration to the curtailment imposed on Bastrop's retail members.

For Planned Outages, Bastrop shall provide notice to District of the date and duration of any Planned Outages to be conducted by Bastrop that may affect water service to the District at least thirty (30) days prior to the Planned Outage. To the extent reasonably possible, Bastrop shall coordinate the timing of any Planned Outage with District and shall cooperate with District to minimize the impact of any Planned Outage on the operation and maintenance of District System.

When an Emergency occurs curtailing water service to District, Bastrop shall notify District of the existence, nature, and expected duration of the Emergency as soon as reasonably practical. Bastrop shall use its best efforts to ensure that any interruption in the delivery of water service due to an Emergency shall continue only for so long as reasonably necessary. Bastrop shall immediately inform District of any changes in the nature and expected duration of such Emergency.

Section 3.13 Cooperation during Maintenance or Emergency.

District will reasonably cooperate with Bastrop during periods of Emergency or required maintenance of the Bastrop System. If necessary, upon prior notice, District will operate and maintain the District System in a manner reasonably necessary for the safe and efficient completion of repairs or the replacement of facilities, the restoration of service, and the protection of the public health, safety, and welfare.

Section 3.14 Re-sale of Water Prohibited.

District is prohibited from selling any water sold to District hereunder to any person or entity, except to its retail water customers served within its boundaries.

Section 3.15 CCN Amendment.

Following execution of this Agreement, and prior to provision of Wholesale Water Service by Bastrop, Developer, at its expense, will prepare, file and pursue decertification of the Tract from Aqua's CCN and City agrees to cooperate with Developer in connection with same.

ARTICLE IV. WATER METERING PROVISIONS

Section 4.01 Meter Specifications.

All meters shall be as specified in Exhibit "F" and installed as specified in Exhibit "G".

Section 4.02 Master Meter Accuracy.

Meters shall meet accuracy standards required by the AWWA with calibration maintained as described in Section 4.03.

Section 4.03 Meter Calibration.

a. The Master Meter(s) shall be calibrated each calendar year by City at City's sole cost and expense. District shall be provided 30 days prior notice of each such calibration, and a representative of District may be present to observe each calibration.

b. In the event any question arises at any time as to the accuracy of the Master Meter, but not more than a frequency of once per consecutive twelve (12) month period without mutual consent of both Parties, then the Master Meter shall be tested by Bastrop promptly upon demand of District. The expense of such test shall be borne by District, unless such meter is found to be registering inaccurately. The District shall have the right to test the meter at any time at its cost and expense.

c. If, as a result of any test, the Master Meter is found to be registering inaccurately (in excess of AWWA and manufacturer's standards for the type and size of meter), the readings of the Master Meter shall be corrected at the rate of their inaccuracy for any period which is definitely known or agreed upon, if no such period is known or agreed upon, the shorter of:

1. a period extending back either sixty (60) days from the date of demand for the test or, if no demand for the test was made, sixty (60) days from the date of the test; or

2. a period extending back one-half of the time elapsed since the last previous test; and the records of the readings, and all payments which have been made on the basis of such readings, shall be adjusted accordingly.

ARTICLE V. FIRE FLOW

Section 5.01. Fire flow Availability.

Sixty days from the preconstruction meeting for the initial public improvements, City will provide water to the District for up to fifty-three (53) connections without fire flow.

City is under contract to construct Water Storage West, a 250,000-gallon elevated storage tank and 250,000-gallon ground storage tank, with an anticipated completion date of May 31, 2020, subject to change based on weather and other factors. Fire flow will be available to the District within thirty (30) days of completion of Water Storage West and connection of the water line to the District. In the event such facilities have not been constructed by the City by May 31, 2020.

Section 5.02 Hydrants.

Fire hydrants shall be painted as specified in 2009 NFPA 291 Chapter 5, Appendix B.

Section 5.03 Measurement of Water Used for Fire Flow.

The measurement of water used for fire flow shall be based on reports provided to Bastrop by the responding fire department documenting the number of gallons pumped over the duration of the response.

ARTICLE VI. WATER RATES AND CHARGES

Section 6.01 Wholesale Water Rates, Fees and Charges.

District will pay Bastrop for the Wholesale Water Service provided under this Agreement based on a monthly fixed charge plus the volumetric charge. Except as provided in this Agreement, no other rates, fees or charges shall be owed by the District to Bastrop for Wholesale Water Service.

Section 6.02 Monthly Fixed Charge.

District will pay Bastrop the monthly fixed charge comprised of the Source Cost per MGD of ~~S~~subscribed C~~c~~apacity, plus the Transmission Cost per MGD of ~~S~~subscribed C~~c~~apacity, plus a Customer Charge per wholesale meter as adopted in Bastrop Code of Ordinances Section A13.02.004(b). Such fee shall be subject to change from time to time when Bastrop wholesale rates are reviewed. The initial monthly fixed charge is as follows:

Commented [A1]: **Lynda will visit with consultant and Aqua – not pay more than what City has to pay

Source Cost	$45,000 per MGD of Ssubscribed Ceapacity
Transmission Cost	$4,243.70 per MGD of Ssubscribed Ceapacity
Customer Charge	$2.23 per wholesale meter

Section 6.03 Volumetric Charge.

a. Bastrop will measure water flows monthly based on monthly readings of the Master Meter. The total of this amount multiplied by the volumetric rate will be used by Bastrop to compute the volume charge as provided in Section 6.03(b) below.

b. The volumetric rate shall be Bastrop's Wholesale Volumetric Water Rate as adopted in Bastrop Code of Ordinances Section A13.02.004(b), which rate is initially $1.97 per 1,000 gallons of actual consumption. Such fee shall be subject to change from time to time when Bastrop retail rates are reviewed.

c. Bastrop may amend the volumetric rate from time to time when Bastrop retail rates are reviewed.

Section 6.04 Changes to Rates and Fees.

Bastrop shall provide written notice to District of any rate adjustments not later than thirty (30) days prior to the effective date thereof. The City agrees that a change in the monthly fixed charge or volumetric charge will not become effective against the District until thirty (30) days after effective written notice to the District if a change is provided by the City.

Section 6.05 District Water Rates and Charges.

District will determine and charge its retail water customers such rates as are determined by its governing body. During the term of this Agreement, District will fix and collect rates and charges for retail water service that are, in the opinion of its governing body, sufficient, together with any other revenues available to District, to produce the amount necessary to operate, repair, and maintain the District System, and to pay the cost of Wholesale Water Service from Bastrop. District will be solely responsible for ensuring that its retail rates and charges are determined and collected in accordance with applicable law.

Section 6.06 District and Developer to Pay All Costs for Connection to the City.

The District, or Developer if the District does not have sufficient funds, will pay the entire cost of connection to the City's Water System.

Section 6.07 Wholesale Water Rates.

The City shall invoice the District for wholesale water delivery and treatment service at the same rate that the City charges its other wholesale customers for fixed and volumetric charges. The

District shall pay the City monthly, one month in arrears, as more fully described in Article VII of this Agreement.

Section 6.08 District Payment for Wholesale Service.

Billing for wholesale service will commence after the first date water service is provided to the District. The City will send one bill to the District on or after the first day of each month after the date water service has commenced.

ARTICLE VII. WHOLESALE WATER BILLING METHODOLOGIES; REPORTS AND OTHER RELATED MATTERS

Section 7.01 Monthly Statement.

For each monthly billing period, Bastrop will forward to District a bill providing a statement of the Fixed Charge and the total Volume Charge owed by District for Wholesale Water Service provided to District during the previous monthly billing period. A sample billing statement is attached as Exhibit "H." District will pay Bastrop for each bill submitted by Bastrop to District by check or bank-wire on or before thirty (30) days from the date of receipt of the invoice. Payments shall be mailed to the address indicated on the invoice or can be hand-delivered to Bastrop's headquarters in Bastrop County, Texas. If payments will be made by bank-wire, District shall verify wiring instructions. Payment must be received at Bastrop's headquarters or bank by the due date in order not to be considered past due or late. In the event District fails to make payment of an uncontested bill within said thirty (30) day period, District shall pay a one-time late payment charge of five percent (5%) of the unpaid balance of the invoice. In addition, District shall pay interest on the unpaid uncontested balance at a rate equal to one and one-half percent (l.5%) per month.

Section 7.02 Monthly Billing Calculations.

Bastrop will compute the sum of the fixed charge and the volume charge for Wholesale Water Service on the basis of monthly readings of the Master Meter and will bill District such sum on a monthly basis.

Section 7.03 Effect of Nonpayment.

With respect to monthly billings, if Bastrop has not received payment from District by the due date, the bill will be considered delinquent, unless contested in good faith. In such event, Bastrop will notify District of such delinquency in writing, and if District fails to make payment of the delinquent billing within thirty (30) calendar days from the date of transmittal of such written notice of delinquency from Bastrop, then Bastrop may, at its discretion, terminate or reduce the level of Wholesale Water Service to District until payment of all sums owed, including applicable disconnection and reconnection fees is made.

Section7.04 Protests, Disputes or Appeals.

Nothing in this Agreement is intended to limit, impair or prevent any right of District to protest, dispute or appeal with respect to rate making, the establishment of fees and charges or any other related legal or administrative proceedings affecting services or charges to District under this Agreement.

Section7.05 Records and Reports.

The District shall promptly provide to the City upon written request, copies of any District records or documents relating to the construction, operation, maintenance, or repair of the District System.

ARTICLE VIII. REGULATORY COMPLIANCE

Section 8.01 Agreement Subject to Applicable Law.

The Agreement will be subject to all valid rules, regulations, and applicable laws of the United States of America, the State of Texas and/or any other governmental body or agency having lawful jurisdiction or any authorized representative or agency of any of them.

Section 8.02 Cooperation to Assure Regulatory Compliance.

Each Party will cooperate in good faith with the other Party at all times to assure compliance with any applicable governmental requirements where noncompliance or non-cooperation may subject the Parties to penalties, loss of grants or other funds, or other adverse regulatory action in the performance of this Agreement.

ARTICLE IX. TERM, TERMINATION, DEFAULT, REMEDIES

Section 9.01 Term and Termination.

a. This Agreement shall become effective upon the Effective Date and shall extend until _____, 2069 unless terminated earlier as provided herein. Provided, however, unless the District provides at least six (6) months' written notice to the City prior to the end of the first fifty-year term, the Agreement shall be renewed for one additional term of fifty (50) years.

b. District may terminate this Agreement by providing not less than sixty (60) days written notice of termination to Bastrop.

c. In the event that the Bastrop Aqua Agreement is terminated or expires, this Agreement shall be terminated and be of no further force or effect. The City shall give six (6) months prior written notice of an anticipated termination or expiration of the Bastrop Aqua Agreement. In the event this Agreement is terminated in accordance with this provision, Bastrop agrees to enter into a wholesale water service agreement, in substantially similar terms, with the District to provide water service sufficient to meet the District's needs at full build-out.

Section 9.02 Default.

a. In the event District shall default in the payment of any amounts due to Bastrop under this Agreement, or in the performance of any material obligation to be performed by District under this Agreement, then Bastrop shall give District at least thirty (30) days' written notice of such default and the opportunity to cure same. Thereafter, Bastrop shall have the right to pursue any remedy available at law or in equity (other than termination of this Agreement), pending cure of such default by District.

b. In the event Bastrop shall default in the performance of any material obligation to be performed by Bastrop under this Agreement, then District shall give Bastrop at least thirty (30) days' written notice of such default and the opportunity to cure same. Thereafter, in the event such default remains uncured, the District shall have the right to pursue any remedy available at law or in equity, pending cure of such default by Bastrop.

Section 9.03 Additional Remedies upon Default.

It is not intended hereby to specify (and this Agreement shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies existing at law or in equity may be availed of by any party and shall be cumulative of the remedies provided. Recognizing however, that Bastrop's undertaking to provide Wholesale Water Service to the District System is an obligation, failure in the performance of which cannot be adequately compensated in money damages alone, Bastrop agrees, in the event of any default on its part, that District shall have available to it the equitable remedies of mandamus and specific performance in addition to any other legal or equitable remedies (other than termination of this Agreement) that may also be available. In recognition that failure in the performance of District's obligations could not be adequately compensated in money damages alone, District agrees in the event of any default on its part that Bastrop shall have available to it the equitable remedies of mandamus and specific performance in addition to any other legal or equitable remedies (other than termination of this Agreement) that may also be available to Bastrop including the right to obtain a writ of mandamus or an injunction against District requiring the District to collect rates and charges sufficient to pay the amounts owed to Bastrop by District under this Agreement. If either party institutes legal proceedings to seek adjudication of an alleged default under this Agreement, the prevailing party in the adjudication shall be entitled to its reasonable and necessary attorneys' fees. THE PARTIES ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS SUBJECT TO SUBCHAPTER I, CHAPTER 271, TEXAS LOCAL GOVERNMENT CODE.

ARTICLE X. GENERAL PROVISIONS

Section 10.01 Assignability.

Assignment of this Agreement is prohibited without the prior written consent of the Parties, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding anything herein to the contrary, the rights and obligations of the Developer, in whole or in part, may be assigned by Developer to a subsequent owner or developer of all or a portion of the Tract.

Section 10.02 Amendment.

This Agreement may be amended or modified only by written agreement duly authorized by the respective governing bodies of District and Bastrop and executed by duly authorized representatives of each.

Section 10.03 Necessary Documents and Actions.

Each Party agrees to execute and deliver all such other and further instruments and undertake such actions as are or may become necessary or convenient to effectuate the purposes and intent of this Agreement.

Section 10.04 Entire Agreement.

This Agreement constitutes the entire agreement of the Parties and this Agreement supersedes any prior or contemporaneous oral or written understandings or representations of the Parties regarding Wholesale Water Service by Bastrop to District for the District Service Area.

Section 10.05 Applicable Law.

This Agreement will be construed under and in accordance with the laws of the State of Texas.

Section 10.06 Venue.

All obligations of the Parties created in this Agreement are performable in Bastrop County, Texas, and venue for any action arising under this Agreement will be in Bastrop County, Texas.

Section 10.07 Third Party Beneficiaries.

Nothing in this Agreement, express or implied, is intended to confer upon any person or entity, other than to the Parties, any rights, benefits, or remedies under or by reason of this Agreement.

Section 10.08 Duplicate Originals.

This Agreement may be executed in duplicate originals each of equal dignity.

Section 10.09 Notices.

Any notice required under this Agreement may be given to the respective Parties by deposit in regular first-class mail or by hand-delivery to the address of the other party shown below:

DISTRICT: West Bastrop Village Municipal Utility District
Allen Boone Humphries Robinson, LLP
1108 Lavaca, Suite 510
Austin, TX 78701
Attn: D. Ryan Harper

DEVELOPER: West Bastrop Village, Ltd.

610 West 5th St., Ste. 601
Austin, TX 78701
Attn: David C. Mahn

CITY OF BASTROP: City of Bastrop
P. O. Box 427
Bastrop, TX 78602
Attn: City Manager

WITH REQUIRED COPY TO: Alan Bojorquez
Bojorquez Law Firm, PC
12325 Hymeadow Drive, Suite 2-100
Austin, Texas 78750

Notices shall be deemed received on the date of hand delivery or within three (3) days of deposit in first-class mail.

Section 10.10 Consents and Approvals.

Wherever this Agreement requires any Party, or its agents or employees to provide a consent, approval or similar action, the parties agree that such consent, approval or similar action will not be unreasonably withheld or delayed.

Section 10.11 Severability.

Should any court declare or determine that any provisions of this Agreement is invalid or unenforceable under present or future laws, that provision shall be fully severable; this Agreement shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in place of each such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. Texas law shall govern the validity and interpretation of this Agreement.

Section 10.12 Records.

Bastrop and District each agree to preserve, for a period of at least two (2) years from their respective dates of origin, all books, records, test data, charts and other records pertaining to this Agreement. Bastrop and District shall each, respectively, have the right during reasonable business hours to inspect such records to the extent necessary to verify the accuracy of any statement, charge or computation made pursuant to any provisions of this Agreement.

Section 10.13 State Approval; Compliance with TCEQ Rules.

Anything herein to the contrary notwithstanding, it is the intention of the parties that this Agreement fully comply with the requirements of the TCEQ applicable to public drinking water systems which receive water through a sole-source water supply contract, including the requirements of 30 Texas Administrative Code, Section 290.45(f). The parties each agree to provide any information which may be requested by the other in order to respond to any inquiries or reports required by the TCEQ. If, at any time, it is determined that this Agreement does not comply with all applicable TCEQ requirements, the parties agree to cooperate to modify this Agreement in order to effect such compliance.

Section 10.14 Force Majeure.

If any party is rendered unable, wholly or in part, by Force Majeure to carry out any of its obligations under this Agreement, other than an obligation to pay or provide money, then such obligations of that party to the extent affected by such Force Majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. Such cause, as far as possible, shall be remedied with all reasonable diligence. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the affected party, and that the above requirements that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demand of the opposing party or parties when such settlement is unfavorable to it in the judgment of the affected party.

Section 10.15 Good Faith.

Each party agrees that, notwithstanding any provision herein to the contrary (i) it will not unreasonably withhold or condition or unduly delay any consent, approval, decision, determination or other action which is required or permitted under the terms of this Agreement, and (ii) it will act in good faith and shall at all times deal fairly with the other party.

Section 10.16 Authority of Parties Executing Agreement, Validity.

By their execution, each of the individuals executing this Agreement on behalf of a Party represents and warrants to the other Party that he or she has the authority to execute the document in the capacity shown on this document. Each of the Parties further represent and warrant that this Agreement constitutes a valid and binding contract, enforceable against it in accordance with its terms.

Section 10.17 Exhibits.

The following exhibits are attached to and incorporated into this Agreement for all purposes:

Exhibit A: Metes and Bounds Description of the Land
Exhibit B: Bastrop Aqua Agreement
Exhibit C: Bastrop Water Conservation and Drought Contingency Plans

Exhibit D: Map Showing Locations of Water Delivery Points, Connecting Facilities
Exhibit E: Location of Water Storage West Facilities
Exhibit F: Meter Specifications
Exhibit G: Meter Installation Specifications
Exhibit H: Sample Billing Statement

Section 10.18 Effective Date and Counterparts.

This Agreement will be effective from and after the last date of due execution by all Parties. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original.

Remainder of Page Intentionally Left Blank

CITY OF BASTROP, TEXAS

By: _____
Name: Lynda Humble
Title: City Manager
Date: _____

ATTEST: _____
City Secretary

WEST BASTROP VILLAGE MUNICIPAL UTILITY DISTRICT OF BASTROP COUNTY

By: _____
Name: _____
Title: _____
Date: _____

STATE OF _____ §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2019, by _____, _____ of West Bastrop Village Municipal Utility District of Bastrop County, a Political Subdivision of the State of Texas, on behalf of said District.

_____

Notary Public, State of _____

WEST BASTROP VILLAGE, LTD.
A Texas limited partnership
By: WBV GP, LLC
A Texas limited liability company, general partner

By: _____
David C. Mahn
Title: Manager
Date: _____

STATE OF _____ §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2019, by David C. Mahn, Manager of WBV GP, LLC, a Texas limited liability company, General Partner of West Bastrop Village, Ltd., a Texas limited partnership, on behalf of said limited liability company as general partner of the general partner of the limited partnership.

_____

Notary Public, State of _____

Exhibit "A"

Metes and Bounds Description of the Land

Exhibit "B"

Bastrop-Aqua Agreement

Exhibit "C"

Bastrop Water Conservation and Drought Contingency Plans

Exhibit "D"

Map Showing Location of Water Delivery Point(s), Connecting Facilities

Exhibit "E"

Location of Water Storage West Facilities

Exhibit "F"

Meter Specifications

Exhibit "G"

Meter Installation Specifications

Exhibit "H"

Sample Billing Statement

THE STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission.
Given under my hand and the seal of office on
APR 30 2007
LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AN ORDER GRANTING THE PETITION FOR CREATION OF WEST BASTROP VILLAGE MUNICIPAL UTILITY DISTRICT OF BASTROP COUNTY AND APPOINTING TEMPORARY DIRECTORS

A petition by J.D. Weaver/Bastrop, Ltd., (hereafter "Petitioner") was presented to the Executive Director of the Texas Commission on Environmental Quality (hereafter "Commission") for approval of the creation of West Bastrop Village Municipal Utility District of Bastrop County (hereafter "District") pursuant to Article XVI, Section 59 of the TEXAS CONSTITUTION and TEX. WATER CODE, Chapters 49 and 54.

The Commission, after having considered the petition, application material, and Memorandum from the Executive Director's staff dated April 12, 2007 regarding the petition, a copy of which is attached as Exhibit "B", finds that the petition for creation should be approved.

The Commission finds that the creation of the proposed District as set out in the application is feasible, practicable, necessary and would be a benefit to the land to be included in the proposed District.

The Commission further finds that the proposed District and its system and subsequent development within the proposed District will not have an unreasonable effect on land elevation, subsidence, groundwater level within the region, recharge capability of a groundwater source, natural run-off rates or drainage, water quality, or total tax assessments on all land located within the proposed District.

All of the land and property proposed may properly be included within the proposed District.

All statutory and regulatory requirements for creation of West Bastrop Village Municipal Utility District of Bastrop County have been fulfilled in accordance with TEX. WATER CODE § 54.021 and 30 TEX. ADMIN. CODE §§ 293.11-293.13.

NOW THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The petition for the creation of West Bastrop Village Municipal Utility District of Bastrop County is hereby granted.

2. The District is created under the terms and conditions of Article XVI, Section 59 of the TEXAS CONSTITUTION and TEX. WATER CODE, Chapter 54.

THE STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission.
Given under my hand and the seal of office on
MAY 04 2007
LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

3. The District shall have all of the rights, powers, privileges, authority, and functions conferred and shall be subject to all duties imposed by the Texas Commission on Environmental Quality and the general laws of the State of Texas relating to municipal utility districts.

4. The District shall be composed of the area situated wholly within Bastrop County, Texas, described by metes and bounds in Exhibit "A", attached hereto and incorporated herein for all purposes.

5. The memorandum from the Executive Director's staff dated April 12, 2007 (hereafter "Memorandum") is hereby attached as Exhibit "B" and incorporated as part of this order.

6. The persons listed in Recommendation No. 3 of the Memorandum are hereby named and appointed as temporary directors and shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oaths of office. All such bonds shall be approved by the Board of Directors of the District, and each bond and oath shall be filed with the District and retained in its records.

7. This Order shall in no event be construed as an approval of any proposed agreement or of any particular item in any document provided in support of the petition for creation, nor as a commitment or requirement of the Commission in the future to approve or disapprove any particular item or agreement in future applications submitted by the District for Commission consideration.

8. This Order shall not constitute approval or recognition of the validity of any provision in the City of Bastrop creation consent Resolution No. R-2006-24, effective August 22, 2006, and any other ordinance/resolution incorporated therein by reference to the extent that such provisions exceed the authority granted to the City of Bastrop by the laws of the state of Texas.

9. The Chief Clerk of the Commission shall forward a copy of this Order to all affected persons.

10. If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: APR 24 2007

For the Commission

EXHIBIT "A"

Chaparral
Professional Land Surveying, Inc.
Surveying and Mapping

Office: 512-443-1724
Fax: 512-441-6987

2807 Manchaca Road
Building One
Austin, Texas 78704

348.053 ACRES
NANCY BLAKEY SURVEY A-98
BASTROP COUNTY, TEXAS

A DESCRIPTION OF A 348.053 ACRE TRACT OF LAND IN THE NANCY BLAKEY SURVEY A-98 IN BASTROP COUNTY, TEXAS,

BEING ALL OF A 322.2 ACRE TRACT OF LAND, KNOWN AS THE "SECOND TRACT", CONVEYED TO J. D. WEAVER/BASTROP, LTD. IN A SPECIAL WARRANTY DEED DATED SEPTEMBER 11, 1997 AND RECORDED IN VOLUME 870, PAGE 266 OF THE DEED RECORDS OF BASTROP COUNTY, TEXAS,

BEING A PORTION OF AN 18.969 ACRE TRACT OF LAND CONVEYED TO J. D. WEAVER/BASTROP, LTD. IN A SPECIAL WARRANTY DEED WITH VENDOR'S LIEN DATED JULY 18, 2003 AND RECORDED IN VOLUME 1350, PAGE 917 OF THE DEED RECORDS OF BASTROP COUNTY, TEXAS,

BEING ALL OF A 1.563 ACRE TRACT OF LAND CONVEYED TO J. D. WEAVER/BASTROP LTD. IN AN EXCHANGE DEED DATED SEPTEMBER 12, 2005 AND RECORDED IN VOLUME 1570, PAGE 742 OF THE DEED RECORDS OF BASTROP COUNTY, TEXAS,

AND BEING A PORTION OF TRACTS 7 AND 8, SUBURBIA ESTATES, A SUBDIVISION IN BASTROP COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN CABINET 1, PAGE 14B OF THE PLAT RECORDS OF BASTROP COUNTY, TEXAS;

SAVE AND EXCEPT A 2.00 TRACT OF LAND CONVEYED TO AQUA WATER SUPPLY CORPORATION IN A GENERAL WARRANTY DEED DATED JUNE 4, 1991 AND RECORDED IN VOLUME 619, PAGE 164 OF THE DEED RECORDS OF BASTROP COUNTY, TEXAS AND SAVE AND EXCEPT A 1.504 ACRE TRACT OF LAND CONVEYED TO AQUA WATER SUPPLY CORPORATION IN A SPECIAL WARRANTY DEED DATED APRIL 16, 1998 AND RECORDED IN VOLUME 906, PAGE 291 OF THE DEED RECORDS OF BASTROP COUNTY, TEXAS; SAID 348.053 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar found in the west right-of-way line of F.M. Highway No. 20 (100' right-of-way width), being the southeast corner of the said 322.2 acre tract, being also the northeast corner of a 0.999 acre tract of land described in Volume 1342, Page 709 of the Deed Records of Bastrop County, Texas, from which a 1/2" rebar found in

the east right-of-way line of F.M. Highway No. 20, bears South 23°15'55" East, a distance of 126.22 feet;

THENCE South 86°57'52" West with the south line of the said 322.2 acre tract and the north line of the said 0.999 acre tract, a distance of 980.77 feet to a 1/2" rebar found for the northwest corner of a 7.208 acre tract of land described in Volume 1223, Page 150 of the Deed Records of Bastrop County, Texas, being the northeast corner of a 10.000 acre tract of land described in Volume 858, Page 689 of the Deed Records of Bastrop County, Texas;

THENCE South 88°15'23" West with the south line of the said 322.2 acre tract and the north line of the said 10.000 acre tract, a distance of 451.25 feet to a 1/2" rebar found for the northwest corner of the said 10.000 acre tract, being the northeast corner of a 1.000 acre tract of land described in Volume 973, Page 777 of the Deed Records of Bastrop County, Texas;

THENCE South 87°11'03" West with the south line of the said 322.2 acre tract and the north line of the said 1.000 acre tract, a distance of 966.24 feet to a 1/2" rebar found for the northwest corner of a 5.000 acre tract of land described in Volume 287, Page 685 of the Deed Records of Bastrop County, Texas, being the northeast corner of a 80.549 acre tract of land described in Volume 446, Page 222 of the Deed Records of Bastrop County, Texas;

THENCE South 87°07'57" West with the south line of the said 322.2 acre tract, which varies from the north line of the said 80.549 acre tract, a distance of 2085.75 feet to a 1/2" rebar found for the northwest corner of the said 80.549 acre tract, being the northeast corner of a 27.092 acre tract of land described in Volume 1261, Page 231 of the Deed Records of Bastrop County, Texas;

THENCE with the south line of the said 322.2 acre tract and the north line of the said 27.092 acre tract the following three (3) courses:

1. South 88°41'52" West, a distance of 656.84 feet to concrete monument found;
2. South 87°59'47" West, a distance of 885.88 feet 1/2" rebar with cap set;
3. South 87°35'04" West, a distance of 121.50 feet to a 1/2" rebar found for the northwest corner of the said 27.092 acre tract, being the northeast corner of a 1.188 acre tract of land described in Volume 998, Page 95 of the Deed Records of Bastrop County, Texas;

THENCE South 87°35'04" West with the south line of the said 322.2 acre tract and the north line of the said 1.188 acre tract, a distance of 199.96 feet to a 1/2" rebar with cap found for the northwest corner of the said 1.188 acre tract, being the northeast corner of a 39.262 acre tract of land described in Volume 995, Page 650 of the Deed Records of Bastrop County, Texas;

THENCE South 87°35'04" West with the south line of the said 322.2 acre tract and the north line of the said 39.262 acre tract, a distance of 800.26 feet to 1/2" rebar found for the northwest corner of the said 39.262 acre tract, being the northeast corner of a 16.90 acre tract of land described in Volume 329, Page 359 of the Deed Records of Bastrop County, Texas;

THENCE South 87°35'04" West with the south line of the said 322.2 acre tract and the north line of the said 16.90 acre tract, a distance of 841.96 feet to 5/8" rebar found for the southwest corner of the said 322.2 acre tract, being the southeast corner of Lot 4, Oakwood Estates Subdivision, a subdivision of record in Volume 3, Page 181A of the Plat Records of Bastrop County, Texas, being also in the north line of a 15.000 acre tract of land described in Volume 568, Page 462 of the Deed Records of Bastrop County, Texas;

THENCE North 02°15'16" East with the west line of the said 322.2 acre tract and the east line of said Lot 4, a distance of 1704.79 feet to a concrete monument found for the northwest corner of the said 322.2 acre tract, being the southwest corner of a 4.71 acre tract of land described in Volume 185, Page 573 of the Deed Records of Bastrop County, Texas;

THENCE North 87°23'54" East with the north line of the said 322.2 acre tract and the south line of the said 4.71 acre tract, a distance of 283.71 feet to 1/2" rebar found for the southeast corner of the said 4.71 acre tract, being the southwest corner of a 9.965 acre tract of land described in Volume 1162, Page 823 of the Deed Records of Bastrop County, Texas;

THENCE North 88°18'56" East with the north line of the said 322.2 acre tract and the south line of the said 9.965 acre tract, a distance of 819.18 feet to a 3/8" rebar found for the southeast corner of the said 9.965 acre tract, being the southwest corner of a 44.531 acre tract of land described in Volume 203, Page 618 of the Deed Records of Bastrop County, Texas;

THENCE North 87°34'12" East with the north line of the said 322.2 acre tract and the south line of the 44.531 acre tract, a distance of 1598.97 feet to a fence post found for the southeast corner of the said 44.531 acre tract, being the southwest corner of a

22.78 acre tract of land described in Volume 185, Page 498 of the Deed Records of Bastrop County, Texas;

THENCE North 88°31'12" East with the north line of the said 322.2 acre tract, which varies from the south line of the said 22.78 acre tract, a distance of 1056.69 feet to a fence post found for the southeast corner of the said 22.78 acre tract, being the southwest corner of a 36.557 acre tract of land described in Volume 1096, Page 488 of the Deed Records of Bastrop County, Texas;

THENCE North 87°33'38" East with the north line of the said 322.2 acre tract and the south line of the said 36.557 acre tract, a distance of 2077.19 feet to a nail on top of fence post found for the southwest corner of the said 18.969 acre tract, being the southeast corner of the said 36.557 acre tract;

THENCE North 03°22'26" West with the west line of the said 18.969 acre tract and the east line of the said 36.557 acre tract, a distance of 799.24 feet to a 1/2" rebar with cap set for the northwest corner of the said 18.969 acre tract, being the northeast corner of the said 36.557 acre tract, being also in the south line of Tract 13, of said Suburbia Estates, from which a 1" iron pipe found for the southwest corner of said Tract 13, bears South 87°52'17" West, a distance of 29.26';

THENCE with the north line of the said 18.969 acre tract and the south line of said Suburbia Estates the following two (2) courses:

1. North 87°52'17"East, a distance of 768.71 feet to a 1/2" rebar found;

2. North 88°08'34" East, a distance of 200.05 feet to a fence post found for the southwest corner of said Tract 8, being the southeast corner of Tract 9, of said Suburbia Estates;

THENCE North 02°14'34" West with the west line of said Tract 8 and the east line of said Tract 9, a distance of 770.81 feet to a 1/2" rebar with cap set in the south right-of-way line of State Highway No. 71 (right-of-way width varies), being the northwest corner of said Tract 8, being also the northeast corner of said Tract 9, from which a 1" iron pipe found in the south right-of-way line of State Highway No. 71, being the northwest corner of said Tract 9, bears South 88°19'34" West, a distance of 199.91 feet;

THENCE North 87°42'55" East with the south right-of-way line of State Highway No. 71 and the north line of said Tract 8, a distance of 199.92 feet to a 1/2" rebar with cap found at highway station 834+61.74, right 162', being the northeast corner of said Tract 8, being also the northwest corner of said Tract 7;

THENCE North 87°42'55" East with the south right-of-way line of State Highway No. 71 and the north line of said Tract 7, a distance of 199.70 feet to a 1/2" rebar with cap found at highway station 836+61.36, right 162', being the northeast corner of said Tract 7, being also the northwest corner of the said 1.563 acre tract;

THENCE North 87°42'55" East with the south right-of-way line of State Highway No. 71 and the north line of the said 1.563 acre tract, a distance of 126.56 feet to a 1/2" rebar with cap set;

THENCE leaving the south right-of-way line of State Highway No. 71, with the north line of the said 1.563 acre tract the following three (3) courses:

1. South 02°16'25" East, a distance of 75.00 feet to a 1/2" rebar with cap set;
2. North 87°42'55" East, a distance of 40.00 feet to a 1/2" rebar with cap set;
3. North 02°16'25" West, a distance of 75.00 feet to a 1/2" rebar with cap set in the south right-of-way line of State Highway No. 71;

THENCE with the south right-of-way line of State Highway No. 71 and the north line of the said 1.563 acre tract the following two (2) courses:

1. North 87°42'55" East, a distance of 33.00 feet to a 1/2" rebar with cap found at highway station 838+60.98, right 162';
2. North 87°38'38" East, a distance of 25.00 feet to a 1/2" rebar with cap set for the northeast corner of the said 1.563 acre tract, from which a 1/2" rebar found in the south right-of-way line of State Highway No. 71, being the northeast corner of Tract 5, of said Suburbia Estates, bears North 87°38'38" East, a distance of 174.54 feet;

THENCE with the east line of the said 1.563 acre tract the following three (3) courses:

1. South 02°16'25" East, a distance of 95.22 feet to a 1/2" rebar with cap set;
2. Along a curve to the right, an arc length of 267.15 feet, having a radius of 300.00 feet and a chord which bears South 23°14'13" West, a distance of 258.41 feet to a 1/2" rebar with cap set;

3. South 48°44'51" West, a distance of 146.00 feet to a 1/2" rebar with cap set for the southernmost corner of the said 1.563 acre tract, being the northernmost corner of a 1.363 acre tract of land described in Volume 1570, Page 742 of the Deed Records of Bastrop County, Texas;

THENCE with the west line of the said 1.363 acre tract the following four (4) courses:

1. South 48°44'51" West, a distance of 164.51 feet to a 1/2" rebar with cap set;

2. Along a curve to the left, an arc length of 104.34 feet, having a radius of 257.78 feet and a chord which bears South 37°09'06" West, a distance of 103.63 feet to a 1/2" rebar with cap set;

3. South 25°33'20" West, a distance of 161.54 feet to a 1/2" rebar with cap set;

4. South 61°42'45" East, a distance of 50.27 feet to a 1/2" rebar with cap set for a southwest corner of the said 1.363 acre tract, being the westernmost corner of a 0.200 acre tract of land described in Volume 1570, Page 742 of the Deed Records of Bastrop County, Texas;

THENCE South 61°42'45" East with the south line of the said 0.200 acre tract, a distance of 176.18 feet to a 1/2" rebar with cap set in the east line of the said 18.969 acre tract, being the west line of the remainder of a 59.2 acre tract of land described in Volume 245, Page 502 of the Deed Records of Bastrop County, Texas;

THENCE with the east line of the said 18.969 acre tract and the west line of the remainder of the said 59.2 acre tract the following three (3) courses:

1. Along a curve to the right, an arc length of 252.12 feet, having a radius of 545.00 feet and a chord which bears South 41°29'37" West, a distance of 249.88 feet to a 1/2" rebar with cap set;

2. Along a curve to the left, an arc length of 490.59 feet, having a radius of 555.00 feet and a chord which bears South 29°27'23" West, a distance of 474.77 feet to a 1/2" rebar with cap found;

3. South 04°09'32" West, a distance of 122.43 feet to a 1/2" rebar with cap found for the southeast corner of the said 18.969 acre tract, being in the north line of the said 322.2 acre tract,

THENCE North 87°45'26" East with the north line of the said 322.2 acre tract and the south line of the remainder of the said 59.2 acre tract, a distance of 2189.13 feet to a 1/2" rebar with cap set in the west right-of-way of F.M. Highway No. 20, being the northeast corner of the said 322.2 acre tract, being also the southeast corner of the remainder of the said 59.2 acre tract, from which a concrete monument found in the west right-of-way line of F.M. Highway No. 20, bears North 29°08'35" East, a distance of 317.96 feet;

THENCE South 29°08'35" West with the west right-of-way of F.M. Highway No. 20 and the east line of the said 322.2 acre tract, a distance of 1941.61 feet to the **POINT OF BEGINNING,** containing 348.053 acres of land, more or less.

Surveyed on the ground in September, 2004. Bearing basis is grid azimuth for Texas central zone, 1983/93 HARN values from LCRA control network. Attachments: Survey Drawing 143-023-SK6.

Robert C. Watts, Jr.
Registered Professional Land Surveyor
State of Texas No. 4995

STATE OF TEXAS
REGISTERED
ROBERT C. WATTS, JR.
4995
PROFESSIONAL
LAND SURVEYOR

4-5-06

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To: Michael D. Cowan, Division Director, Water Supply Division — Date: April 12, 2007

Thru: RC Doug Holcomb, P.E., Manager, Utilities & Districts

RC Robert Cummins, P.E., Leader, Districts Review Team

From: RN Districts Review Team

Subject: Petition by J.D. Weaver/Bastrop, Ltd., for Creation of West Bastrop Village Municipal Utility District of Bastrop County; Pursuant to Texas Water Code Chapters 49 and 54.
TCEQ Internal Control No. 10262006-D15(TC)
CN: 603113952 - RN: 105093371

A. GENERAL INFORMATION

The petition within the application requests Texas Commission on Environmental Quality (the "Commission") approval of the creation of West Bastrop Village Municipal Utility District of Bastrop County (the "District"). The petition was signed by John Dale Weaver, Jr., President of and William S. Walters, III, Attorney-In-Fact for Brodie-Weaver, Inc., general partner of J.D.Weaver/Bastrop, Ltd (the "Petitioner"). According to the petition, the Petitioner states that there is one lien holder on the property, Plains Capital Bank, to be included in the proposed District. By separate affidavit, the lien holder has consented to the creation.

The District is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59, of the Texas Constitution, and Chapters 49 and 54 of the Texas Water Code.

Location and Access

The proposed District is located just southwest of the intersection of F.M. 20 and State Highway 71 in Bastrop County. Application material indicates that the proposed District is located about 2 miles east of the City of Bastrop. Access will be provided via S.H. 71 and F.M. 20.

Metes and Bounds Description

The proposed District contains one tract of land totaling 348.05 (351.56 less 3.51) acres. The metes and bounds description of the proposed District has been checked by the Commission's staff and has been found to form an acceptable closure.

City Consent

The petition asserts that the land within the proposed District is located within the extraterritorial jurisdiction of the City of Bastrop. By Resolution No. R-2006-24, effective August 22, 2006, the City of Bastrop, Texas, granted its consent to the creation of the proposed District. Accordingly, the requirements of Tex. Water Code 54.016 and Tex. Loc. Gov't. Code 42.042 have been met.

Statements of Filing Petition

Evidence of filing the petition with the Bastrop County Clerk's office and TCEQ's Austin Regional office has been provided.

Type of Project

The proposed District will be considered a "developer project" as defined by Commission rules. Therefore, developer cost participation, in accordance with Commission Rule, 30 TAC Section 293.47, will be required.

Certificate of Ownership

By certificate dated March 19, 2007, the Bastrop Central Appraisal District has certified that the tax rolls indicate that J.D. Weaver/Bastrop LTD., is the owner of the property in the proposed District. The documents provided support that the petitioner owns a majority in value of the land in the proposal District.

Temporary Director Affidavits

The Commission has received affidavits for Commission consideration of the appointment of temporary directors for the following:

Jeanmarie Ficken	Lynn Frank	Kalinda Howe
Julie Huls	Mike Schoenfeld, Jr.	

Each of the above persons named is qualified, as required by 30 TAC Section 293.32(a), to serve as a temporary director of the proposed District since each: (1) is at least 18 years old; (2) is a resident of the State of Texas; and (3) either owns land subject to taxation within the proposed District, or is a qualified voter within the District.

Developer Qualifications

The information provided states that the developer will be Bastrop Village, Ltd. which includes Mr. Dave Mahn and Mr. Terry Mitchell. Mr. Terry Mitchell will be the project manager of the proposed District, and has extensive experience in single family home development.

Notice

Proper notice of the application was published in the Bastrop Advertizer a newspaper regularly published or circulated in Bastrop County where the district is proposed to be located, on December 23 and 30, 2006, and posted in Bastrop County Courthouse on a bulletin board used for posting legal notices, on December 22, 2006. Accordingly, the notice requirements of 30 TAC Section 293.12 (b) have been satisfied.

B. SPECIAL CONSIDERATIONS

None.

C. CONCLUSIONS

1. Based on Commission policy, compliance with Commission rules, and review of the engineering report and supporting documents, the proposed District is considered feasible, practicable, would be a benefit to the land within the proposed District, and would be necessary as a means to finance utilities and to provide utility service to future customers.

2. Based on a review of the preliminary engineering report, market study, the proposed District funding a portion of water, wastewater, and drainage facilities, a combined projected tax rate of $1.00, proposed District obtaining a 6.0% bond coupon interest rate, and other supporting data, the proposed District is considered feasible under the feasibility limits prescribed by Commission Rule, 30 TAC Section 293.59.

3. The recommendations are made under the authority delegated by the Executive Director of the Texas Commission on Environmental Quality.

D. RECOMMENDATIONS

1. Grant the petition for creation of West Bastrop Village Municipal Utility District of Bastrop County.

2. The order granting the petition should include the following statements:

   "This order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the Commission in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for Commission consideration."

   "This order shall not constitute approval or recognition of the validity of any provision in the City of

Bastrop creation consent Resolution No. R-2006-24, effective August 22, 2006, and any other ordinance/resolution incorporated therein by reference to the extent that such provisions exceed the authority granted to the City of Bastrop by the laws of the State of Texas."

3. Appoint the following persons to serve as temporary directors until permanent directors are elected and qualified:

Jeanmarie Ficken	Lynn Frank	Kalinda Howe
Julie Huls	Mike Schoenfeld, Jr.	

E. FEASIBILITY OF PROJECT

Market Study

A market study, prepared by Capitol Market Research, Inc., has been submitted in support of the creation of the proposed District. The market study indicates the proposed District will contain 1,100 single-family homes ranging in value from $115,000 to $200,000 per unit on 35 to 60-foot lots, and are expected to be absorbed at a rate of approximately 120 to 125 units per year. Absorption is expected to begin in June 2007.

Project Financing

The estimated total assessed valuation of the proposed District at completion is as follows:

Units	Number of Units Planned	Average Unit Value	Total Value at Build-out
1,095	Single Family Homes	$165,753	$181,500,000
		Total Assessed Value:	**$181,500,000**

Considering an estimated bond issue requirement of $44,830,000 (assuming 70% financing), a coupon bond interest rate of 6.0%, and a 25-year bond life, the average annual debt service requirement would be approximately $3,506,904. Assuming a 95% collection rate and an ultimate assessed valuation of $181,500,000, a tax rate of approximately $2.03 per $100 assessed valuation would be necessary to meet the annual debt service requirements.

However, a preliminary cash flow analysis was provided showing the issuance of $20,300,000 in bonds, an estimated interest rate of 6.0%, a tax collection rate of 95%, an ultimate assessed valuation of $181,500,000, and a tax rate of approximately $0.95 per $100 to meet the annual debt service requirement. Application material projects a $0.05 per $100 assessed value operation and maintenance tax. The application recognizes that the developer will need to contribute additional amounts (above the standard 30%) toward facilities costs to keep the tax rate within required limits.

The total year 2005 overlapping tax rates on land within the proposed District are shown in the following table:

Taxing Jurisdiction	Tax per $100 valuation
Bastrop County General Fund	$0.5153
Bastrop County Road District	$0.1230
Bastrop ISD	$1.7280
Proposed West Bastrop Village MUD	$1.0000
Total tax per $100 valuation	**$3.3663**

Based on the proposed District tax rate and the year 2005 overlapping tax rate on land within the proposed District, the project is considered economically feasible.

Water and Wastewater Rates

According to information provided, the following single-family water and wastewater rates are anticipated:

Water:	Monthly charge	$19.95
	0 - 10,000 gallons	$2.95 per 1,000 gallons
Wastewater:	Monthly Charge (0 – 3,000 gallons)	$14.58
	3,000 - 5,000 gallons	$1.32 per 1,000 gallons
	5,001 – 10,000 gallons	$1.49 per 1,000 gallons

Based on the above rates, the estimated monthly fee for 10,000 gallons of water and wastewater would be $74.12.

Comparative Water District Tax Rates

An overlapping tax rate of $3.37 for the proposed District is on the high end compared to other districts in the area. Based on the requirements of Commission Rule 293.59, this project is economically feasible.

F. PURPOSE

Land Use

The land use for the proposed District is projected in the following table:

Development	Acres	ESFCs
Single-Family Residential	233.73	955
Condo/Townhome	14.12	140
Commercial/Retail/Office	3.03	25
Amenity Center	1.42	16
School	13.61	35
Fire Station	2.60	10
Open Space	51.64	0
Detention Pond	7.88	0
Floodplain	19.87	0
Total	**347.90**	**1,181**

Availability of Comparable Service

The creation engineering report indicates the proposed District is entirely within the Certificate of Convenience and Necessity ("CCN") of Aqua Water Supply Corporation ("Aqua"). The proposed District is negotiating with Aqua to obtain its water supply. The proposed District is also planning to negotiate wastewater treatment services from the City of Bastrop. No other water supply or wastewater treatment services are available in the area. All water, wastewater, and drainage projects will be designed and constructed in accordance with criteria of the City of Bastrop, Bastrop County, Aqua and the TCEQ.

Water Supply and Distribution Improvements

The proposed District intends on receiving water from and being a wholesale customer of Aqua. The proposed District will pay impact fees to Aqua, and plans to fund storage and pump station improvements. The proposed District will construct and own its water distribution system. The water distribution system at full development is anticipated to consist of a network of arterial and connecting loop mains, including 51,975 linear feet ("LF") of 8 – 12-inch pipe.

Wastewater Collection and Treatment Improvements

The proposed District is located within the ETJ of the City and plans to obtain wastewater treatment from the City. The proposed District will pay impact fees to the City. Wastewater will be collected in a gravity system to pump stations where it will be pumped into an off-site gravity line to the City's

wastewater treatment plant. The internal wastewater collection system will consist of 46,980 LF of 6 – 12-inch pipe.

Drainage Improvements

The storm drainage within the proposed District will consists of curb inlets, and 38,270 LF of storm sewer lines with pipe diameters ranging from 18 inches to 60 inches. The proposed drainage system will convey flows to detention ponds, before discharging into Cedar Creek and eventually into the Colorado River.

G. DESCRIPTION AND IMPACT ON NATURAL RESOURCES

The preliminary engineering report includes the following findings:

Topography

The area within the proposed District is relatively flat. The land elevation ranges from approximately 400 feet mean sea level (msl) to 475 feet msl. The developer has no plans to significantly alter the topography of the land in the proposed District.

Floodplain

Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Map Number 48021C0335E, dated January 19, 2006, indicates approximately 19.87 acres of land in the proposed District lies within the 100-year flood plain. All of this area will be designated as open space or detention sites.

Land Elevation

The development planned for the proposed District is not expected to significantly alter land elevations. Some portions of the land will be lowered for detention and drainage, and some portions will be raised to provide for effective drainage.

Subsidence

The proposed District plans to obtain its water supply from Aqua. Aqua's current source is wells located in the Carrizo-Wilcox Aquifer. The Lost Pines Underground Water District permits wells in Bastrop County. There are no significant issues with subsidence in the area and the proposed District is expected to have negligible effect on subsidence.

Groundwater Levels

The proposed District water supply will be obtained from Aqua. Aqua's main source of water is from wells located in the Carrizo-Wilcox aquifer, which has a substantial amount of water to serve the area. Therefore, the proposed District should have little to no effect on groundwater levels.

Groundwater Recharge

The proposed District is within the outcrop zone of the Carrizo-Wilcox aquifer. However, compared to the overall size of the recharge zone, the proposed District is not expected to significantly affect recharge capability of the aquifer.

Natural Run-off and Drainage

The surface drainage will flow into the tributaries of Cedar Creek, which is a tributary of the Colorado River. Detention storage will mitigate the impact of development on downstream landowners. Therefore, there should be minimal effects on downstream runoff rates.

Water Quality

The proposed District should be minimal effect on the water quality.

H. SUMMARY OF COSTS

Construction Costs	Total Cost	District Cost[1]
A. Developer Contribution Items		
1. Water Distribution System	$ 6,367,500	$ 4,457,250
2. Wastewater Collection	9,444,000	6,610,800
3. Storm Drainage System	4,564,000	3,194,800
4. Detention Ponds	2,352,550	1,646,785
5. Excavation	604,430	423,101
6. 404 Permitting & Mitigation	1,750,000	1,225,000
7. Contingency (23% of items 1-6)	5,768,970	4,038,279
8. Engineering (15% of items 1-6)	3,762,372	2,633,660
Total Developer Contribution Items	$34,613,822	$ 24,229,675
B. District Items		
1. Water Connection Fees		$ 2,800,000
2. Wastewater Connection Fees		2,500,000
3. Off-site Water Storage Facilities		472,400
4. Water Pump Station		400,000
5. Off-site Wastewater Improvements		450,000
6. Contingency (23% of items 3-5)		304,152

7. Engineering, Surveying & Permitting (15% of items 3-5)	198,360
8. Land Costs	80,000
Total District Items	$ 7,204,912
TOTAL CONSTRUCTION COSTS (70.1% of BIR)	**$31,434,587**

Non-Construction Costs	
A. Legal Fees (3.0%)	$ 1,344,900
B. Fiscal Fees (2.0%)	896,600
C. Interest Costs	
1. Capitalized Interest (2 years @ 6.0%)	5,379,600
2. Developer Interest (2 years @ 6.0%)	3,772,150
D. Bond Discount (3.0%)	1,344,900
E. Operating Costs	150,358
F. Creation Costs	100,000
G. Bond Application Report	250,000
H. Attorney General's Fee (0.1% of BIR)	44,830
I. TCEQ Bond Issuance Fee (0.25%)	112,075
TOTAL NON-CONSTRUCTION COSTS (30.0%BIR)	**$ 13,395,413**
TOTAL BOND ISSUE REQUIREMENT	**$44,830,000**
PROPOSED ELIGIBLE BOND ISSUE REQUIREMENT	**$20,300,000**

Note: (1) Consider that the District pays 70% and the developer contributes 30%.

Eligibility of costs and 30% developer contribution requirements will be determined in accordance with Commission rules in effect at the time bond applications are reviewed.

I. ADDITIONAL INFORMATION

The petitioner's professional representatives are as follows:

Attorney: Ms. Sue Brooks Littlefield – Armbrust & Brown L.L.P.
Engineer: Mr. Sam W. Jones, P.E – Sam Jones Consulting, Inc.
Market Analyst: Mr. Charles H. Heimsath - Capitol Market Research

Greg Charles
Districts Review Team

WHOLESALE WATER SERVICE AGREEMENT

BETWEEN

AQUA WATER SUPPLY CORPORATION

AND

CITY OF BASTROP

WHOLESALE WATER SERVICE AGREEMENT

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EXHIBITS

Exhibit A – Aqua WSC's Retail Water CCN Service Area as of Effective Date

Exhibit B – Aqua WSC's Terms and Conditions for Wholesale Service Outside CCN No. 10294

Exhibit C – Description(s), Map(s) of Point(s) of Delivery, and Technical Information for Point(s) of Delivery

Exhibit D – Map of Aqua WSC's Retail Water CCN Service Area, City of Bastrop's Retail Wastewater CCN Service Area, and Areas of Overlap between Both CCN Service Areas

Exhibit E – City of Bastrop Water CCN Service Area as of Effective Date

Exhibit F – City of Bastrop Wastewater CCN Service Area as of Effective Date

Exhibit G – Resolution of the Aqua WSC Board of Directors

Exhibit H – Aqua WSC's Water Rationing Plan

WHOLESALE WATER SERVICE AGREEMENT

THIS WHOLESALE WATER SERVICE AGREEMENT is made and entered into by and between Aqua Water Supply Corporation (hereinafter called "Aqua"), a non-profit water supply corporation operating under Texas Water Code Chapter 67 in Bastrop, Caldwell, Williamson, Lee, Fayette, and Travis Counties, Texas, and the City of Bastrop (hereinafter called "Purchaser"), a home rule city, body politic of the State of Texas, and retail public utility. This Agreement is effective on the date of the last to execute below, (the "Effective Date").

WITNESSETH:

WHEREAS, Bastrop County is experiencing substantial economic and population growth and the growth will continue for the decades to come; and

WHEREAS, Aqua and Purchaser are both integral parts of the past, present, and future of Bastrop County; and

WHEREAS, Aqua and Purchaser strongly agree that the two entities must work together both now and in the future to not only address the growth and water needs that Bastrop County is experiencing but to enable Bastrop County to meet its full potential as a great place to work and live; and

WHEREAS, Aqua and Purchaser believe this Agreement is crucial to making certain the Purchaser has the water the area needs to grow: and

WHEREAS, Aqua holds retail water Certificate of Convenience and Necessity ("CCN") No. 10294, issued by the Texas Commission on Environmental Quality, ("TCEQ") or its predecessors or successors in interest, identified as Exhibit "A" and made a part hereto; and

WHEREAS, Purchaser holds retail water CCN No. 11198, issued by the TCEQ or its predecessors or successors in interest, which is adjacent to Aqua's retail water CCN and identified as Exhibit "E"; and

WHEREAS, Purchaser holds retail wastewater CCN No. 20466, issued by the TCEQ or its predecessors or successors in interest, identified as Exhibit "F"; and

WHEREAS, on September 1, 2014, the Public Utility Commission ("PUC") took over regulation of water utility rates and services including wholesale water rate appeals and the issuance of water and wastewater CCNs; and

WHEREAS, Purchaser desires to contract with Aqua for the purchase of wholesale water service ("Wholesale Service") to be provided by Aqua; and

WHEREAS, Aqua's Terms and Conditions, attached hereto as Exhibit "B" and which may be amended from time to time, set forth the minimum conditions under which it will agree to provide Wholesale Service to Purchaser; and

WHEREAS, Purchaser shall submit an application to Aqua for Wholesale Service under the provisions of Aqua's Terms and Conditions for each Point of Delivery and area of service from Aqua; and

WHEREAS, Aqua has determined that Aqua has sufficient water supplies available to enable it to contract with Purchaser for Wholesale Service, and has documented such findings with a Resolution adopted by its Board of Directors, attached hereto as Exhibit "G"; and

WHEREAS, Aqua and Purchaser wish to enter into an agreement whereby Aqua will provide Wholesale Service to Purchaser at rates that are generally applicable and uniformly applied to similarly situated purchasers; and

WHEREAS, Aqua and Purchaser wish to enter into an agreement that may be amended from time to time to include additional locations where Purchaser will receive Wholesale Service from Aqua upon the subsequent written request by Purchaser for additional Wholesale Service under this Agreement, and only in such areas where Aqua's retail water CCN service area and Purchaser's retail wastewater CCN service area overlap, as further detailed in the map attached hereto as Exhibit "D"; and

WHEREAS, Purchaser intends to take water purchased from Aqua pursuant to this Agreement at the locations as specified in Exhibit "C" and which may be amended from time to time as such locations may change and/or water is used by Purchaser at additional locations; and

WHEREAS, the Wholesale Service to be provided by Aqua hereunder and purchased by Purchaser is for a public purpose and not for the benefit of any private entity; and

WHEREAS, the provision of Wholesale Service to Purchaser by Aqua will further the public purpose of regionalization of water supplies;

NOW THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Aqua agrees to furnish and Purchaser agrees to pay for Wholesale Service upon the Terms and Conditions and for the consideration set forth herein.

ARTICLE I.
DEFINITIONS AND CONSTRUCTION OF AGREEMENT

1.1 Defined Terms. Capitalized terms used in this Agreement and in any exhibit or attachment that is made a part of this Agreement, and not otherwise defined herein, shall have the meanings contained in Aqua's Terms and Conditions. The following additional terms shall have the meanings set forth herein:

(a) "Agreement" means this contract or agreement between the Parties, otherwise known as the Wholesale Service Agreement and any written amendments thereto.

(b) "Annual Daily Average" means the total amount of water taken by Purchaser in the prior Water Year, divided by 365.

(c) "Aqua Indemnified Party" means Aqua, its officials, employees, contractors, agents and representatives.

(d) "Business Day" means any Day other than Saturdays, Sundays, and Days on which banks in the Service Area of Aqua are required or permitted to be closed for all or part of their customary hours of operation.

(e) "CCN" means a certificate of convenience and necessity granted by the Texas Commission on Environmental Quality or its predecessor or successor agency, or the Public Utility Commission under the provisions of the Texas Water Code.

(f) "Claim" means any claim, action, cause of action, suit or proceeding before any Governmental Authority or arbitral tribunal.

(g) "Commencement Date" means the date that Aqua begins providing Wholesale Service to Purchaser at the Point of Delivery.

(h) "Day" and "Days" mean and refer to calendar day(s), unless otherwise specified herein.

(i) "Effective Date" means the date set forth above on which this Agreement becomes effective.

(j) "Event of Default" means an event by which a Party is in default of this Agreement.



(k) "Force Majeure" means, and shall be limited to, any event or circumstance that is beyond the reasonable control of, without the fault or negligence of, and should not, in the exercise of reasonable caution, have been foreseen and avoided or mitigated by, the Party asserting Force Majeure (the "Affected Party"), and which delays or prevents the Affected Party from timely performing any obligation hereunder, including, without limitation: (i) acts of God, earthquakes, fire, storms, unprecedented droughts that render Aqua unable to provide water to its members and purchasers, floods, lightning, hurricanes, tornadoes, and severe snow storms; (ii) explosions, wars, civil insurrections, acts of the public enemy, acts of civil or military authority, sabotage, and terrorism; (iii) strikes, lockouts or other labor disputes with respect to which the Affected Party has not been determined by the National Labor Relations Board to have engaged in any unfair labor practices; and (iv) any change in any Requirement of Law or the interpretation thereof by a responsible Governmental Authority that shall in any circumstances impact a Party's ability to perform its obligations of the Agreement; provided, a "Force Majeure" shall not include economic conditions that render a Party's performance of this Agreement unprofitable or otherwise uneconomic, or the inability of a Party to make payment when due under this Agreement, unless the cause of such inability is an event that physically prevents payment and that would otherwise constitute Force Majeure as described above.

(l) "Forced Outage" means a shut-down by Aqua in the operation of all or a portion of Aqua's System, such that no water is delivered to Purchaser's Point of Delivery: (i) which shut-down is, in the reasonable opinion of Aqua, necessary or required to protect persons or property (including the System) from contamination or releases that could reasonably result in harm, injury, or material damage; and (ii) with respect to which Aqua has notified Purchaser in accordance with Section 3.2.

(m) "Governmental Authority" means and includes any federal, state, local or other governmental body, including but not limited to the Lost Pines Groundwater Conservation District, the Gonzales County Underground Water Conservation District, the Fayette County Underground Water Conservation District, any governmental or quasi-governmental, regulatory or administrative agency, commission, body, or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power; or any court or other governmental tribunal.

(n) "Loss(es)" means and includes any loss, cost, expense, Claim, demand, damage, fine, liability, obligation or penalty (including court costs and reasonable attorney's fees and expenses) to the extent allowed by law.

(o) "Master Meter(s)" means the necessary metering equipment, including a meter house or pit, and any other required devices of standard type, for properly measuring the quantity and delivery rate of water delivered by Aqua to Purchaser at the Point(s) of Delivery.

(p) "Maximum Daily Delivery Rate" means the maximum rate at which Aqua is obligated to deliver water to Purchaser in one twenty-four (24) hour period.

(q) "Maximum Instantaneous Delivery Rate" means the Maximum Daily Delivery Rate expressed in gallons per minute. For example, a Maximum Daily Delivery Rate of 1 MGD is equivalent to a Maximum Instantaneous Delivery Rate of 694.4 gallons per minute.

(r) "MGD" means millions of gallons per day.

(s) "New Rate Billing Cycle" means the second billing cycle after the New Rate Effective Date.

(t) "Party" or "Parties" means Purchaser, Aqua, and their respective successors or/and assigns.

(u) "Permit" means any permit, order, license, declaration, consent, waiver, approval, registration, or filing with or other requirement of any Governmental Authority.

(v) "Planned Outage" means a shut-down by Aqua in the operations of Aqua's System, such that no water is delivered to the Point(s) of Delivery: (i) which shut-down is scheduled by Aqua in order to carry out foreseeable preventive, corrective, and other maintenance activities on such System or which may be required by any Governmental Authority; (ii) for which Aqua has notified Purchaser in accordance with Section 3.1; (iii) which occurs no more than two (2) times in one (1) calendar year; and (iv) lasts for no more than three (3) Days unless another time period is mutually agreed-to in writing by both Parties.

(w) "Point(s) of Delivery" means one or more point(s) designated and approved under this Agreement at which Purchaser may withdraw water from Aqua's System for distribution as more particularly described in Article VI and in Exhibit "C".

(x) "Prevailing Pressure" means the pressure of Aqua's System at the Point(s) of Delivery as specifically provided in pounds per square inch (psi) for each Point of Delivery in Exhibit "C".

(y) "Purchaser Indemnified Party" means Purchaser, its officials, employees, contractors, agents, and representatives.

(z) "Rate" or "Rates" means the price to be paid by Purchaser to Aqua for the purchase and delivery of water to Purchaser's Point(s) of Delivery under this Agreement, which Rate shall be based on Aqua's then current Terms and Conditions.

(aa) "Rate Effective Date" means the date on which Aqua adopts new Rates.

(bb) "Requirement of Law" means any statute, ordinance, code, rule or regulation, tariff or policy, and judicial or administrative order, request or judgment, any common law

doctrine or theory, any provision or condition of any Permit, or any other binding determination of any Governmental Authority.

(cc) "Service Area" means the area contained within Aqua's CCN or Purchaser's CCN, as appropriate, as may be amended from time to time.

(dd) "System" means collectively all of Aqua's production, distribution, and transmission facilities, including, without limitation, wells, ground storage reservoirs, pump stations, elevated storage tanks, water transmission and distribution lines connecting any of the aforementioned facilities, and other properties or interest therein wherever located for the production, distribution, and transmission of water, which heretofore have been acquired or constructed by Aqua, together with all future improvements, enlargements, extensions and additions to any of the foregoing, and all the future new facilities that are required or constructed by Aqua, and all repairs to, or replacement of, the System.

(ee) "Tariff" means the Water Supply Corporation Tariff for Aqua, as approved by Aqua's Board of Directors, and as may be amended or revised from time to time.

(ff) "TCEQ" or "Commission" means the Texas Commission on Environmental Quality, and its successor agencies.

(gg) "Terms and Conditions for Wholesale Service Outside CCN No. 10294" or "Terms and Conditions" shall mean the Aqua Water Supply Corporation Terms and Conditions for Wholesale Service Outside CCN No. 10294, as adopted by the Aqua Board of Directions, and as may be amended from time to time by Aqua.

(hh) "Water Year" means a calendar Year.

(ii) "Year" and "Years" mean and refer to calendar year(s).

1.2 Rules of Construction.

(a) Unless the context otherwise clearly requires:

(i) references to the plural include the singular, and references to the singular include the plural;

(ii) references to the masculine, feminine or neuter include all such forms;

(iii) the words "include," "includes," and "including" do not limit the preceding terms or words and shall be deemed to be followed by the words "without limitation";

(iv) the terms "hereof," "herein," "hereunder," "hereto," and similar terms refer to the entire agreement in which they appear and not to any particular provision of such agreement; and

(v) "or" is used in the inclusive sense of "and/or."

(b) Unless otherwise specified, any reference to any document, instrument or agreement:

(i) includes and incorporates all exhibits, schedules and other attachments thereto;

(ii) includes and incorporates all documents, instruments or agreements issued or executed in connection therewith or in replacement thereof; and

(iii) means such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified or supplemented from time to time in accordance with its terms and in effect at any given time.

(c) Unless otherwise specified, all references to articles, sections, schedules and exhibits are references to the Articles, Sections, Schedules and Exhibits of this Agreement.



1.3 Recitals. All recitals of the Preamble are incorporated and made a part of this Agreement.

1.4 Captions. All titles of sections of this Agreement have been inserted for reference only and shall in no way affect the interpretation of this Agreement.

ARTICLE II.
PROVISION OF WATER

2.1 Agreement to Sell and Purchase.

(a) Subject to all the terms and conditions set forth in this Agreement, and Exhibit "B" - Aqua's Terms and Conditions for Wholesale Service Outside CCN No. 10294, Aqua agrees to sell and the Purchaser agrees to buy water on a wholesale basis. The water shall be provided at the Point(s) of Delivery for Purchaser's own use and for distribution to customers served by Purchaser's water distribution system within Purchaser's certificated Service Area.

(b) The Wholesale Service provided hereunder is partial requirements only. Purchaser shall, at all times during the term of this Agreement, maintain at least one (1) other source of supply of water. Purchaser's failure to comply with this provision shall be an Event of Default of a material obligation under the provisions of Article X hereof.

(c) All sales of water from Aqua to Purchaser under this Agreement are subject to any applicable rules of the Lost Pines Groundwater Conservation District. No sales shall take place without any required approval by Lost Pines Groundwater Conservation District.

(d) Unless waived in writing by Aqua, Purchaser shall be required to submit requests for feasibility studies for all Point(s) of Delivery and pay all fees required by Aqua for such studies.

2.2 Quantity of Water to be Delivered. The Maximum Daily Delivery Rate of water to be treated and delivered under this Agreement to any Point(s) of Delivery in any Water Year shall be specifically provided in Exhibit "C" for each Point of Delivery in gallons per minute (GPM).

2.3 Rate of Delivery and Pressure.

(a) Aqua shall deliver water to the Point(s) of Delivery at the Maximum Daily Delivery Rate. Aqua shall install devices to insure compliance with this section, and may restrict deliveries to Purchaser to the Maximum Instantaneous Delivery Rate when appropriate.

(b) Water will be furnished at the Prevailing Pressure of Aqua's System at the Point(s) of Delivery. Emergency failure of pressure or supply shall excuse Aqua from this provision for such reasonable period of time as may be necessary to restore service.

(c) Aqua's responsibility and liability for the water being delivered to Purchaser shall cease after said water passes through the Master Meter(s) at the Point(s) of Delivery and enters Purchaser's system.

(d) Aqua is under no obligation to increase the capacity of its System to satisfy any of the provisions of the Agreement, except as otherwise expressly stated herein.

2.4 Responsibilities of Purchaser and Aqua.

(a) Purchaser is solely responsible for meeting its minimum production, storage, service pump, and pressure maintenance requirements, and any other requirements imposed on Purchaser under Title 30 Texas Administrative Code, Chapters 290 and 291, and any other regulatory requirements. Aqua shall bear no such responsibility to Purchaser or any of Purchaser's customers.

(b) With the exception of a backflow prevention device specified in Section 2.7, the Master Meter(s) specified in Section 5.1 and any feasibility study related to the provision of

Wholesale Service under this Agreement, Purchaser and Aqua agree to evenly split on a fifty percent / fifty percent (50%/50%) basis all costs associated with each Point of Delivery with the planning, siting, development, design, engineering, procurement, construction and testing of all pipes, interconnects, pumps, mains, trunk lines, junctions, extensions, and other infrastructure, equipment, improvements and facilities, and all easements and right-of-way acquisitions required for Purchaser to connect to Aqua's System at the Point(s) of Delivery described herein to receive the Wholesale Service to be furnished by Aqua under this Agreement or any subsequent amendments hereto. Within ninety (90) Days of the Purchaser receiving the Preliminary Cost Summary ("PCS") from Aqua regarding a Point of Delivery, Purchaser shall pay the full amount indicated on the PCS to Aqua. After each Point of Delivery project has been completed, the final cost of the project will be reconciled with the payments made by Purchaser. Aqua shall reimburse Purchaser in the amount of fifty percent (50%) of the final cost within ninety (90) Days of completion of the Point of Delivery project.

2.5 Water Quality.

(a) The quality of Water to be supplied and delivered by Aqua at the Point(s) of Delivery shall meet the quality criteria prescribed by federal or state law for public water supply and specifically satisfy the TCEQ Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems, 30 Tex. Admin. Code Chapter 290, Subchapter F, as currently in effect or as may be amended or superseded from time to time. The water that Aqua delivers to Purchaser shall be of the same quality of water that Aqua delivers to its retail members. Purchaser has satisfied itself that such water is suitable for its needs.

(b) Purchaser shall protect Purchaser's system from cross-connection and contamination under the specifications required by the health standards of the State of Texas. If

Aqua becomes aware of any situation involving Purchaser's system that could reasonable lead to the contamination of Aqua's System or could otherwise compromise the integrity of Aqua's System, Aqua shall immediately notify Purchaser of the situation and request immediate remediation of the situation by Purchaser. If Aqua determines that the seriousness of the situation requires such action, it may immediately, and without prior notice to Purchaser, take such steps to prevent the contamination or compromise of System integrity, including, without limitation, severing connections between Aqua's System and Purchaser and terminating delivery of water to the extent necessary to remedy the problem. If such conditions or problems persist or recur, then Aqua may, in its sole discretion, require the installation of an air gap between Aqua's System and Purchaser. The expenses associated with the installation of such air gap shall be the sole responsibility of Purchaser.

2.6 Sale of Water by Purchaser. Purchaser shall not provide retail water utility service using the water taken from Aqua under this Agreement within Aqua's retail water CCN service area, as identified on Exhibits "A" and "D", and outside of Purchaser's retail wastewater CCN service area as indicated in Exhibit "F", during the Term of this Agreement unless specifically approved in writing by Aqua. Purchaser's provision of retail water service within the area identified on Exhibit "A" as Aqua's retail water CCN service area and not within Purchaser's retail wastewater CCN service area identified as Exhibit "F" shall be considered an Event of Default pursuant to Article X hereof.

2.7 Separation of Systems. A device purchased by Purchaser and approved by Aqua to prevent flow reversal shall be maintained between Aqua's System and Purchaser's system at the Point(s) of Delivery.

2.8 CCN Amendment Application. Purchaser shall submit an application for service to any Point(s) of Delivery and provide Aqua with documentation that identifies the area to be served by Purchaser with the water purchased from Aqua. After approval of the application by Aqua, Aqua shall prepare, file and pursue approval of an application with the PUC to amend Aqua's retail water CCN to exclude the area identified by Purchaser in its application for service. Purchaser shall pay the full cost to Aqua to prepare, file, and pursue the approval of the CCN amendment application at the PUC.

ARTICLE III.
MAINTENANCE AND CURTAILMENT

3.1 Planned Outages. By December 1 of any Calendar Year during the Contract term, Aqua shall provide notice to Purchaser of the number and duration of any Planned Outages to be conducted by Aqua during the subsequent Calendar Year that may affect delivery of water to Purchaser. Provided, however, that Aqua shall not schedule more than two (2) such Planned Outages in any given Calendar Year. To the extent reasonably possible, Aqua shall coordinate the timing of any Planned Outage with Purchaser and shall cooperate with Purchaser to minimize the impact of any Planned Outage on the operation and maintenance of Purchaser's system.

3.2 Forced Outages. When a Forced Outage occurs, curtailing the flow of water to the Point(s) of Delivery, Aqua shall notify Purchaser of the existence, nature, and expected duration of the Forced Outage as soon as practical. Aqua shall use its best efforts to ensure that any interruption in the delivery of water to the Point(s) of Delivery due to a Forced Outage shall continue only for so long as reasonably necessary. Aqua shall immediately inform Purchaser of any changes in the nature and expected duration of such Forced Outage.

3.3 Curtailment.

(a) If water supplies or services are curtailed to Aqua's retail members, or if water conservation measures are mandated by a Governmental Authority, Aqua shall impose a like curtailment on deliveries or water conservation measures on Purchaser as provided in Texas Water Code § 11.039. The curtailment Aqua imposes on Purchaser shall be equal in duration to the curtailment imposed on Aqua's retail members.

(b) Aqua will notify Purchaser of the quantity by which Purchaser will reduce its daily take from Aqua, as well as the duration of the requirement that the take be reduced. Purchaser shall cooperate by imposing conservation measures upon its customers.

(c) The reduction to Purchaser's daily take under this Section shall be calculated as follows: (i) determine the total volume of water taken by Purchaser in the same month of the previous calendar year; (ii) divide this monthly volume by the number of days in the month to arrive at an average take per day of that month; (iii) apply the reduction percentage to the average take per day of that month. For example, if it becomes necessary for Aqua to impose a 5% reduction in Purchaser's daily take starting on August 15, 2018, Aqua will determine, based on meter data, the amount of water purchased by Purchaser in August 2017, and divide that number by thirty-one (31) (the number of days in August). The product of that calculation times 5% will be the amount, in gallons, that Purchaser must reduce its daily take until further notice from Aqua. If it becomes necessary for Aqua to impose a curtailment in the year immediately following the Effective Date, Aqua shall use a 5% reduction of the average gallon per person per day amount of 182 gallons for Purchaser in place of the calculation provided above in this section.

3.4 Conservation Measures.

(a) Aqua has in place a Water Rationing Plan in its Tariff as identified as Exhibit "H". Purchaser is required to abide by the Water Rationing Plan in accordance with Aqua's Tariff and Aqua's Terms and Conditions, and is subject to the penalty provisions therein.

(b) Before taking water from Aqua, Purchaser shall either adopt or amend, then enforce water conservation and drought contingency plans that specifically references Aqua's Water Rationing Plan, and that:

(i) comply with Title 30 Texas Administrative Code, Chapter 288;

(ii) will conserve the same or a greater amount of water as under the plans implemented by Aqua, and

(iii) are approved by TCEQ and provided to Aqua.

Such water conservation and/or drought contingency plans shall be applicable to water taken by Purchaser from Aqua. Purchaser shall submit to Aqua a copy of Purchaser's water conservation and/or drought contingency plans as originally adopted and as updated from time to time during the term of this Agreement.

3.5 Emergency Notification. Aqua shall notify Purchaser as promptly as possible of all emergency and other conditions of which it becomes aware that may directly or indirectly affect the quality or quantity of the water provided by Aqua, and to provide Purchaser a copy, upon receipt, of all notices received from state or federal agencies or departments having jurisdiction over the installation and operation of public water systems.

3.6 No Statutory Violation for Curtailment. The Parties agree that curtailment of the provision of services under this Agreement is not a violation of the anti-curtailment provision of the Consolidated Farm and Rural Development Act, 7 U.S.C. § 1926(b). If Aqua curtails the



delivery of water under this Agreement it shall not incur any liability under the provisions of this statute.

ARTICLE IV.
RATES AND COMPENSATION

4.1 Rates. The Rate for Wholesale Service under this Agreement shall be as provided in Aqua's Terms and Conditions.

4.2 Adjustment to Rates.

(a) The Rates to be paid by Purchaser for services under this Agreement are subject to adjustment by Aqua for each Water Year. Any adjustment made by Aqua shall remain in effect until the next adjustment of Rates which, except as provided in this Section 4.2 and in Section 4.3, shall occur no earlier than twelve (12) months following the date of the last adjustment to Rates.

(b) In determining the Rates to be set hereunder, Aqua may, but need not, consider, but shall not be limited to considering, all costs incurred by Aqua to build, maintain and operate the System, which shall include but not be limited to: operation and maintenance expenses, debt service requirements along with an adequate amount of insurance coverage as determined by Aqua's financial policies now and in the future, depreciation expense, contractual obligations, capital improvements, administrative overhead, supplies, personnel services, and other utility services, and all other costs or expenses directly or indirectly related to Aqua's ability to meet the conditions of this Agreement and determined by Aqua to relate to its performance hereunder.

(c) Aqua shall notify Purchaser of Aqua's proposed Rate adjustments for the ensuing Water Year at least sixty (60) Days prior to the Rate Effective Date. Thereafter, Purchaser may request additional information from Aqua and provide Aqua with any information Purchaser deems pertinent to the level of the Rates to be established by Aqua. The Rate Effective Date will



be the date on which Aqua's Board of Directors adopts the new Rate. The new Rate will be billed to Purchaser effective on the New Rate Billing Cycle.

(d) Aqua may adjust Rates more often than once every twelve months if, in the sole determination of Aqua, additional revenues are needed for the continued prudent operation of the System or to meet Aqua's obligations, and it would not be prudent to wait the full twelve months for a Rate adjustment. In the event Aqua determines to adjust Rates under this paragraph, it shall provide advance notice to Purchaser of at least sixty (60) Days prior to the implementation of such adjustment.

4.3 Pass-through of Rate Adjustments and Other Costs Imposed by Third Parties. The Rates may be adjusted, at any time, for an amount equivalent to any increased charges for any new or revised Governmental Authority restrictions, impositions, rental fees or charges levied, assessed or imposed on Aqua by any new or amended Governmental Authority law or regulation.

4.4 Books and Records. All books and records upon which such Rate adjustment is based shall be made available to Purchaser at the office of Aqua during the regular business hours of Aqua, upon request by Purchaser.

4.5 Reasonableness of Rates. Purchaser agrees that the Rates initially charged by Aqua and the policies defined in this Agreement are just and reasonable, and do not adversely affect the public interest. The Rates charged by Aqua are subject to modification as provided herein. Purchaser agrees that it is reasonable for Aqua to adjust the Rates periodically as provided herein, including the considerations provided in Section 4.2(b), and understands that any adjustments made in accordance with this Agreement, and the considerations provided in Section 4.2(b) are part of the consideration for this Agreement. Notwithstanding any provision to the

contrary, Purchaser does not waive the right to file and pursue an appeal of any increase in Rates proposed or adopted by Aqua that is not in conformance with the terms of this Agreement.

4.6 Rate Case. If a court, the Public Utility Commission, or any federal or state regulatory authority finds that Aqua's Rates or policies for services provided under this Agreement are unreasonable or otherwise unenforceable, Aqua has the option to terminate this Agreement without liability to Purchaser, but Aqua shall provide Purchaser at least six (6) months' notice prior to such termination.

4.7 Pledge of Revenues. Purchaser represents and covenants that all payments to be made by it under this Agreement will be made from the revenues associated with the sale of water purchased from Aqua. Purchaser agrees throughout the term of this Agreement to continuously operate and maintain its water system and to fix and collect such rates and charges for water services to be supplied by its water system as will produce revenues in an amount equal to at least all of its payments under this Agreement.

4.8 Funds on Hand. Purchaser shall use funds on hand to pay Aqua for Wholesale Service provided on a monthly basis.

ARTICLE V.
EQUIPMENT AND OPERATION

5.1 Master Meter(s). Aqua shall furnish and install, or caused to be furnished and installed, operate, and maintain a Master Meter(s) at the Point(s) of Delivery as provided by Aqua's current specifications and standards. Purchaser shall be responsible for the cost of the Master Meter(s). The Master Meter(s) shall remain the property of Aqua at all times and shall be located on Aqua's property or on an easement dedicated to Aqua. The amount of water delivered by Aqua through the Point of Delivery to Purchaser shall be determined based upon the data collected at the Master Meter(s) at such location. Purchaser shall install and maintain, and



be responsible for all costs of acquisition, installation, maintenance, and operation of, a Supervisory Control and Data Acquisition ("SCADA") system at the Master Meter(s) to enable the Master Meter(s) to communicate with Aqua's System.

5.2 Access to Master Meter(s). Purchaser may have access to the Master Meter(s) only upon approval by Aqua and only for the purpose of verifying its readings. Such approval shall not be unreasonably withheld or delayed, so long as Purchaser provides Aqua with a written request at least forty-eight (48) hours before such access would occur. At no time shall Purchaser be permitted to tamper with, alter, or otherwise adjust any meter or appurtenances at the Point(s) of Delivery or any other component of Aqua's System. If the Master Meter(s) is located within an area of restricted access, Purchaser shall ensure that Aqua has access at all times.

5.3 Reading of Meter. On a monthly basis, Aqua shall be responsible for reading the meter(s) at the Point(s) of Delivery and submitting an invoice to Purchaser for the quantity of water provided. Aqua shall keep accurate records of all measurements of water required under this Agreement. Upon reasonable request and notice, Purchaser or its agents may have access to the records maintained by Aqua of meter readings associated with the Point(s) of Delivery.

5.4 Regular Testing of Master Meter(s). It shall be the duty of each of the Parties to notify the other Party in the event that the Master Meter(s) is not registering accurately or is malfunctioning, so that the meter can be promptly repaired. Aqua shall test the Master Meter(s) for accuracy at least once each twelve (12) month period, and more often as deemed necessary by Aqua to ensure its accuracy. Aqua shall provide Purchaser with five (5) Business Days' notice of its intent to perform the annual test of the Master Meter(s), and Purchaser shall have the right to be present when such testing is conducted. In the event the percentage of accuracy of the Master Meter(s) is found to be within the tolerance of one and one-half percent (1.5%) after any



test, such Master Meter(s) shall be deemed to have correctly measured the quantity of water taken under this Agreement. If, however, upon any test of the percentage of accuracy tolerance, such tolerance is found to be in excess of one and one-half percent (1.5%), then such Master Meter(s) shall be adjusted at once to register correctly and accurately, and the amount of water delivered to Purchaser shall be corrected in accordance with the percentage of inaccuracies found by such test for a period extending back to the time when such inaccuracy began, if such time is ascertainable. If such time is not ascertainable, then the correction shall account for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months.

5.5 Additional Testing of Master Meter(s). Purchaser shall have the right to request Aqua to test the Master Meter(s) more frequently than once per Year as contemplated by Section 5.4 herein, but no more frequently than once a month. Upon any such request, Aqua agrees to perform its testing and calibration of the Master Meter(s) in the presence of a representative of Purchaser, and the Parties shall jointly observe any adjustments that are made to the Master Meter(s) in case any adjustments shall be necessary. For such additional testing requests, Aqua shall give Purchaser forty-eight (48) hours' notice of the time when any such testing shall occur. Aqua may proceed with such testing and adjustment, if necessary, in the absence of any representative of Purchaser. Purchaser shall pay the cost of any additional test for a Master Meter if the test shows that such Master Meter is accurate [within one and one-half percent (1.5%) registration], but Aqua shall pay the costs of the additional test for such if the results indicate that such Master Meter is not accurate [in excess of one and one-half percent (1.5%) registration].

5.6 Maintenance of Master Meter(s). Except as provided in Section 5.5 above, all maintenance, testing and/or repairs or replacement of the Master Meter(s) and related appurtenances at the Point(s) of Delivery shall be made by Aqua. Aqua shall provide repairs to the Master Meter(s) in a prompt and timely manner. If Aqua cannot make such repairs in a timely manner, then Purchaser shall have the option of making such repairs at its own expense, subject to the prior approval and post-inspection of the repairs by Aqua.

ARTICLE VI.
POINT(S) OF DELIVERY

6.1 Location of and Cost Responsibility for Point(s) of Delivery. Each Point of Delivery for Water delivered and taken under this Agreement is located as described in Exhibit "C" hereto. Purchaser agrees to be responsible for all costs associated of the acquisition, construction, and installation of each Point(s) of Delivery, any associated metering station(s), and any line extension(s) from Aqua's existing water infrastructure to the Point(s) of Delivery that are necessary to enable Aqua to deliver water to the Point(s) of Delivery. Aqua shall own any water line extensions that connect Aqua's water distribution infrastructure to the Point(s) of Delivery and such line extensions shall be part of Aqua's System. Purchaser shall own any water line extensions that connect Purchaser's water distribution infrastructure to the Point(s) of Delivery and such line extensions shall be part of Purchaser's System.

6.2 Relocation of Point(s) of Delivery. The Parties may agree in writing to relocate any Point of Delivery or to add additional Points of Delivery as necessary. Any such relocation and/or each such additional Point(s) of Delivery will be reflected by amendment to this Agreement and to Exhibit "C".

6.3 Acquisition of Necessary Easements. Aqua will acquire the necessary easements, through either negotiation or eminent domain, if required, and Purchaser will pay the full cost of



acquiring the necessary easements and rights-of-way in which any of Aqua's System is located, including any such easements as become necessary for any additional Point(s) of Delivery.

ARTICLE VII.
OWNERSHIP OF WATER AND FACILITIES

7.1 Transfer of Ownership. As between the Parties, Aqua shall be: (i) deemed to have exclusive care, custody, and control for all water up to the Point(s) of Delivery; and (ii) responsible for all Losses required to deliver water to the Point(s) of Delivery. Purchaser shall be: (i) deemed to take exclusive care, custody, and control of all water from and after the Point(s) of Delivery; and (ii) responsible for all Losses associated with all water from and after the Point(s) of Delivery.

7.2 No Ownership of Facilities.

(a) Purchaser obtains no ownership, leasing, or management interest in any of Aqua's System by or through this Agreement or payment of any Rate set forth herein.

(b) Purchaser shall be responsible for maintenance and repairs on all facilities located downstream of the Point(s) of Delivery. Aqua and Purchaser will use all reasonable efforts to prevent waste through line leakages or breaks.

ARTICLE VIII.
BILLING AND PAYMENT

8.1 Meter Readings.

(a) Aqua shall send a bill to Purchaser once per month setting forth the quantity of water delivered to Purchaser as determined by Aqua's periodic readings of the Master Meter(s) installed at the Point(s) of Delivery. Purchaser shall pay the total amount owed to Aqua by the due date on each bill. Penalties for late payment shall be imposed according to the provisions of Aqua's Terms and Conditions.



(b) Aqua shall also invoice Purchaser for additional charges, if any, as provided in this Agreement. These invoices shall be due and payable by Purchaser within fifteen (15) Days after receipt.

8.2 Breach for Failure to Timely Pay. Should Purchaser fail to tender payment to Aqua by the due date, the bill shall be considered delinquent, unless contested in good faith as provided herein. In such event, Aqua shall notify Purchaser of such delinquency in writing. If Purchaser fails to make payment of the delinquent billing within thirty (30) Days from the due date, then Aqua may, at its discretion, temporarily terminate service to Purchaser until payment is made. If such delinquency is not cured within thirty (30) Days after temporary termination of service, Purchaser will be in breach of a material term and/or condition of this Agreement and Aqua may terminate this Agreement as provided herein.

8.3 Disputed Bills. If Purchaser in good faith disputes the amount of the bill, Purchaser shall submit such dispute in writing to Aqua no later than thirty (30) Days after receipt of the invoice, and shall timely make the disputed payment or payments. If it is subsequently determined by agreement or court decision that the disputed amount paid by Purchaser should have been less, or more, Aqua shall promptly revise the monthly invoice amount in a manner that Purchaser or Aqua will recover the amount due plus interest, with interest being calculated at an annual rate of five percent (5%).

ARTICLE IX.
FORCE MAJEURE

9.1 Procedure for Calling Force Majeure.

(a) Notice of Force Majeure. The Affected Party shall give prompt notice to the other Party of any event or circumstance of Force Majeure as soon as reasonably practicable after becoming aware of such event or circumstance. Each notice served by an Affected Party to

the other Party pursuant to this Subsection 9.1(a) shall specify the event or circumstance of Force Majeure in respect of which the Affected Party is claiming relief. Noncompliance by the Affected Party with the procedure specified in this Subsection 9.1(a) shall relieve the other Party from accepting the Affected Party's claim of Force Majeure until the Affected Party so complies, and the Affected Party shall not be excused from performance of any obligation under this Agreement until it so complies.

(b) Obligations During Pendency of Force Majeure. The Affected Party shall, by reason of any event or circumstance of Force Majeure in respect of which it has claimed relief under Subsection 9.1(a):

(i) use its best efforts to mitigate the effects of such Force Majeure and to remedy any inability to perform its obligations hereunder due to such event or circumstance as promptly as reasonably practicable;

(ii) furnish timely reports to the other Party regarding the progress in overcoming the adverse effects of such event or circumstance of Force Majeure; and

(iii) resume the performance of its obligations under this Agreement as soon as is reasonably practicable after the event or circumstance of Force Majeure is remedied or such event or circumstance, or the effect thereof on the Affected Party, ceases to exist.

(c) Resumption of Performance. When the Affected Party is able, or would have been able if it had complied with its obligations under this Article IX, to resume the performance of any or all of its obligations under this Agreement affected by the occurrence of an event or circumstance of Force Majeure, then the period of Force Majeure relating to such event or circumstance shall be deemed to have ended.

9.2 Effects of Force Majeure.

(a) Relief From Obligation of Performance. Provided it has complied with its obligations under Section 9.1, the Affected Party shall be relieved from any liability for the non-performance of its obligations under this Agreement where and to the extent that such non-performance is attributable directly to the event or circumstance of Force Majeure asserted.

(b) Relief From Obligation of Counterperformance. The non-Affected Party shall not be required to perform or resume performance of its obligations to the Affected Party corresponding to the obligations of the Affected Party excused by reason of Force Majeure.

9.3 Limitations on Force Majeure.

(a) Scope and Duration. No event or circumstance of Force Majeure shall relieve the Affected Party of any obligation that accrued prior to the commencement of such event or circumstance of Force Majeure, and the suspension of the Affected Party's performance shall be no longer in duration and no greater scope than is required by the event or circumstance of Force Majeure.

(b) No Extension of Term. Except as agreed by the Parties, no suspension, delay or failure of performance caused by a Force Majeure event shall extend this Agreement beyond the Term.

ARTICLE X.
DEFAULT AND TERMINATION

10.1 Event of Default. It shall be an Event of Default by either Party if such Party shall breach any material covenant, obligation, representation, or warranty of such Party under this Agreement, which breach remains uncured for a period of thirty (30) Days after written notice from the non-breaching Party of the existence of such breach; provided, that the non-breaching Party shall extend the cure period for any such breach (and thus no Event of Default shall occur)

if the nature of the default is such that it cannot reasonably be remedied within such thirty (30) Day period, and the breaching Party has diligently commenced corrective action within such thirty (30) Day period and is diligently pursuing such correction thereafter.

10.2 Remedies. If an Event of Default has occurred and is continuing, the non-defaulting Party shall be entitled to the following remedies, which shall be cumulative:

(a) injunctive relief;

(b) specific performance;

(c) the right to cure the other Party's default;

(d) suspension of delivery of water hereunder;

(e) termination of this Agreement;

(f) any of the remedies afforded in this Agreement; and

(g) any other remedies permitted at law or in equity, including damages.

Provided, that Aqua shall not be responsible in damages for any failure to supply water or for any interruption of the supply of water under this Agreement.

10.3 Aqua Right to Suspend or Terminate. Aqua shall have the right, for its sole convenience and without cause, to terminate or suspend, in whole or in part, Aqua's performance of any of its duties or obligations under this Agreement, upon sixty (60) Days prior written notice to Purchaser, in the event that:

(a) Aqua, through no fault or negligence of its own, loses any Permit or other authorization from a Governmental Authority that is required by Aqua to perform its obligations under this Agreement; or

(b) Aqua, after due diligence, is unable to obtain any necessary Permit, Permit amendment, or other necessary authorization from a Governmental Authority or is subject to an

action by a Governmental Authority that reduces its permitted quantity of surface water or groundwater that is necessary to perform its respective duties under this Agreement.

10.4 Termination for Continued or Multiple Force Majeure. Either Party shall have the right (but not the obligation) to terminate this Agreement upon seven (7) Days prior written notice to the other Party in the event the suspension of any material obligation of the Affected Party resulting from one or more events of Force Majeure continues for a period of more than three (3) consecutive months or for a period of more than three (3) months in the aggregate during a one (1) year period; provided that the Affected Party shall only be entitled to terminate this Agreement under this Section 10.4 if it has met its obligations under Section 9.1 (Procedures for Calling Force Majeure). The non-affected Party may, but shall not be obligated to, extend either such period for such additional period as it deems appropriate, if the Affected Party is exercising due diligence in its efforts to cure the Force Majeure event.

10.5 Effective Date of Termination for Continued or Multiple Force Majeure. Upon receipt of any notice of termination delivered pursuant to this Article X, this Agreement shall terminate, effective immediately, and will be of no further force or effect, except with respect to: (i) rights and obligations of the Parties arising during or relating to any period prior to termination, including, in the case of termination for any Event of Default, all of the damages incurred by the non-defaulting Party in connection with such Event of Default, which shall include but not be limited to, Aqua's stranded investment incurred in anticipation of providing the services to Purchaser throughout the term of this Agreement; and (ii) the covenants and obligations of the Parties set forth in this Agreement intended to survive the expiration or termination of this Agreement, which shall survive the expiration or earlier termination of this Agreement as

expressly provided in this Agreement, or if no express survival period is provided for, then until such obligations have been satisfied, or, if later, pursuant to any applicable statute of limitations.

10.6 Mutual Termination by Parties. This Agreement may be terminated upon agreement of Aqua and Purchaser as evidenced in writing. The termination shall take effect upon the date agreed to in writing by Aqua and Purchaser.

ARTICLE XI.
DISPUTE RESOLUTION

11.1 Attempt to Resolve. The Parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this Agreement, the Parties will first attempt to resolve the dispute by taking the following steps:

(a) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied Party to the other Party, which notice shall request a written response to be delivered to the dissatisfied Party not less than five (5) Days after receipt of the notice of dispute.

(b) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied Party, the dissatisfied Party shall give notice to that effect to the other Party whereupon each Party shall appoint a person having authority over the activities of the respective Parties who shall promptly meet, in person, in an effort to resolve the dispute.

(c) If those persons cannot or do not resolve the dispute, then the Parties shall each appoint a person from the highest tier of managerial responsibility within each respective Party, who shall then promptly meet, in person, in an effort to resolve the dispute.

11.2 Non-Binding Mediation for Matters not under PUC Jurisdiction. In the event the measures provided for in Section 11.1 are not successful in resolving the dispute for matters not under the PUC's jurisdiction, Aqua and Purchaser shall enter into non-binding mediation in an

attempt to resolve the dispute prior to commencing litigation. Aqua and Purchaser shall mutually select an impartial individual to serve as mediator. In the event the Parties are unable to agree on an individual to serve as the mediator, either Party may apply to a District Judge for Bastrop County who shall be empowered to designate an individual to serve as the mediator.

11.3 Rates Not Subject to Mediation. Notwithstanding Sections 11.1 and 11.2, and in accordance with Sections 4.5 and 4.6, neither the Rates to be paid hereunder, nor the provisions for payments of said Rates, shall be subject to mediation unless ordered by the PUC.

11.4 Costs of Mediation. Each Party shall bear its own costs and expenses associated with any mediation or appeal of any provision of this Agreement.

ARTICLE XII.
LIABILITY

12.1 Limitation on Liability and Responsibility / Hold Harmless. Neither Aqua nor Purchaser shall be liable or responsible to the other for any claims or damages of any kind for injury to or death of any person or persons, for damage to or loss of property arising out of or attributed directly or indirectly to operations, acts or failures to act by the other and shall hold the other party harmless for any such claims, damages, losses, injuries or deaths.

12.2 General Limitation on Liability. Notwithstanding any other provision of this Agreement, in no event shall either Party be liable to the other under any theory of tort, contract, strict liability, or other legal or equitable theory, whether by way of indemnity or otherwise, for any lost profits, exemplary, punitive, special, incidental, indirect, or consequential damages of the other Party.

ARTICLE XIII.
REPRESENTATIONS, WARRANTIES AND COVENANTS

13.1 Aqua Representations and Warranties. Aqua hereby represents and warrants to Purchaser, as of the date hereof, as follows:

(a) Aqua is a retail public utility holding a CCN and has all requisite power and authority to enter into and to perform its obligations hereunder, and to carry out the terms hereof and the transactions contemplated hereby.

(b) This Agreement has been duly executed and delivered on behalf of Aqua by the appropriate officials of Aqua, and constitutes the legal, valid and binding obligation of Aqua, enforceable against Aqua in accordance with its terms except as the enforceability thereof may be limited by: (i) bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting the enforcement of creditors' rights generally; and (ii) general equitable principles.

(c) The execution, delivery and performance of this Agreement by Aqua have been duly authorized under the bylaws and all other applicable Requirements of Law of Aqua and will not contravene any provision of or constitute a default under any other agreement or instrument to which Aqua is a party or by which Aqua or its property may be bound, and do not conflict with any Requirement of Law currently in force and applicable to Aqua.

(d) There is no legislation, litigation, action, suit, proceeding, or investigation pending or (to the best of Aqua's knowledge) threatened, against Aqua, whether related to the operation of any facility that will supply water under this Agreement, or otherwise, before or by any Governmental Authority which, if adversely determined, individually or in the aggregate: (i) could adversely affect the performance by Aqua of its obligations hereunder; (ii) could have a material adverse effect on the condition (financial or otherwise), business or operations of Aqua;

or (iii) questions the validity, binding effect or enforceability thereof or of this Agreement, any action taken or to be taken pursuant hereto or any of the transactions contemplated hereby.

13.2 Purchaser Representations and Warranties. Purchaser represents and warrants to Aqua, as of the date of this Agreement, as follows:

(a) Purchaser is a retail public utility holding a CCN and is authorized to provide retail water utility service to the areas within its CCN, and has all requisite power and authority to enter into and to perform its obligations hereunder, and to carry out the terms hereof and the transactions contemplated hereby.

(b) This Agreement has been duly executed and delivered on behalf of Purchaser, and constitutes the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms except as the enforceability thereof may be limited by: (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally; and (ii) general equitable principles.

(c) There is no legislation, litigation, action, suit, proceeding or investigation pending or (to the best of Purchaser's knowledge) threatened, against Purchaser or related to Purchaser's activities by any court, administrative agency, arbitrator or governmental authority, body or agency which, if adversely determined, individually or in the aggregate: (i) could adversely affect the performance by Purchaser of its obligations hereunder; (ii) could have a material adverse effect on the condition (financial or otherwise), business or operations of Purchaser; or (iii) questions the validity, binding effect or enforceability thereof or of this Agreement, any action taken or to be taken pursuant hereto or any of the transactions contemplated hereby.

(d) No officer or employee of Aqua has been or will be compensated in any manner with respect to directly or indirectly bringing the Parties together, agreement negotiations, or the



entering into this Agreement. In no event will Purchaser pay a fee to or in any other manner compensate any of Aqua's board members, officers, or employees in connection with the acceptance of this Agreement. A breach of this Subsection 13.2(d) shall result in automatic and immediate termination of this Agreement and shall be an Event of Default.

ARTICLE XIV.
TERM

This Agreement shall be effective on the date of the last to execute below, the Effective Date of this Agreement, and shall remain in force and effect for a period of fifty (50) years from the Effective Date hereof. However, this Agreement may be terminated by either Party in accordance with Article X of this Agreement. As provided in Article X, earlier termination by Purchaser shall render Purchaser liable in damages for repayment of Aqua's stranded investment incurred in anticipation of providing services to Purchaser throughout the term of this Agreement. Purchaser agrees that Aqua has no obligation to provide it with water after the termination of this Agreement. Unless either Purchaser or Aqua provides the other party with its written intent to not renew this Agreement not later than one (1) year prior to the date of the expiration of the initial term of this Agreement, this Agreement shall automatically renew for an additional fifty (50) year period and the Agreement's terms and conditions shall remain in effective for the length of the additional fifty (50) year period.

ARTICLE XV.
MISCELLANEOUS

15.1 Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their legal successors, but the Agreement shall not be otherwise assignable in whole or in part by either Aqua or Purchaser without first obtaining the written consent of the other.

15.2 Governing Law and Venue. The Constitution and the laws of the State of Texas and the decisions of its courts shall govern with respect to any question or controversy that may arise hereunder. All amounts due under this Agreement, including but not limited to payments due under this Agreement or damages for breach of this Agreement, shall be paid and be due in Bastrop County, Texas, which is the county in which the principal administrative offices of Aqua are located. It is specifically agreed that Bastrop County, Texas, is a principal place of performance of this Agreement. Venue for any actions arising under this Agreement shall lie exclusively in the courts of Bastrop County, Texas.

15.3 Notices. Unless the context requires immediate notice, which may be provided by telephone, any notice, request or other communication required by this Agreement between the Parties regarding the Agreement shall be given in writing and shall be deemed to have been given to the other Party upon either of the following dates:

(a) The date of the mailing thereof, as shown by a post office receipt, if mailed to the Party by registered or certified mail at the latest address specified for such other Party in writing; or

(b) The date of the receipt thereof by such other Party if not so mailed by registered or certified mail. Notice shall be made to Aqua as follows:

General Manager
Aqua Water Supply Corporation
P.O. Drawer P
415 Old Bastrop Highway
Bastrop, Texas 78602

With copy to: Ty Embrey
Lloyd Gosselink, P.C.
1800 Congress Avenue, Suite 1900
Austin, Texas 78703



Notice to Purchaser shall be made as follows:

City of Bastrop
P.O. Box 427
Bastrop, Texas 78602
Attn: City Manager

With copy to: Alan Bojorquez
Bojorquez Law Firm
12325 Hymeadow Drive
Suite 2-100
Austin, Texas 78750

(c) The Parties shall have the right from time to time to change their respective addresses by giving written notice to the other Party.

15.4 No Waiver of Rights.

(a) No waiver by either Party of any default or defaults by the other Party in the performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further default or defaults whether of a like or different character or shall be effective unless in writing, duly executed by a duly authorized representative of the Party waiving any such default.

(b) Neither the failure by a Party to insist on any occasion upon the strict performance of the terms, conditions, and provisions of this Agreement, nor time or other indulgence granted by one Party to the other, shall act as a waiver of such breach.

15.5 Severability. In case any one or more of the Articles, Sections, provisions, clauses, or words of this Agreement shall for any reason be held to be invalid, unenforceable or unconstitutional, such invalidity, unenforceability or unconstitutionality shall not affect any other Articles, Sections, provisions, clauses, or words of this Agreement, and it is intended that this Agreement shall be severable and shall be construed and applied as if such invalid or unconstitutional Article, Section, provision, clause or word had not been included herein.

15.6 Entire Agreement. This Agreement contains all of the agreements between the Parties on the subjects contained herein. As of the Effective Date of this Agreement, this Agreement shall replace any and all prior agreements between the Parties, both oral and written, with regard to the subject matter.

15.7 Amendments. This Agreement may be changed or modified at any time by a written instrument signed by both Parties and only after having obtained approval from the governing bodies of Aqua and Purchaser. Any amendments to any exhibits attached hereto that become necessary from amendments to this Agreement shall be done and be made effective contemporaneously with any amendments to this Agreement. No change or modification shall be made to this Agreement that will affect adversely the prompt payment, when due, of all monies to be paid by Purchaser under the terms of the contract or that will adversely affect the tax-exempt status of any tax-exempt obligations issued by Aqua or Purchaser. The foregoing notwithstanding, the Parties hereto agree to use their best efforts to modify this Agreement if the Internal Revenue Service determines that a failure to do so would adversely affect the tax-exempt status of any outstanding tax-exempt obligations issued by Aqua or Purchaser.

15.8 Cooperative Drafting. This Agreement is the product of a cooperative drafting effort by the Parties and shall not be construed or interpreted against either Party solely on the basis that one Party or its attorney drafted this Agreement or any portion of it.

15.9 Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The Parties may execute this Agreement and all other agreements, certificates, instruments and other documents contemplated by this Agreement and exchange the counterparts of such documents by means of facsimile transmission, and the Parties agree that the receipt of such executed counterparts shall



be binding on such Parties and shall be construed as originals. Thereafter, the Parties shall promptly exchange original versions of this Agreement and all other agreements, certificates, instruments and other documents contemplated by this Agreement that were executed and exchanged by facsimile transmission.

15.10 Third Party Beneficiaries. Nothing in this Agreement is intended or shall be construed to confer upon, or to give to, any legal Person other than the parties, any right, remedy, or Claim under or by reason of this Agreement. Any covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties. Nothing in this Agreement is intended to interfere with any agreement of any Party with a third party.

15.11 Certified Copy to PUC. Aqua shall provide the PUC with a certified copy of the executed wholesale water supply contract with Purchaser within thirty (30) Days after the date of execution of the Contract in accordance with Texas Water Code Section 13.144.

15.12 Deadlines. To the extent that the date for any payment or notice due hereunder by either Party shall fall on a Day that is not a Business Day, such deadline for payment or notice, as the case may be, shall be automatically extended to the next following Business Day.

IN WITNESS WHEREOF, the parties have executed this Agreement as indicated below.

AQUA

By: _____
Alan David McMurry
General Manager

Date: 11/28/2018

PURCHASER

By: _____
Lynda Humble
City Manager

Date: 11/28/2018

Attest: By Traci Chavez
Ann Franklin
City Secretary

Exhibit A

AQUA WSC CCN

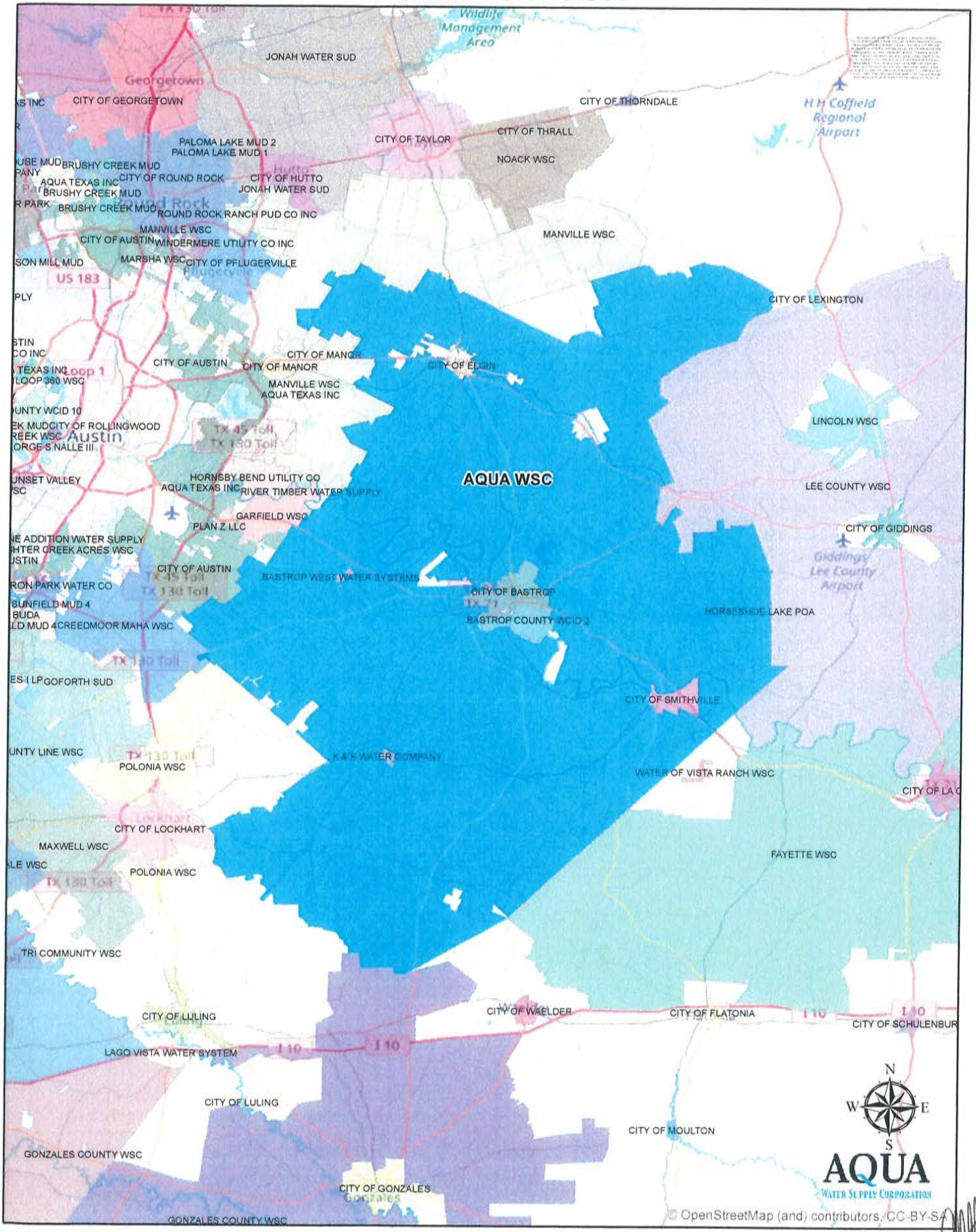


Exhibit B

AQUA WATER SUPPLY CORPORATION TERMS AND CONDITIONS FOR WHOLESALE SERVICE

City of Bastrop

November 2018

SECTION 1.0
DEFINITIONS

"Aqua" means Aqua Water Supply Corporation as represented by its Board of Directors.

"Aqua's Engineer" means a person or firm licensed by the State of Texas and engaged by Aqua to provide engineering consulting services to Aqua.

"Aqua's System" means collectively all of Aqua's production, distribution, and transmission facilities, including, without limitation, wells, ground storage reservoirs, pump stations, elevated storage tanks, water transmission and distribution lines connecting any of the aforementioned facilities, and other properties or interest therein wherever located for the production, distribution, and transmission of water.

"Bastrop" means the City of Bastrop, Texas.

"Bastrop's Engineer" means a person or firm licensed by the State of Texas and engaged by the City of Bastrop to provide engineering consulting services to Bastrop.

"Bastrop's System" means collectively all of Bastrop's production, distribution, and transmission facilities, including, without limitation, wells, ground storage reservoirs, pump stations, elevated storage tanks, water transmission and distribution lines connecting any of the aforementioned facilities, and other properties or interest therein wherever located for the production, distribution, and transmission of water.

"Board of Directors" or "Board" means the duly elected members of the Board of Directors of Aqua Water Supply Corporation.

"Capacity Charge" means the cost to have water service available under a Wholesale Service Agreement.

"Commodity Replacement Charge" means the charge assessed against Bastrop under a Wholesale Service Agreement for the purpose of replacing the water supply contracted for sale to Bastrop.

"Cost of Construction" means all expenses associated with constructing, installing and placing a facility into operation including, but not limited to, planning, engineering, clearing, surveying, legal, land acquisition, acquisition of rights-of-way, the construction contract, and the like.

"Maximum Daily Delivery Rate" means the maximum rate at which Aqua will deliver water to a Bastrop under a Wholesale Service Agreement in one twenty-four (24) hour period.

"Monthly Customer Charge" means the cost to have water available at a meter.

"Service Area" means that area to which Aqua may lawfully provide water service, whether within or outside the area described by the Certificate of Convenience and Necessity held by Aqua.

"Usage Charge" means the charge billed for water delivered through a metered point of delivery.

"Wholesale Service" means wholesale water service provided to a retail public utility, as defined by the Texas Water code, located outside of Aqua's service area. Water provided under Wholesale Service shall be partial requirements only, pursuant to a Wholesale Service Agreement between Aqua and Bastrop. Such water shall be submetered for resale by the Bastrop within Bastrop's service area. Aqua will not be the retail service provider to the customers of Bastrop.

SECTION 2.0
WHOLESALE SERVICE RATE SCHEDULE

Section 2.01 – Water Rates

The monthly charge for Wholesale Service shall be the sum of the Capacity Charge, the Usage Charge, and the Commodity Replacement Charge.

The Capacity Charge is a fixed charge assessed against the contractual Maximum Daily Delivery Rate (0.75 MGD) in the amount of $45,000 per million gallons of water per day ("MGD"). Such amount shall be payable in advance on a monthly basis.

The Usage Charge is applicable to all water actually delivered to Bastrop by Aqua pursuant to the Wholesale Service Agreement in the amount of $0.75 (seventy five cents) per 1,000 gallons delivered.

The Commodity Replacement Charge is a variable charge applicable to all water actually delivered to Bastrop in the amount of $0.20 (twenty cents) per 1,000 gallons delivered.

Lost Pines Groundwater Conservation District Assessment
The assessments established by the Lost Pines Groundwater Conservation District shall be collected from each member.

Section 2.02 – Other Fees

After receipt of the Feasibility Study, Aqua will determine the size meter assembly required to meet the request. Aqua shall also calculate the appropriate Meter Set Fee associated with the requested meter. The Tap Fee shall include the actual cost for purchasing and installing the appropriate size and type meter and any flow controlling device and backflow prevention device as determined to be necessary by Aqua. The Membership Fee for Wholesale Service shall be $100.00.

Bastrop shall be responsible for all fees and expenses incurred by Aqua associated with Aqua applying for, and obtaining, all permits required by a groundwater conservation district for the transport of water out of such district for the benefit of Bastrop and all fees and expenses, such as attorneys' fees, estimated to be incurred by Aqua in negotiating and drafting a Wholesale Service Agreement.

A deposit of $2,500.00 to cover expected fees and expenses shall be submitted to Aqua by Bastrop at the time Bastrop submits its request for a Wholesale Service Agreement to Aqua. Aqua shall issue an invoice to Bastrop for all such fees and expenses incurred in excess of the deposit, and Bastrop shall promptly submit payment in full to Aqua. The failure of Bastrop to timely reimburse Aqua for such fees and expenses will be cause for Aqua to reject Bastrop's request for a Wholesale Service Agreement or to abate consideration of such request pending receipt of payment from Bastrop. If such permits are required, the issuance of such permits shall be a condition precedent to Aqua providing a Wholesale Service Agreement to Bastrop.

Section 2.03 -- Miscellaneous Fees and Requirements for Service

a. Reconnection Fees

Base Reconnection Fee	$60.00
Past Due Balance	As applicable

The above Reconnection Fee must be paid before service can be restored to Bastrop who has been disconnected. A Base Fee of $60.00 shall be charged for all reconnections. At service locations where equipment tampering or an unauthorized connection has resulted in forfeiture of membership and tap rights, the former member shall be required to make full payment of the Membership Fee and the Tap Fee in effect at the time service is requested. Additionally, the former member shall be required to make full payment of applicable Equipment Damage Fees.

b. Late Charge

A 10% penalty will be added for payment received after the 10th day of the month. Failure to pay by the 10th, may require disconnection. The penalty on delinquent bills may not be applied to any balance to which the penalty was applied in a previous billing.

c. Returned Check Charge $ 35.00

SECTION 3.0
SERVICE RULES AND REGULATIONS

Section 3.01 – Application for Wholesale Service

Wholesale Service is provided pursuant to a long-term Wholesale Service Agreement, after (i) receipt of an application for Wholesale Service, and (ii) a determination is made by Aqua that Wholesale Service is available to Bastrop. This service may be provided by Aqua in Aqua's sole determination, taking into consideration the proposed place of use of the water, the furtherance of the goals of regionalization, the optimal use of Aqua's infrastructure, and other policies and guidelines adopted by Aqua from time to time. Aqua is under no obligation to provide Wholesale Service.

Entities meeting the following minimum qualifications may apply for Wholesale Service. However, meeting the following minimum qualifications in no event entitles any entity to become a purchaser of Wholesale Service. Minimum qualifications for Bastrop for Wholesale Service include, but are not limited to, the following:

1. Bastrop is a retail public utility as defined by the Texas Water Code that either (i) holds a valid Certificate of Convenience and Necessity ("CCN") for the provision of retail water utility service issued by the Texas Commission on Environmental Quality, its predecessors or successors, or (ii) is statutorily exempt from the requirement that it hold a CCN in order to provide retail water utility service.

2. Bastrop's service area is adjacent to the CCN held by Aqua.

3. Bastrop demonstrates to Aqua's satisfaction its creditworthiness and ability to perform financially under the terms of the Wholesale Service Agreement. Unless Aqua agrees otherwise, such demonstration shall be made by Bastrop providing to Aqua an irrevocable letter of credit in the amount of six (6) months' estimated billings by Aqua under the requested Wholesale Service Agreement. The letter of credit shall be continuously valid for the term of the Agreement, shall be issued by a bank authorized to do business in the State of Texas, and shall identify Aqua as the beneficiary.

4. Bastrop has other water supplies available and will not be a full-requirements wholesale customer of Aqua.

Bastrop must present a complete application for Wholesale Water Service.

If the sale of water by Aqua to Bastrop requires a transport permit from an underground water conservation district, then upon request by Bastrop, Aqua will submit an application for a Transport Permit at Bastrop's expense. By accepting Bastrop's application for Wholesale Water Service, and by submitting an application for a Transport Permit, Aqua makes no warranty or guarantee to Bastrop that the Transport Permit application will be successful.

Section 3.02 -- Billing

Water bills shall be rendered monthly unless service is terminated before the end of a billing cycle. Service initiated less than one week before the next billing cycle may be billed with the following month's bill.

Payment is considered late if not received at Aqua's office or postal address by the 10th of the month. A 10% penalty will be added for payment received after the 10th day of the month. Failure to pay by the 10th may result in disconnection.

Section 3.03 -- Service Disconnection

Wholesale service to Bastrop may be disconnected if a bill has not been paid and proper notice has been given.

Proper notice shall consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of disconnection, with the words "termination notice" or similar language prominently displayed on the notice. If applicable, the notice must also list the past due balance.

Service may be disconnected after proper notice for any of the following reasons:

1. Failure to pay a delinquent account or to comply with a deferred payment agreement;

2. Willful violation of a usage rule when that violation interferes with another member's service;

3. Other reasons set forth in the Wholesale Service Agreement.

Service may only be disconnected without notice:

1. When a known dangerous condition exists, for as long as the condition exists;

2. When service is established through meter bypassing, an unauthorized connection or unauthorized reconnection; or

3. In instances of tampering with Aqua's meter or equipment.

Section 3.04 -- Forfeiture of Membership

If Wholesale Service has been disconnected for nonpayment for more than 365 consecutive days or if Aqua's equipment has been tampered with or water is taken by means of an unauthorized connection, or both:

Bastrop shall forfeit all rights and privileges of membership;

Bastrop shall forfeit all connection and tap rights;

The meter shall be removed; and

The Point of Delivery shall be sealed.

Section 3.05 -- Limitation of Liability

Aqua shall not be liable for any damages, including without limitation, direct damages, special damages, incidental damages, consequential damages, or loss of profit or revenue, resulting from failures or interruptions of water supply occurring because of maintenance of Aqua's water distribution system or that are occasioned by causes beyond the control of Aqua. Aqua shall not be liable in any event for consequential damages.

Section 3.06 -- Litigation

These Terms and Conditions shall be construed under and in accordance with the laws of the State of Texas. All obligations of the parties created under these Terms and Conditions shall be performable in Bastrop County, Texas. All payments required to be made to Aqua under the Wholesale Service Agreement shall be made at Aqua's offices in Bastrop County, Texas. Bastrop County, Texas shall be the exclusive place of venue for any disputes arising under the Wholesale

Service Agreement. In the event Aqua is required to retain an attorney to enforce the Wholesale Service Agreement or any of the Terms and Conditions or to collect amounts owed, Bastrop shall be responsible for all costs incurred by Aqua, including reasonable attorneys' fees.

SECTION 4.0 -- WATER RATIONING PLAN

Aqua has enacted a Water Rationing Plan as set out in its Tariff and Water Conservation Plan. Prior to service by Aqua, Bastrop is required to adopt Aqua's Water Rationing Plan and Water Conservation Plan, or a plan that is substantially similar that has been approved by the Texas Commission on Environmental Quality. Aqua will notify Bastrop of any revisions to the Water Rationing Plan and Water Conservation Plan and Bastrop shall ensure that their plan conforms with such amendments within thirty (30) days of notification.

Exhibit C

Description(s), Map(s) of Point(s) of Delivery, and Technical Information for Point(s) of Delivery

- To Be Determined

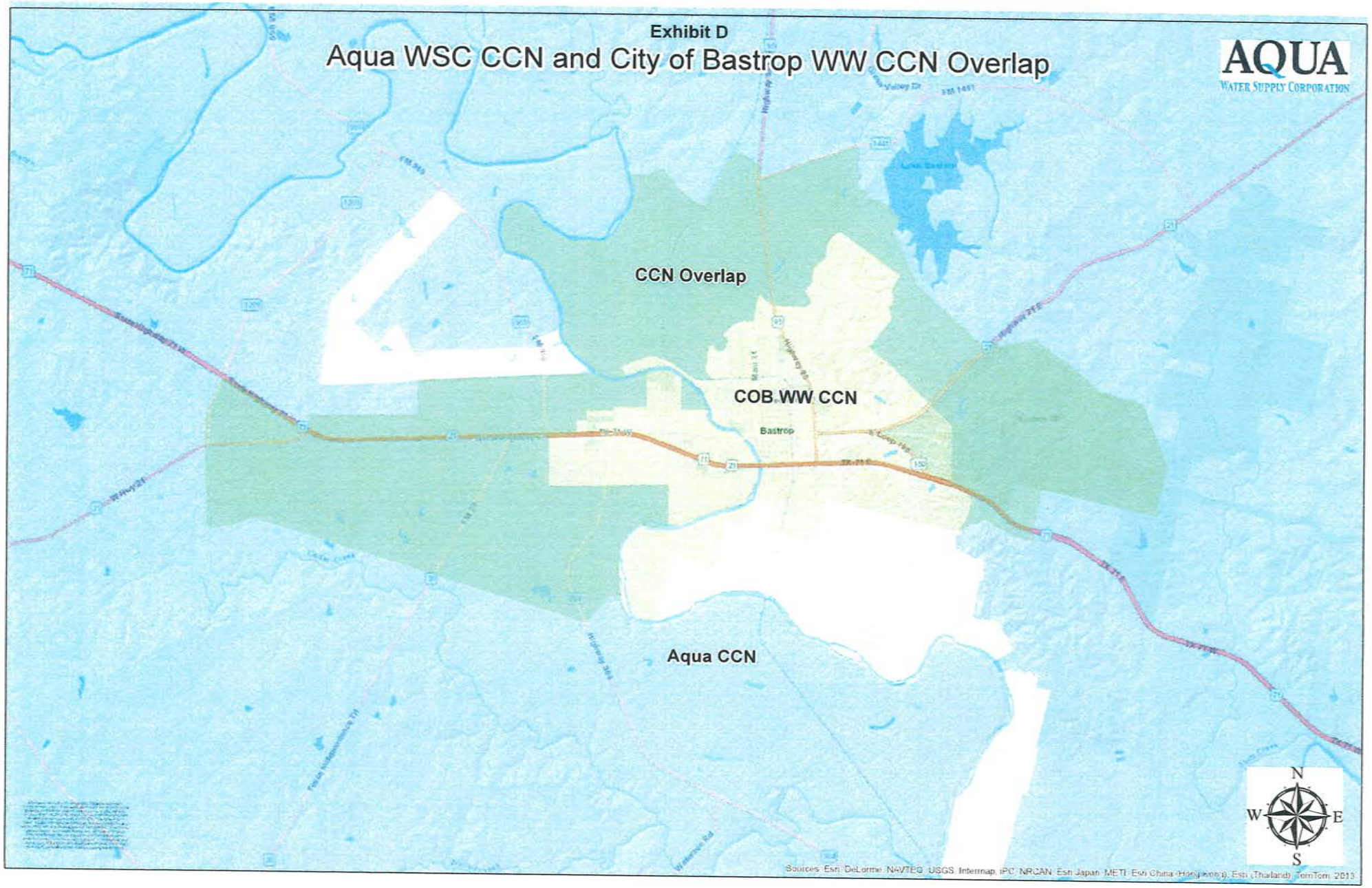

Exhibit D
Aqua WSC CCN and City of Bastrop WW CCN Overlap
AQUA
WATER SUPPLY CORPORATION
CCN Overlap
COB WW CCN
Bastrop
Aqua CCN
N
W
E
S
Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2013

Exhibit E

City of Bastrop Water CCN

AQUA
WATER SUPPLY CORPORATION

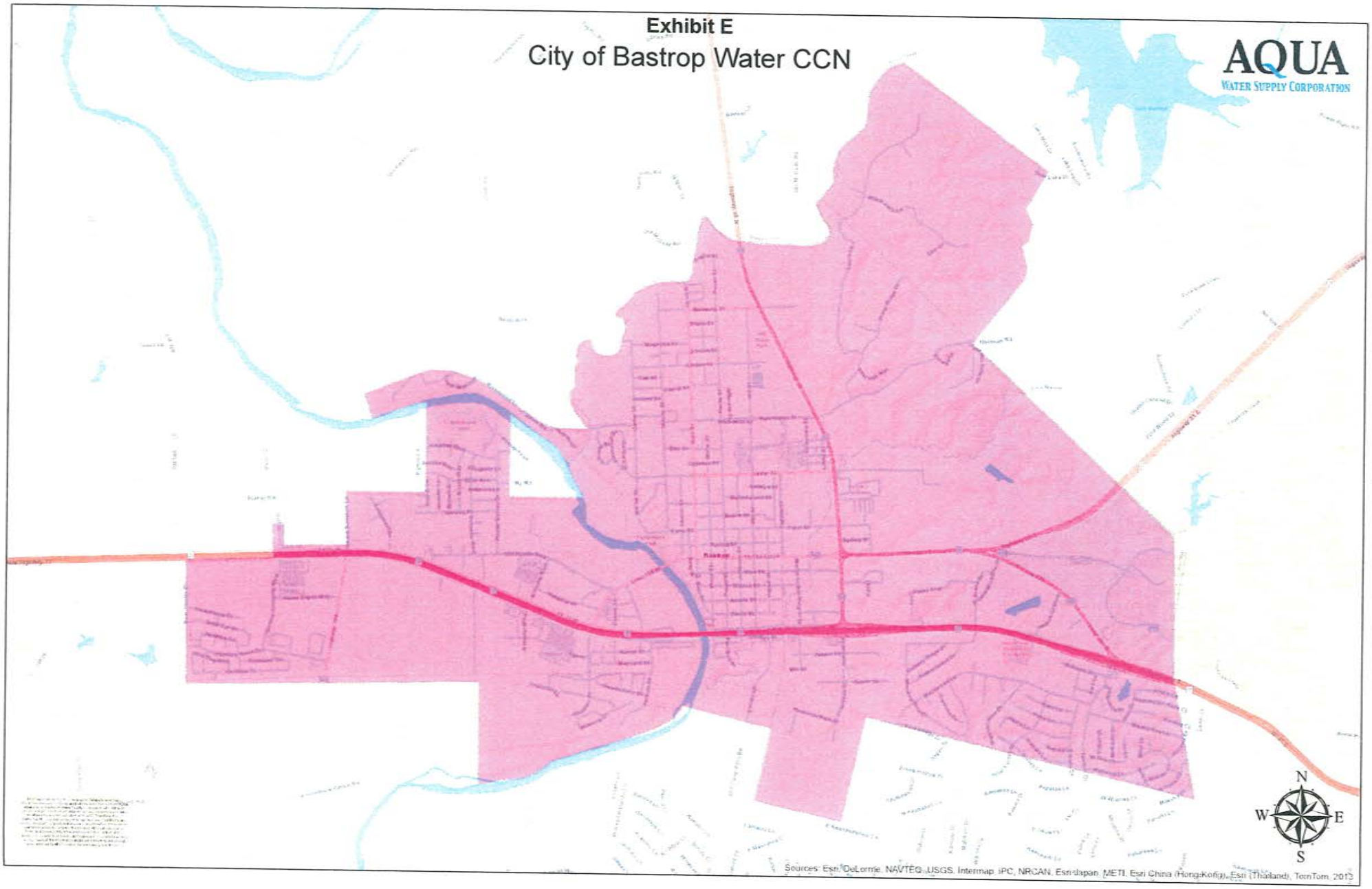
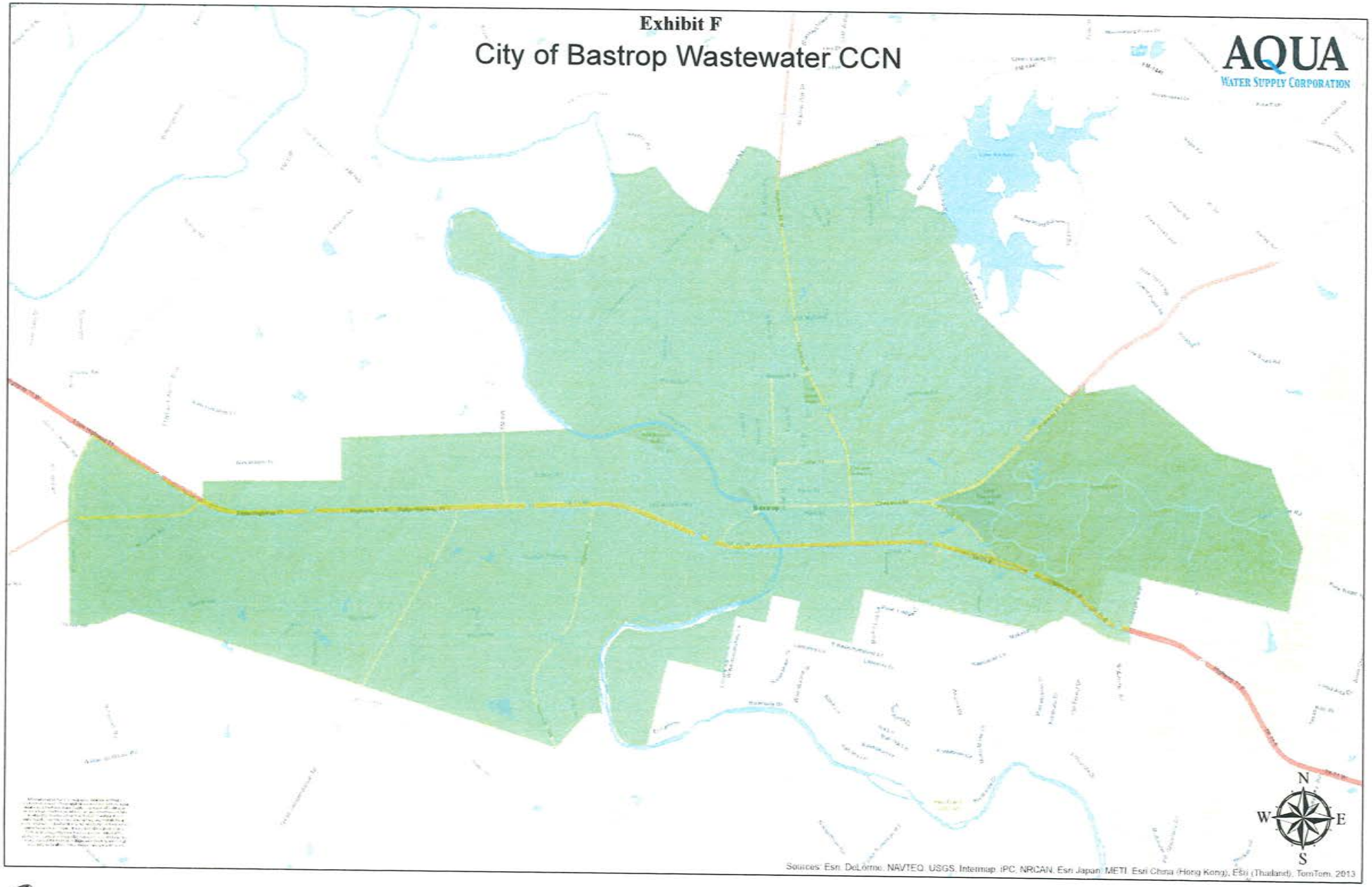


Exhibit F

City of Bastrop Wastewater CCN

AQUA
WATER SUPPLY CORPORATION



RESOLUTION #18.11.02
A RESOLUTION OF THE BOARD OF THE DIRECTORS OF AQUA WATER SUPPLY CORPORATION AUTHORIZING THE GENERAL MANAGER TO NEGOTIATE AND EXECUTE A WHOLESALE WATER SERVICE AGREEMENT WITH THE CITY OF BASTROP

WHEREAS, Aqua Water Supply Corporation ("Aqua") is a non-profit water supply corporation, operating under the authority of Chapter 67 of the Texas Water Code and the holder of retail water Certificate of Convenience No. 10294 ("CCN") issued by the Texas Commission on Environmental Quality; and

WHEREAS, the City of Bastrop ("Bastrop") is a home rule city, body politic of the State of Texas, and retail public utility located adjacent to Aqua's CCN in Bastrop County and the holder of retail water Certificate of Convenience No. 11198 ("CCN") issued by the Texas Commission on Environmental Quality; and

WHEREAS, Bastrop County is experiencing substantial economic and population growth and the growth is likely to continue for the decades to come; and

WHEREAS, Aqua and Bastrop are both integral parts of the past, present, and future of Bastrop County; and

WHEREAS, Aqua and Bastrop strongly agree that the two entities must partner and work together both now and in the future to not only address the growth and water needs that Bastrop County is experiencing but to enable Bastrop County to meet its full potential as a great place to work and live; and

WHEREAS, Aqua and Bastrop believe this Agreement is crucial to making certain the Bastrop area has the water the area needs to grow; and

WHEREAS, Aqua and Bastrop desire to enter a Wholesale Water Service Agreement ("Agreement") that would enable Aqua to provide wholesale water service to Bastrop to allow Bastrop to provide water service in those areas where Bastrop's retail wastewater CCN as of the effective date of the Agreement overlaps with Aqua's retail water CCN; and

WHEREAS, Aqua has determined that it has sufficient facilities and capacity to provide wholesale water service to Bastrop in the areas specified in the Agreement; and

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF AQUA WATER SUPPLY CORPORATION THAT:

1. The above recitals are true and correct.

2. The General Manager is hereby authorized to negotiate and execute, on behalf of Aqua, a Wholesale Water Service Agreement with the City of Bastrop.

3. The Board of Directors hereby authorizes the President, the General Manager, Aqua staff and Aqua's attorneys and engineers to take any action necessary to implement the terms of this resolution.

PASSED, APPROVED AND ADOPTED this the 5th day of November, 2018.

Cliff Kessler, President

ATTEST:

William F. Tomsu, Secretary Treasurer

Exhibit H

SECTION 5.0 – WATER RATIONING PLAN

Section 5.01 – General Provisions

1. Declaration of Necessity for Rationing: When system demand threatens to exceed production or storage capability, or refilling the storage facilities is rendered impossible, Aqua, acting through its General Manager, may declare that a necessity for rationing exists, and thereafter ration water in the following manner.

2. Notice Requirements: Reasonable notice, including, by way of example and without limitation, notice published in a local newspaper, radio and television announcements, and by posting notice in public buildings, of the proposed rationing shall be provided 24 hours before Aqua actually starts the program. Published notice may be followed by mailed notice included in the next regular bill. Any notice shall contain the following information:

   a. the date rationing shall begin;

   b. the date rationing shall end;

   c. the stage (level) and explanation of rationing to be employed; and

   d. explanation of penalties for violations.

3. Violation of Rationing Rules:

   a. First violation -- Aqua may install a flow restrictor in the line to limit the amount of water which will pass through the meter in a 24-hour period. The cost to be charged to the member's account shall be the actual installed cost to Aqua.

   b. Subsequent violations -- Aqua may terminate service at the meter for a period of seven (7) days, or until the end of the calendar month, whichever is LESS. The normal reconnect fee of Aqua shall apply for restoration of service.

4. Exemptions or Variances From Rationing Rules: Aqua may grant any member an exemption or variance from the uniform rationing program, for good cause. Aqua shall treat all members equally concerning exemptions and variances, and shall not employ discrimination in such grants.

5. Rates: All existing rates schedules shall remain in effect during the rationing period, and no charges may be levied against a member which are not contained in the approved Tariff of Aqua as filed with the Commission.

The purpose of the Water Rationing Program is to conserve the total amount of water demanded from Aqua until supply can be restored to normal levels.

Section 5.02 – Stages of Rationing

Stage I (Voluntary Conservation)

Under Stage I, Aqua members will be requested to voluntarily restrict usage of water for outdoor purposes such as lawns, gardens, car washing, etc. Members will be requested to voluntarily limit the amount of water used to that amount absolutely necessary for health, business, and outdoor water use. Voluntary Conservation may include following the "Central Texas Water Wise Plan" which includes the following:

1. Landscape Watering Schedule: Aqua will provide a calendar noting the respective outdoor watering days and the order will remain consecutive as new months begin. For members having rural delivery numbers, the last numerical digit of the rural delivery number, whether route or box number, shall be used to determine watering days.

2. Restricted Outdoor Watering Hours: Outdoor watering should be done only before 10 a.m. and after 7 p.m. on your watering day.

3. Restricted Outdoor Watering Volume: Water no more than 1 inch on your watering day.

Stage II (Mild Rationing Conditions)

Under Stage II, Aqua may select one or more of the alternatives listed below, except that usage for livestock is exempt.

1. Time of Use Restriction: Usage of water for outdoor purposes such as lawns, gardens, car washing, etc. may be restricted according to one or more of the following schedules, except that Aqua may allow irrigation by hand-held hoses, hand-held buckets, drip irrigation or permanently installed automatic irrigation sprinkler system only.

    a. Landscape Watering Schedule: Members with even numbered addresses or rural delivery numbers can use water outdoors on Monday and Thursday and members with odd numbered addresses or rural delivery numbers can use water outdoors on Tuesday and Friday. For members having rural delivery numbers, the last numerical digit of the rural delivery number, whether route or box number, shall be used to determine watering days.

    b. Weekday Use Only: No outside watering allowed on Saturdays, Sundays, or official Federal holidays.

    c. Landscape Watering Schedule: Aqua will provide a calendar noting the respective watering days. For members having rural delivery numbers, the

last numerical digit of the rural delivery number, whether route or box number, shall be used to determine watering days.

2. Hand Watering Restriction: Aqua may require that only a hand-held hose or a hand-held bucket be used for watering of lawns, gardens, trees, and shrubs.

3. Vehicle Washing Restriction: Aqua may prohibit or limit the times for washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment.

Stage III (Moderate Rationing Conditions)

All outdoor water usage is prohibited; however, usage for livestock is exempt.

Stage IV (Severe Rationing Conditions)

All outdoor water usage is prohibited; usage for livestock is exempt. All consumption shall be limited to each member in one of the following ways:

1. A fixed percentage of each member's average use in the prior month, the percentage to be uniformly applied on a system wide basis, each member being notified of this percentage amount, OR

2. A maximum number of gallons per meter (member), per week, with notice to each member of this number.

All meters shall be read as often as necessary to insure compliance with this program for the benefit of all the members.

RESOLUTION NO. R-2018-106

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING AN AGREEMENT WITH AQUA AS ATTACHED IN EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Texas Water Code – Water §13.254, Revocation or Amendment of Certificate codifies SB 511, which created a streamlined expedited release of a Certificate of Convenience and Necessity (CCN) for landowners with at least 25 acres, who are not receiving water and wastewater service, and are located in one (1) of 33 counties to petition the Texas Commission on Environmental Quality (TCEQ) to remove their property from an existing CCN. Bastrop is one (1) of the 33 counties; and

WHEREAS, in 2017, Aqua Water Corporation worked with Representative John Cyrier to sponsor a bill to modify this process. The City of Bastrop opposed the bill. Representative Cyrier called a meeting with representatives from the City of Bastrop and Aqua Water Corporation and instructed both entities to work out some form of an agreement; and

WHEREAS, multiple meetings have occurred over the past 1 ½ years to reach a solution that creates a win-win scenario for both entities; and

WHEREAS, under this contract, the City agrees to purchase water at a wholesale cost for any development that wishes to decertify Aqua's water CCN under Texas Water Code – Water §13.254, Revocation or Amendment of Certificate and have the City of Bastrop provide water; and

WHEREAS, Aqua Water Corporation maintains the collateral commitment for their USDA loans by still providing water at a wholesale cost to the same customers that use to be in their CCN. The City will establish a wholesale water rate that covers the cost of Aqua's water, yet is cheaper than a developer installing their own water system; and

WHEREAS, the economic development challenge regarding fire flow is resolved through a connection at SH20 between the City of Bastrop and Aqua that will allow the wholesale water purchase to be pressurized in the City's system for fire flow purposes, which will require less water to be purchased; and

WHEREAS, this agreement provides a "one-stop" shop for economic development opportunities regarding supplying water and wastewater services; and

WHEREAS, the City of Bastrop will be able to expand its Water CCN to match its Wastewater CCN through a long-term wholesale water agreement; and

WHEREAS, this agreement will provide immediate water supply redundancy that we currently do not have and helps manage peak demand until a new plant can be built in the Simsboro Aquifer; and

WHEREAS, both Aqua Water Corporation and the City of Bastrop believe this mutual agreement is a precedent setting agreement for the State of Texas and represents a win-win-win scenario for Aqua, the City, and the wholesale customer.

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

Section 1. The City Manager is hereby authorized to execute this contract, which is attached as Exhibit A, as well as all other necessary documents.

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 13th day of November 2018.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

Walker Partners
engineers ★ surveyors

804 Las Cimas Pkwy., Suite 150
Austin, Texas 78746

9/5/2019

Texas Commission on Environmental Quality
P.O. Box 13087
Resource Protection Team
MC-160
Austin, TX 78711-3087

Attn: Resource Protection Team

Re: Updated Drought Contingency Plan for the City of Bastrop, TX

To the Resources Protection Team

The City of Bastrop (City) has recently revised and updated their Drought Contingency Plan (DPC) in accordance with the rules and requirements provided by the Texas Commission on Environmental Quality (TCEQ). The current plan, which was adopted by Bastrop City Council on August 27, 2019, replaces the previous DCP for the City dated May 2012.

The updated DCP is provided as an attachment to this letter. Also included as attachments are the following:

- Summary log of revisions to current plan from previous plan;
- Cover letter for the DCP submittal to the Region K Regional Water Planning Group; and
- Copy of the signed City of Bastrop City Council resolution adopting the updated DCP.

The TCEQ previously provided a notice dated July 24, 2019 to the City reminding the City of the deadlines for the DCP and the City's Water Conservation Plan. After further discussion with TCEQ staff, it was clarified that the City is not required to submit a Water Conservation Plan to the TCEQ as the City is not a surface water right holder. The City is in the process of updating their Water Conservation Plan for submission to the Texas Water Development Board pursuant to the rules and requirements under 31 TAC 363.

Please feel free to contact me directly should you have any questions concerning these items.

Sincerely,

DANIEL M. FRAZIER, P.E.
PROJECT MANAGER

W 512.382.0021 **M** 512.960.0081

DF

Attachments: City of Bastrop Drought Contingency Plan (August 2019); Summary Log of DCP Revisions, Cover Letter for DCP Submittal to the Region K Regional Water Planning Group; Bastrop City Council Resolution Adopting Current DCP

Electronic Delivery

Cc: Project File

Attachment 1 – Updated Drought Contingency Plan for the City of Bastrop (August 2019)

CITY OF BASTROP

DROUGHT CONTINGENCY PLAN

Adopted: August 27, 2019

Prepared by:

Walker Partners
engineers ★ surveyors

AMENDED DROUGHT CONTINGENCY PLAN
FOR THE
CITY OF BASTROP, TEXAS

Introduction and Background

The City of Bastrop provides utility services which includes providing treated water to its residents. Refer to the information below concerning general details for the city's water utility.

- Name of Utility: City of Bastrop
- Address: 300 Water Street., Bastrop, TX 78602
- Water CCN#: 11198
- PWS #: TX0110001

Safe, high quality drinking water is a precious resource in the Bastrop region. This Drought Contingency Plan (Plan) requires that the available resources of the City of Bastrop be put to the most beneficial use possible. The Plan also requires that the waste, unreasonable use, or unreasonable method of use of water be prevented and that conservation of water be extended with a view to reasonable and beneficial use in the interests of public health and welfare of the Bastrop community.

Section I: Declaration of Policy, Purpose, and Intent

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Bastrop hereby adopts the following regulations and restrictions on the delivery and consumption of water by ordinance.

Water uses regulated or prohibited under this Plan are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section XI of this Plan.

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the City of Bastrop by means of public hearing during a City Council meeting on August 27, 2019.

Section III: Public Education

The City of Bastrop will periodically provide the public with information about the Plan as well as water conservation and drought conditions, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of paid advertisements, public notices, press releases, publication through City social media account(s), and/or utility bill inserts.

Section IV: Coordination with the Lower Colorado Regional Water Planning Group

The service area of the City of Bastrop is located within the Lower Colorado Regional Water Planning Region (Region K) and the City of Bastrop has provided a copy of this plan to the Lower Colorado Regional Water Planning Group.

Section V: Authorization

The City Manager, or his/her designee is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager, or his/her designee shall have authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan. This Plan shall also be referenced in, and become an Appendix to, the City of Bastrop Emergency Management Plan, Annex L; Utilities.

Section VI: Application

The provisions of this Plan shall apply to all persons, customers, and property utilizing water provided by the City of Bastrop. The terms "person" and " customer" as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities. Utilization of a water source other than City potable water is exempt from the provisions of this Plan.

Section VII: Permanent Water Restrictions

This section establishes permanent water conservation regulations and applies year-round regardless of Drought stage.

(a) Landscape irrigation using automatic in-ground or hose-end sprinkler systems is prohibited between the hours of 9:30 a.m. and 6:30 p.m.
   1. The time restrictions do not apply to:
      i. The irrigation of commercial plant nurseries.
      ii. Irrigation using reclaimed water or other non-potable water sources.
      iii. New landscape installation during planting and the first ten (10) days after planting.
      iv. The testing of new irrigation systems or systems that are under repair.
      v. Irrigation using a hand-held bucket or hose equipped with a positive shut-off valve, pressure washer system, or other device that automatically shut off water flow when the hose is not being held by the water user.
      vi. Irrigation by drip irrigation or soaker hoses.

(b) The following constitute a waste of water and are prohibited:
   1. Washing sidewalks, walkways, driveways, parking lots, tennis courts, patios, or other hard-surfaced areas except with a pressure-washing system or to alleviate immediate health or safety hazards.
   2. Allowing water to run off a property or allowing water to pond or pool in the street, parking lot, or sidewalk.
   3. Operating an irrigation system with sprinkler heads that are broken or out of adjustment.
   4. Failure to repair a controllable leak(s) within a reasonable time period after having been given notice directing the repair of such leak(s).

(c) Ornamental fountains or ponds for aesthetic or scenic purposes must be equipped with a recirculation device. This restriction does not apply to ornamental fountains or ponds that use reclaimed water, non-potable water, or water provided by sources other than the City.

(d) Use of water for irrigation of golf course greens, tees, and fairways is permitted only on designated watering days as outlined in Section X of this plan. Such irrigation shall only occur from 1:00 a.m. to 7:00 a.m.and from 8:00 p.m. to midnight. These restrictions do not apply to irrigation of any golf course that uses reclaimed water or other non-potable sources.

Section VIII: Definitions

For the purposes of this Plan, the following definitions shall apply:

Aesthetic water use: water used for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation: those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer: any person, company, or organization using water supplied by the City of Bastrop.

Daily water demand: the total amount of water pumped or otherwise released into distribution system(s) for customer use. Expressed in gallons, which are metered in a given 24-hour period (gallons per day).

Declaration of disaster: that action taken by the Mayor, as authorized by the City of Bastrop Emergency management Basic Plan and the Texas Disaster Act of 1975, when the Mayor determines that the public health, safety, and welfare may be threatened by a disastrous event, or the imminent threat of such an event.

Director: the director of water and wastewater, City of Bastrop, Texas.

Domestic water use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Drip irrigation: also known as *trickle irrigation* or *micro-irrigation* is an irrigation method which minimizes the use of water and fertilizer by allowing water to drip slowly to the roots of plants through a network of valves, pipes, tubing, and emitters.

Even number address: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Hose-end sprinkler: designed to screw into a standard hose and rest on the ground wherever you drag it and set it down; it then delivers water in a spray pattern in the immediate area.

Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Non-essential water use: water uses that are neither essential nor required for the protection of public, health, safety, and welfare, including:

(a) irrigation of landscape areas, including parks, athletic fields, and gold courses, except otherwise provided under this Plan;

(b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;

(c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;

(d) use of water to wash down buildings or structures for purposes other than immediate fire protection;

(e) flushing gutters or permitting water to run or accumulate in any gutter or street;

(f) use of water to fill, refill, or add indoor or outdoor swimming pools or Jacuzzi-type pools;

(g) use of water in a fountain or pond for aesthetic water use or scenic purposes except where necessary to support aquatic life;

(h) failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and

(i) use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd numbered address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Total production capability: the total net aggregate amount of water that can be produced from all water wells capable of supplying water to the system in any given 16-hour period.

Trigger: a threshold level to be used as an initiation or termination point for actions based on certain mathematical criteria, or as per the authority granted by Section 13.06.013 of the Bastrop City Code of Ordinances.

Section IX: Criteria for Initiation and Termination of Drought Response Stages

Daily water demand will be monitored for emergency conditions by the City Manager or his/her designee. Trigger conditions will be based on an emergency situation caused by a natural disaster, equipment or system failure, natural or manmade contamination, high daily average water demand, or any other condition that substantially and negatively affects the City's potable water supply. The City Manager, on either the recommendations of the Director or pursuant to their sole discretion and authority, shall determine when conditions warrant initiation or termination of each stage of the Plan.

The triggering criteria described below are based on a statistical analysis of the vulnerability of the water source under drought of record condition, and on known system capacity limits.

Stage 1 Trigger -- MILD Water Shortage Conditions / Water Awareness

Requirements for initiation
Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain non-essential water uses, as provided in Section X of this Plan, when daily water demand exceeds 85% of Total Production Capability for three (3) consecutive days or water demand approaches a reduced delivery capacity for all or parts of the system, and the City Manager determines that no circumstances exist that will decrease the demand except conservation by customers.

Requirements for termination
Stage 1 of the Plan may be terminated or rescinded when all of the conditions listed as triggering events have ceased to exist for a period of (3) consecutive days and would be unlikely to recur upon termination, or until such time as determined by the City Manager.

Stage 2 Trigger -- MODERATE Water Shortage Conditions / Water Watch

Requirements for initiation
Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses, as provided in Section X of this Plan, when the daily water demand exceeds 90 % of Total Production Capability for three (3) consecutive days, and that response measures required by Stage 1 trigger – MILD Water Shortage Conditions / Water Awareness have been implemented, and the City Manager determines that no circumstances exist that will decrease the demand below the Stage 2 Trigger except conservation by customers.

Requirements for Termination
Stage 2 of the Plan may be terminated or rescinded when all of the conditions listed as triggering events have ceased to exist for a period of (3) consecutive days and would be unlikely to recur upon termination, as determined by the City Manager. Upon termination of Stage 2, Stage 1 becomes operative.

Stage 3 Trigger -- CRITICAL Water Shortage Conditions

Requirements for Initiation
Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses, as provided in Section X of this Plan, when the daily water demand exceeds 95 % of Total Production Capability for three (3) consecutive days, and that response measures required by Stage 2 trigger – MODERATE Water Shortage Conditions / Water Watch have been implemented, and the City Manager determines that no circumstances exist that will decrease the demand below the Stage 3 Trigger except conservation by customers.

Requirements for Termination
Stage 3 of the Plan may be terminated or rescinded when all of the conditions listed as triggering events have ceased to exist for a period of (3) consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

Stage 4 Trigger –– EMERGENCY Water Shortage Conditions / Water Emergency

Requirements for Initiation
Customers shall be required to comply with the requirements and restrictions for Stage 4 of this Plan when the City Manager determines that a water supply emergency exists based on:

1. Major water line breaks, or pump or system failures occur, which cause substantially significant threat of a loss of capability to provide water service; or
2. Natural or man-made contamination of the water supply sources(s); or
3. Daily water demand equals or exceeds 100 % of the Total Production Capability for three (3) consecutive days.

Requirements for Termination
Stage 4 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days and would be unlikely to recur upon termination, as determined by the City Manager. Upon termination of Stage 4, the City Manager may impose requirements of Stage 1, 2, or 3 of the Plan if circumstances exist that require continued abatement to the effects of the emergency water shortage condition.

Stage 5 Trigger — WATER ALLOCATION

Requirements for Initiation
Customers shall be required to comply with the water allocation plan prescribed in Section IX of this Plan if the City Manager makes the determination that water shortage conditions threated public health, safety, and welfare due to the type, effect, or magnitude of such conditions.

Requirements for Termination
Stage 5 of the plan may be rescinded when the City Manager makes a determination that the triggering conditions no longer threaten public health, safety, and welfare of the City of Bastrop water utility customers.

Section X: Drought Response Stages

The City Manager, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section IX of this Plan, and the City Manager will determine if conditions exist that would trigger any of the designated drought stages, and if so, shall implement the following notification protocol:

Notification of the Public:
The City Manager or his/her designee shall notify the public by means of:

(a) Publication in a newspaper of general circulation, and/or direct mail to customers, or
(b) Public service announcements, or signs posted in public places, or

(c) Notice posted on the City of Bastrop's website at https://www.cityofbastrop.org

Additional Notification:
The City Manager or his/her designee shall notify directly, or cause to be notified directly, the following individuals and entities:

(a) Mayor / Members of the City Council
(b) Fire Chief
(c) City and/or County Emergency Management Coordinator(s)
(d) County Judge
(e) State Disaster District / Department of Public Safety
(f) TNRCC (required when mandatory restrictions are imposed) Major water users
(g) Critical water users; i.e. hospitals, clinics and nursing homes
(h) City of Bastrop Department Heads

Stage 1 Response -- MILD Water Shortage Conditions

Target: Raise public awareness of water demand conditions and achieve a voluntary reduction such that daily water demand is equal to 85 % or less of Total Production Capability.

Best Management Practices for Supply Management:

The City Manager shall implement supply management measures that include reduction in flushing of water mains, visually inspect lines and repair leaks on a daily basis, monthly review of customer use/consumption records and follow-up on any that have unusually high usage, as well as conservation of incidental water usage at water and wastewater plants. Activities shall be implemented which include increased monitoring of meters, gauges, water levels in tanks, and water well production data.

Voluntary Water Use Restrictions for Reducing Demand:

Water customers are requested to voluntarily limit the use of water for nonessential purposes and to practice water conservation.

(a) Restricted Days/Hours: Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of 12:00 a.m. (midnight) and 7:00 a.m., and between the hours of 6:00 p.m. to 9:00 p.m. on designated watering days. However, irrigation of landscaped areas is permitted at any time if it is by means of a hand-held hose, a faucet-filled bucket or watering can of five (5) gallons or less, or drip irrigation system.

(b) All general operations of the City of Bastrop shall adhere to mandatory water use restrictions prescribed for Stage 2 of the Plan.

(c) Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

Stage 2 Response – MODERATE Water Shortage Conditions

Target: Achieve a reduction in water use such that daily water demand is equal to 90% or less of Total Production Capability.

Best Management Practices for Supply Management:

The City Manager shall implement supply management measures that discontinue flushing of water mains, irrigation of public landscaped areas and all water usage at water and wastewater plants not required for direct operations of the facilities.

Mandatory Water Use Restrictions for Demand Reduction:

Under threat of penalty for violation, the following water use restrictions shall apply to all City of Bastrop water utility customers.

(a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigate landscapes only between the hours of 4:00 a.m. and 8:00 a.m. and between the hours of 8:00 p.m. and 12:00 a.m. (midnight) on designated watering days. However, irrigation of landscaped areas is permitted at any time if it is by means of a hand-held hose, a faucet-filled bucket or watering can of five (5) gallons or less, or drip irrigation system.

(b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 7:00 p.m. until 11:00 p.m. Such washing, when allowed, shall be done with a faucet-filled bucket or a hand-held hose equipped with a positive shut-off nozzle. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.

(c) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days during the hours prior to 8:00 a.m. and the hours after 8:00 p.m.

(d) Use of water from hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City Manager.

(e) Use of water for the irrigation of athletic fields or golf course greens, tees, and fairways is prohibited except on designated watering days between the hours of 4:00 a.m. and 8:00 a.m. and the hours of 8:00 p.m. and 12:00 a.m. (midnight). However, if the athletic field or golf course utilizes a water source other than that provided by the City of Bastrop, the facility shall not be subject to these regulations.

(f) The following uses of water are defined as non-essential and are prohibited:
1. Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
2. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
3. Use of water for dust control;
4. Flushing gutters or permitting water to run or accumulate in any gutter or street; and
5. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Stage 3 Response - CRITICAL Water Shortage Conditions

Target: Achieve a reduction in water use such that daily water demand is equal to 95% or less of Total Production Capability.

Best Management Practices for Supply Management:

The City Manager shall implement supply management measures that discontinue flushing of water mains, irrigation of public landscaped areas and all water usage at water and wastewater plants not required for direct operations of the facilities. Water usage at all City buildings shall be restricted to health, sanitation, cleanliness or firefighting purposes.

Mandatory Water Use Restrictions:

Under threat of penalty for violation, the following water use restrictions shall apply to all City of Bastrop water utility customers:

(a) Irrigation of landscaped areas by means of hand-held hoses, hand-held buckets or drip irrigation shall be limited to designated watering days, as outlined in Stage 2 of this Plan and between the hours of 6:00 a.m. and 8:00 a.m. and between 8:00 p.m. and 12:00 a.m. (midnight). The use of hose-end sprinklers or automatic sprinkler systems are prohibited at all times.

(b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 8:00 and 6:00 p.m.

(c) The filling, refilling, or adding of water to indoor or outdoor swimming pools, wading pools, and Jacuzzi-type pools is prohibited.

(d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a re-circulation system.

(e) No new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved or installed for such time as this drought response stage or a higher-numbered stage shall be in effect.

(f) Use of water from hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare. Use of water from fire hydrants for construction purposes is prohibited.

(g) Use of water for the irrigation of athletic fields or golf course greens, tees, and fairways is prohibited. However, if the athletic field or golf course utilizes a water source other than that provided by the City of Bastrop, the facility shall not be subject to these regulations.

(h) All non-essential uses of water as listed in Stage 2 of this plan are prohibited.

Stage 4 Response – EMERGENCY Water Shortage Conditions

Target: Achieve reduction in daily water demand sufficient to assure protection of public health, safety, and welfare of the City of Bastrop water utility customers.

Best Management Practices for Supply Management:

The City Manager shall implement supply management measures that discontinue flushing of water mains, irrigation of public landscaped areas and all water usage at water and wastewater plants not required for direct operations of the facilities. Water usage at all City buildings shall be restricted to health, sanitation, cleanliness or firefighting purposes.

Mandatory Water Use Restrictions:

Under threat of penalty for violation, all requirements of Stage 3 shall remain in effect during Stage 4 except:

(a) Irrigation of landscaped areas is absolutely prohibited.

(b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

(c) Curtailment of service to persons shown to be of violation of prohibited uses of water may be ordered by the City Manager, if the City Manager determines that such curtailment would not be detrimental to the public health, safety, and welfare, and determines that such curtailment would benefit the mitigation of Stage 4 conditions.

Stage 5 Response - WATER ALLOCATION

In the event that water shortage conditions threaten public health, safety, and welfare due to the duration, type, effect or magnitude of such conditions, and a Declaration of Disaster has been issued relating to such conditions, the City Manager is hereby authorized to allocate water according to the following plan. In addition to other restrictions required in Stage 2, 3, or 4 Response, a monthly water allocation may be established by the City Manager for single family residential water customers.

Single-Family Residential Customers

The allocation to residential water customers residing in a single-family dwelling shall be as follows:

Persons per Household	Gallons per Month
1 or 2	4,500
3 or 4	5,500
5 or 6	6,500
7 or 8	7,500
9 or 10	8,500
11 or more	10,000

"Household" means the residential premises served by the customer's meter. "Persons per household" includes only those persons currently physically residing at the premises and expected to reside there for the entire billing period. It shall be assumed that a particular customer's household is comprised of two (2) persons unless the customer notifies the City of Bastrop of a greater number of persons per household on a form prescribed by the City Manager. It shall be the customer's responsibility to go to the City of Bastrop offices to complete and sign the form claiming more than two (2) persons per household. When the number of persons per household increases so as to place the customer in a different allocation category, the customer may notify the City of Bastrop on such form and the change will be implemented in the next practicable billing period. If the number of persons in a household is reduced, the customer shall notify the City of Bastrop in writing. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of persons in a household or fails to timely notify the City of Bastrop of a reduction in the number of persons in a household shall be subject to penalties set forth in Section XI of this Plan.

Residential water customers shall pay the following surcharge: 125 % of the normal and routine charge for water billed in excess of allocation.

Master-Metered Multi-Family Residential Customers

In addition to other restrictions in Stage 2, 3 or 4 Responses, a monthly water allocation may be established by the City Manager for master-metered multi-family water customers. The allocation to a customer billed from a master meter which jointly measures water to multiple permanent residential dwelling units (e.g., apartments, mobile homes) shall be allocated 6,ooo gallons per month for each dwelling unit. A dwelling unit may be claimed under this provision whether it is occupied or not. Any person who knowingly, recklessly, or with criminal negligence falsely reports the

number of dwelling units served by a master meter shall be subject to penalties set forth in Section XI of this Plan.

Customers billed from a master meter under this provision shall pay the following monthly surcharge: 125 % of the normal and routine charges for water billed in excess of allocation.

Commercial Customers

In addition to other restrictions in Stage 2, 3 or 4 Responses, a monthly water allocation may be established by the City Manager for each commercial customer. The commercial customer's allocation shall be no less than 75 percent of the customer's usage for corresponding month's billing period for the previous 12 months. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists. However, a customer for which 75 percent of the monthly usage is less than 6,ooo gallons, shall be allocated 6,ooo gallons. Upon request of a customer or at the initiative of the City Manager, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water usage or (2) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the Bastrop City Council.

Non-residential commercial customers shall pay the following surcharges: 150 % of the normal and routine charges for water billed in excess of allocation.

Industrial Customers

In addition to other restrictions in Stage 2, 3 or 4 Responses, a monthly water allocation may be established by the City Manager for each industrial customer, which uses water for processing purposes. The industrial customer's allocation shall be no less than 85 percent of the customer's water usage baseline. However, a customer of which 85 percent of the monthly usage is less than 6,ooo gallons, shall be allocated 6,ooo gallons. The industrial customer's water use baseline will be computed on the average water use for the three month period ending prior to the date of implementation of Stage 2 of the Plan. If the industrial water customer's billing history is shorter than 3 months, the monthly average for the period for which there is a record shall be used. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased if, (1) the designated period for baseline calculation does not accurately reflect the customer's normal water usage, (2) the customer has added or is in the process of adding significant additional processing capacity, (3) the customer has shut down or significantly reduced the production of a major processing unit, (4) the customer has previously implemented significant permanent water conservation measures such that the ability to further reduce water use is limited, or (5) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the Bastrop City Council.

Industrial customers shall pay the following surcharges: 150 % of the normal and routine charges for water billed in excess of allocation.

Section XI: Enforcement

(a) No person shall knowingly or intentionally allow the use of water from the City of Bastrop for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by in accordance with provisions of this plan.

(b) Any person who violates this Plan is guilty of a Class C misdemeanor and, upon conviction shall be punished by a fine of not less than FIFTY DOLLARS ($50.00) and not more than FIVE HUNDRED DOLLARS ($500.00). Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of two or more distinct violations of this Plan, the City Manager shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be

restored only upon payment of a re-connection charge, hereby established at $25.00, and any other costs incurred by the City of Bastrop in discontinuing service. In addition, suitable assurance must be given to the City Manager that the same action shall not be repeated while the Plan is in effect. Compliance with this Plan may also be sought through injunctive relief in the District Court.

(c) Any person, including a person classified as a water customer of the City of Bastrop, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show the he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.

(d) Any police officer, Code Compliance Official, building official or other City of Bastrop employee designated by the City Manager, may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the Municipal Court on the date shown on the citation for which the date shall not be less than three (3) days nor more than five (5) days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over fourteen (14) years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in Municipal Court to enter a plea of guilty or not guilty for the violation of this Plan. If the alleged violator fails to appear in Municipal Court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in Municipal Court before all other cases.

Section XII: Variances

The City Manager may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

(a) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.

(b) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City of Bastrop within five (5) days after the Plan or particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Manager, or his/her designee, and shall include the following:

(a) Name and address of the petitioner(s).

(b) Purpose of water use.

(c) Specific provision(s) of the Plan from which the petitioner is requesting relief.

(d) Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if the petitioner complies with this Ordinance.

(e) Description of the relief requested.

(f) Period of time for which the variance is sought.

(g) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.

(h) Other pertinent information.

Variances granted by the City Manager shall be subject to the following conditions, unless waived or modified:

(a) Variances granted shall include a timetable for compliance.

(b) Variances granted in a particular stage shall expire upon advancing to a more restrictive stage of the Plan.

(c) Petitioners shall promptly display the variance granted where it can be read by the general public at all location(s) for which the variance applies, and make said variance available to the public.

(d) Variances granted may be rescinded or revoked by the City Manager if the Petitioner fails to meet specific requirements set forth in the variance. The variance will automatically expire when the Plan is no longer in effect.

(e) No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

Section XIII: City Manager's Authority to Impose Additional Restrictions

(a) The City Manager may, in his/her sole discretion, implement mandatory water restrictions in addition to those previously described in this Drought Contingency Plan, to protect the public health and safety in the event of an unusual water system operation event, equipment failure, catastrophic occurrence, or severe weather event.

(b) The City Manager may implement mandatory restrictions, immediately effective, by public announcement.

Attachment 2 – Summary Log of Revisions from Previous Drought Contingency Plan

2019 Bastrop Drought Contingency Plan
Change Log

Edits	Section	Description
1	General	Renumbered plan sections to be consistent with model template provided by Lower Colorado Planning Group
2	Introduction and Background	Added utility information including name of utility, address, Water CCN #, and Public Water Supply System #
2.1	Introduction and Background	Removed reference to coordination with Regiona K as this is provided in its own dedicated section further down in the Plan
3	Section 1	Added "by ordinance" to the end of first paragraph
4	Section 2	Added in new Section 2 to address public involvement provisions
5	Section 3	Revised paragraph to include the Plan in the first sentence
6	Section 3	Added reference to City social media account
7	Section 4	Modified references to Lower Colorado Regional Water Planning Group to align with how it's referenced in the model template from LCRPG
8	Section 5	Added 'his/her designee' after mentions of City Manager
8.1	Section 7	Reformatted sub-listing to include the 'Time Restrictions do not apply' bullet within the heading bullet of landscape irrigation.
9	Section 9	Replaced 'their' with 'his/her' after reference to City Manager
10	Section 9	Revised Water/Wastewater Director to be Director to match Definitions reference
11	Section 9, Stage 1	Replaced 'Stage 1 conditions' with 'all of the conditions listed as triggering events have ceased to exist' to standardize to language provided in LCRPG model
12	Section 9, Stage 2	Replaced 'Stage 1 conditions' with 'all of the conditions listed as triggering events have ceased to exist' to standardize to language provided in LCRPG model
13	Section 9, Stage 3	Replaced 'Stage 1 conditions' with 'all of the conditions listed as triggering events have ceased to exist' to standardize to language provided in LCRPG model
14	Section 9, Stage 4	Update Item 3 under requirements for initiation to read 'equals or exceeds' in liue of just 'equal'
15	Section 9, Stage 4	Replaced 'Stage 1 conditions' with 'all of the conditions listed as triggering events have ceased to exist' to standardize to language provided in LCRPG model
16	Section 9, Stage 5	Added Stage 5 Trigger Water Allocation to Section IX;
17	Section 10	First paragraph, added reference to City Manager to clarify only City Manager can make determination
18	Section 10	Added 'his/her designee' after mentions of City Manager, for notifications
19	Section 10	Added 'his/her designee' after mentions of City Manager, for additional notifications
20	Section 10	Included URL to city's website under notifications
21	Section10, Stage 1	Changed Goal to Target to align with LCPRPG model template; reworded target statement to indicate demand equal to % of target production in liue of providing mandated decrease. Previous version read as if the % given is the target reduction vs a reduction to get below the %
22	Section10, Stage 1	Changed 'Supply Management Measures' to 'Best Management Practices for Supply Management' in heading to align with language in LCRPG model template
23	Section10, Stage 1	Revised irrigation water times to be 12:00 am; previous version incorrectly listed 12:00 pm as midnight.
24	Section10, Stage 1	changed 'permananent' to 'mandatory'.

2019 Bastrop Drought Contingency Plan
Change Log

25	Section 10, Stage 2	Changed Goal to Target to align with LCPRPG model template; reworded target statement to indicate demand equal to % of target production in liue of providing mandated decrease. Previous version read as if the % given is the target reduction vs a reduction to get below the %
26	Section 10, Stage 2	Changed 'Supply Management Measures' to 'Best Management Practices for Supply Management' in heading to align with language in LCRPG model template
27	Section10, Stage 2	Revised times to be 12:00 am; previous version incorrectly listed 12:00 pm as midnight.
28	Section 10, Stage 3	Changed Goal to Target to align with LCPRPG model template; reworded target statement to indicate demand equal to % of target production in liue of providing mandated decrease. Previous version read as if the % given is the target reduction vs a reduction to get below the %
29	Section 10, Stage 3	Changed 'Supply Management Measures' to 'Best Management Practices for Supply Management' in heading to align with language in LCRPG model template
30	Section 10, Stage 3	Deleted Restricted Days/Hours as this heading is applicable to multiple subitems, not just the one it was included for. Deleted for consitency
31	Section 10, Stage 3	Added 12:00 a.m. to be consistent with time callouts in used elsewhere in document.
32	Section 10, Stage 4	Changed Goal to Target to align with LCPRPG model template
33	Section 10, Stage 4	Changed 'Supply Management Measures' to 'Best Management Practices for Supply Management' in heading to align with language in LCRPG model template

Attachment 3 – Cover Letter for Drought Contingency Plan Submittal to the Region K Regional Water Planning Group

Walker Partners
engineers ★ surveyors

804 Las Cimas Pkwy., Suite 150
Austin, Texas 78746

9/3/2019

Lower Colorado River Authority
P.O. Box 220
Austin, TX 78767-0220

Attn: Stacy Pandey

Re: Drought Contingency Plan for the City of Bastrop, Texas

Dear Ms. Pandey:

The City of Bastrop is submitting the enclosed Drought Contingency Plan to the Region K – Lower Colorado Regional Water Planning Group as prescribed by the Texas Commission on Environmental Quality (TCEQ) in 30 TAC §288. This plan is an update to the City's previous drought contingency plan prepared in May 2012, and it was adopted by the City of Bastrop through a council resolution on August 27, 2019. Updates to the current plan have been incorporated based on a review of the Region K 2016 Regional Water Plan and sample model plan guidance provided by the regional planning group.

Please feel free to contact me should you have any questions or comments concerning the information in the enclosed Drought Contingency Plan.

Sincerely,

DANIEL M. FRAZIER, P.E.
PROJECT MANAGER
M 512.960.0081

DF

Attachments: 2019 City of Bastrop Drought Contingency Plan

Postal Delivery

Cc: Project File

Attachment 4 – City Council Resolution Adopting Current Drought Contingency Plan for the City of Bastrop

RESOLUTION NO. R-2019-76

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS APPROVING THE ADOPTION OF A DROUGHT CONTINGENCY; REPEALING CONFLICTING PROVISIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Bastrop, Texas recognizes that the amount of water available to the City of Bastrop and its water utility customers are limited and subject to depletion during periods of extended drought; and

WHEREAS, the City Council of the City of Bastrop, Texas recognizes that natural limitations due to drought conditions and other acts of God cannot guarantee an uninterrupted water supply for all purposes; and

WHEREAS, Section 11.1272 of the Texas Water Code and applicable rules of the Texas Commission on Environmental Quality require all public water supply systems in Texas to prepare a drought contingency plan; and

WHEREAS, as authorized under law, and in the best interests of the customers of the City of Bastrop, the City Council of the City of Bastrop, Texas deems it expedient and necessary to establish certain rules and policies for the orderly and efficient management of limited water supplies during drought and other water supply emergencies; and

WHEREAS, the City of Bastrop previously adopted a Drought Contingency Plan and requires it be amended or revised and resubmitted to the Texas Commission on Environmental Quality.

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

SECTION 1. That the amended Drought Contingency Plan attached hereto as Exhibit "A" and made part hereof for all purposes be, and the same is hereby, adopted as the official policy of the City of Bastrop.

SECTION 2. That the City Manager is hereby directed to implement, administer, and enforce the Drought Contingency Plan.

SECTION 3. That this resolution shall take effect immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop, Texas this 27th day of August 2019.

APPROVED:

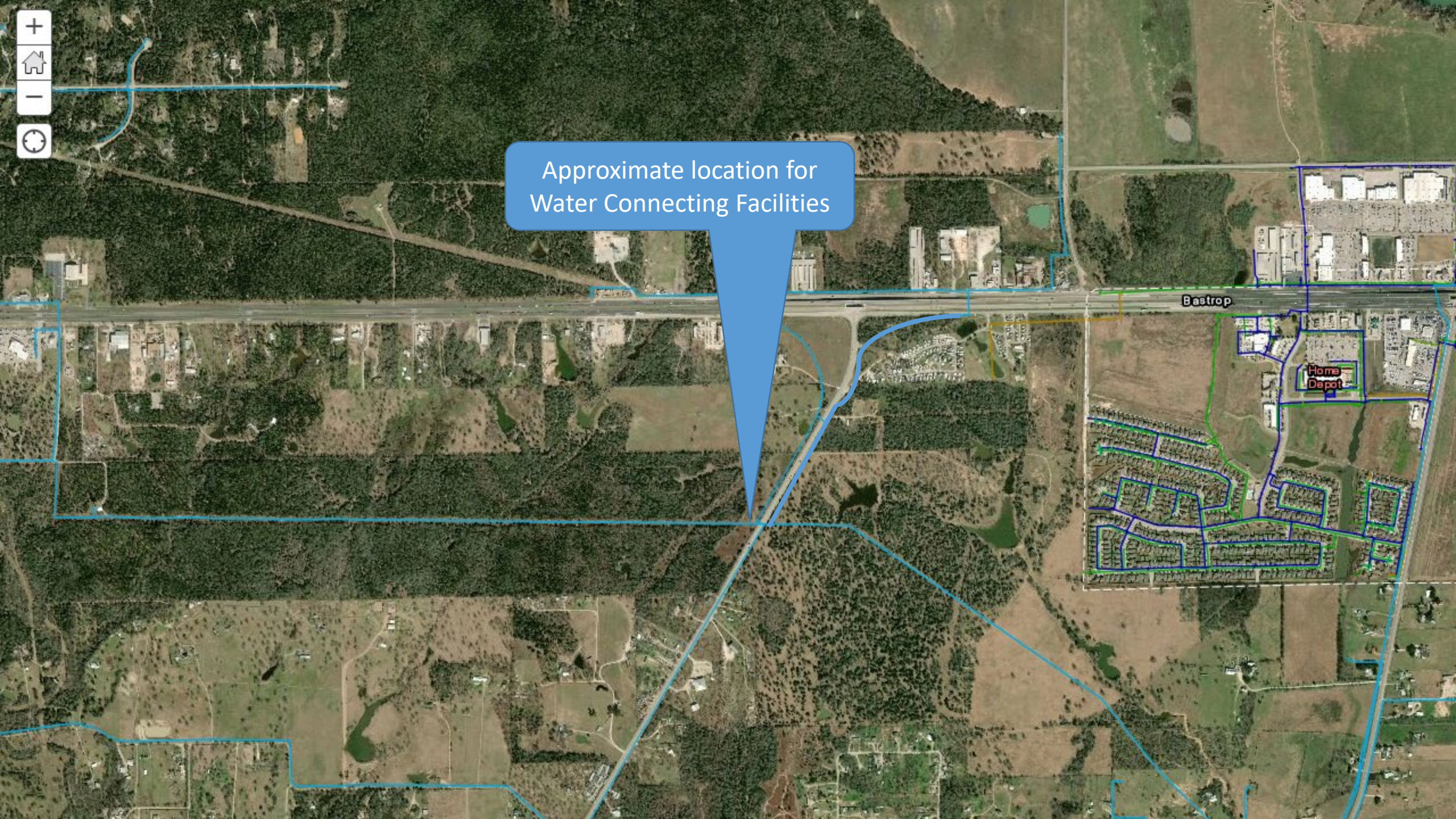
Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney


Approximate location for
Water Connecting Facilities
Bastrop
Home
Depot

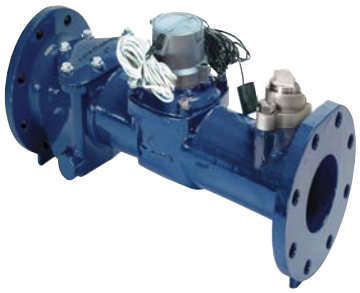
OMNI™ T²

1-1/2”, 2”, 3”, 4”, 6”, 8” and 10” OMNI T² Meter

Description

1-1/2”, 2”, 3”, 4”, 6”, 8” and 10” Sizes

The OMNI T² meter operation is based on advanced Floating Ball Technology (FBT).





AMR/AMI Mode | Totalization Mode | Resettable Test Mode

Features

CONFORMANCE TO STANDARDS

The OMNI T² meter meets and far exceeds the most recent revision of AWWA Standard C701 class II standards. Each meter is performance tested to ensure compliance. All OMNI meters are NSF/ANSI Standard 61, Annex F and G approved.

PERFORMANCE

The patented measurement principles of the OMNI T² meter assure enhanced accuracy ranges, an overall greater accuracy, and a longer service life than any other comparable class meter produced. The OMNI T² meter has no restrictions as to sustained f ow rates within its continuous operating range. The f oating ball measurement technology allows for f ows up to its rated maximum capacity without affecting undue wear or accuracy degradation when installed in any orientation.

CONSTRUCTION

The OMNI T² meter consists of two basic assemblies; the maincase and the measuring chamber. The measuring chamber assembly includes the “f oating ball” impeller with a coated titanium shaft, hybrid axial bearings, integral f ow straightener and an all electronic programmable register with protective bonnet. The maincase is made from industry proven Ductile Iron with an approved NSF epoxy coating. Maincase features are; easily removable measuring chamber, unique chamber seal to the maincase using a high pressure o-ring, testing port and a convenient integral strainer.

OMNI ELECTRONIC REGISTER

The OMNI T² electronic register consist of a hermetically sealed register with an electronic pickup containing no mechanical gearing. The large character LCD displays AMR, Totalization and a Resettable Test Totalizer. OMNI register features; AMR resolution units that are fully programmable, Pulse output frequency that are fully programmable, Integral customer data logging capability, Integral resettable accuracy testing feature compatible with the UniPro Testing Assistant Program, Large, easy-to-read LCD also displays both forward and reverse f ow directions and all with a 10-year battery life guarantee.

MAGNETIC DRIVE

Meter registration is achieved by utilizing a fully magnetic pickup system. This is accomplished by the magnetic actions of the embedded rotor magnets and the ultra sensitive register pickup probe. The only moving component in water is the “f oating ball” impeller.

MEASURING ELEMENT

The revolutionary thermoplastic, hydro dynamically balanced impeller f oats between the bearings. The Floating Ball Technology (FBT) allows the measuring element to operate virtually without friction or wear, thus creating the extended upper and lower f ow ranges capable on only the OMNI T² meter.

STRAINER

The OMNI T² with the “V” shaped integral strainer using a stainless steel screen along with Floating Ball Technology (FBT) create a design that gives far improved accuracy even in those once thought questionable settings. A removable strainer cover permits easy access to the screen for routine maintenance.

MAINTENANCE

The OMNI T² meter is designed for easy maintenance. Should any maintenance be required, the measuring chamber and / or strainer cover can be removed independently. Parts and or a replacement measuring chamber may be utilized in the event repairs are needed. Replacement Measuring Chambers Exchange are available for the OMNI T² meters and may also be utilized for retrof tting to competitive meters to achieve increased accuracy and extended service life.

AMR / AMI SYSTEMS:

Meters and encoders are compatible with current Sensus AMR/AMI systems.

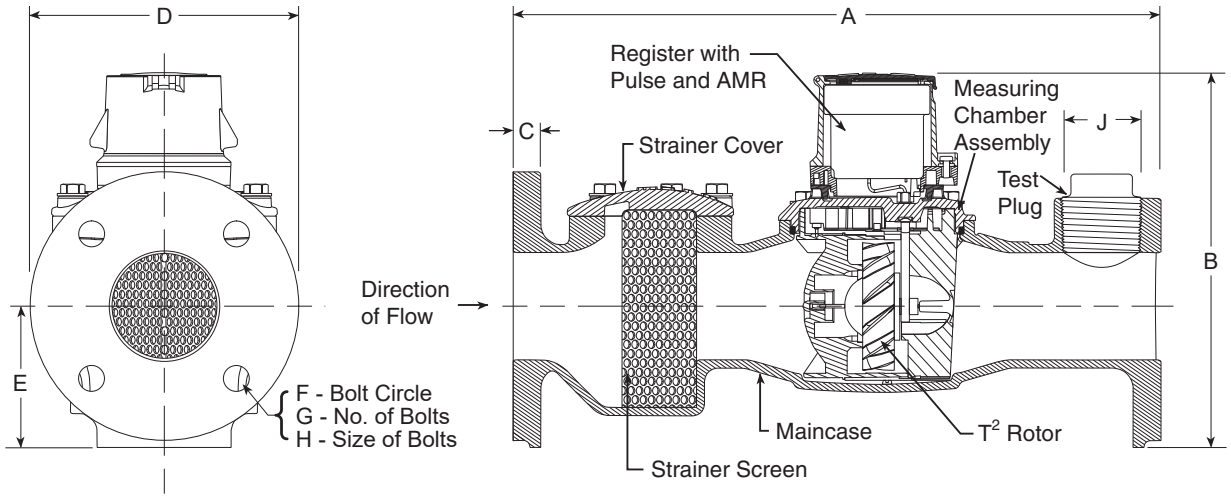
GUARANTEE:

Sensus OMNI T² Meters are backed by “The Sensus Guarantee.” Ask your Sensus representative for details or see Bulletin G-500.

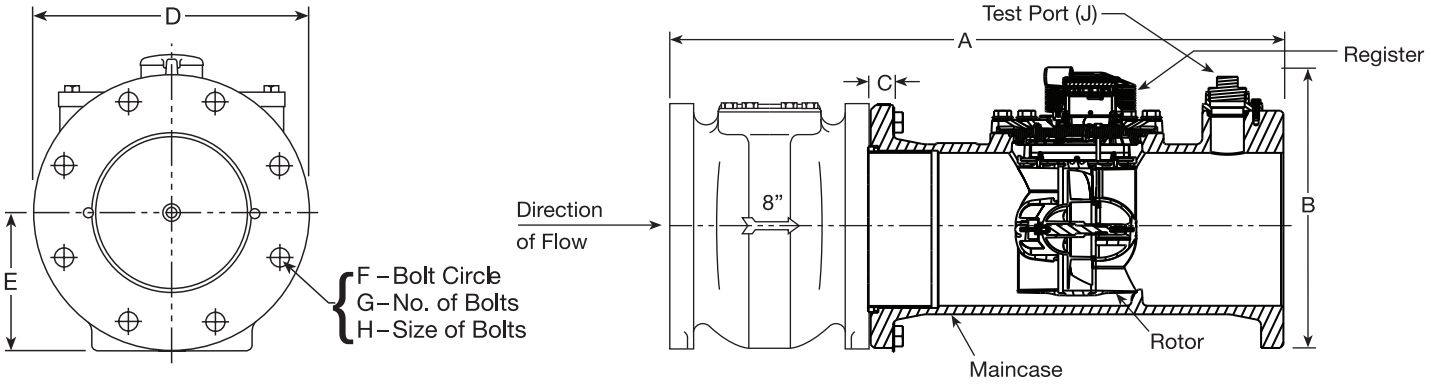
sensus

OMNI T²: 1-1/2”, 2”, 3”, 4”, 6”, 8” and 10” Sizes

OMNI T²: 1 1/2” - 6”



OMNI T²: 8” - 10”



DIMENSIONS AND NET WEIGHTS

Meter and Pipe Size	Normal Operating Range		Connections	A	B	C	D	E	F	G	H	J	Net Weight	Shipping Weight
1-1/2” DN 40mm	1.25 gpm .28 m³/hr	200 gpm 45 m³/hr	Flanged	13” 330mm	7-7/8” 200mm	15/16” 24mm	5-1/8” 130mm	2-5/16” 59mm	4” 102mm	2	5/8” 16mm	1” 25mm	18.8 lbs. 8.53 kg..	22.5 lbs. 10.20 kg.
2” DN 50mm	1.5 gpm .34 m³/hr	250 gpm 57 m³/hr	Flanged	17” 432mm	7-7/8” 200mm	1” 25mm	5-3/4” 146mm	2-5/16” 59mm	4-1/2” 114mm	2	3/4” 19mm	1-1/2” 40mm	27.4 lbs. 12.42 kg.	34.5 lbs. 15.65 kg.
2” without Strainer DN 50mm	1.5 gpm .34 m³/hr	250 gpm 57 m³/hr	Flanged	10” 254mm	7-7/8” 200mm	1” 25mm	5-3/4” 146mm	2-5/16” 59mm	4-1/2” 114mm	2	3/4” 19mm	N/A	17.4 lbs. 7.9 kg.	24.5 lbs. 11.11 kg.
3” DN 80mm	2.5 gpm .57 m³/hr	650 gpm 148 m³/hr	Flanged	19” 432mm	8-3/4” 222mm	3/4” 19mm	7-7/8” 200mm	4-1/8” 105mm	6” 153mm	4	5/8” 16mm	2” 50mm	48.5 lbs. 22.00 kg.	57.4 lbs. 26.04 kg.
4” DN 100mm	3.0 gpm .68 m³/hr	1250 gpm 284 m³/hr	Flanged	23” 584mm	11-3/16” 284mm	15/16” 24mm	9-1/8” 232mm	4-3/4” 121mm	7-1/2” 191mm	8	5/8” 16mm	2” 50mm	67.9 lbs. 30.80 kg.	75.8 lbs. 34.38 kg.
6” DN 150mm	4 gpm .91 m³/hr	2500 gpm 568 m³/hr	Flanged	27” 685mm	13-1/4” 336mm	15/16” 24mm	11” 279mm	5-3/4” 146mm	9-1/2” 242mm	8	3/4” 19mm	2” 50mm	140 lbs. 52.3 kg.	165 lbs. 61.6 kg.
8” DN 200mm	5 gpm 1.1 m³/hr	3500 gpm 795 m³/hr	Flanged	30-1/8” 765 mm	15” 381 mm	11/16” 17 mm	13-1/2” 343 mm	6-3/4” 172 mm	11-3/4” 300 mm	8	3/4” 19 mm	2” NPT	471 lbs. 214 kg.	521 lbs. 236 kg.
10” DN 250mm	6 gpm 1.4 m³/hr	5500 gpm 1249 m³/hr	Flanged	41-1/8	19” 485mm	11/16” 17mm	16” 406mm	8-1/2” 216mm	14-1/4” 362mm	12	7/8” 22mm	2” NPT	685 lbs. 311 kg.	745 lbs. 338 kg.

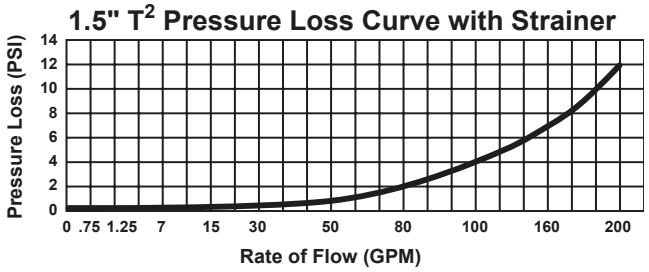
OMNI T²: 1-1/2", 2", 3", 4", 6", 8" and 10" Sizes

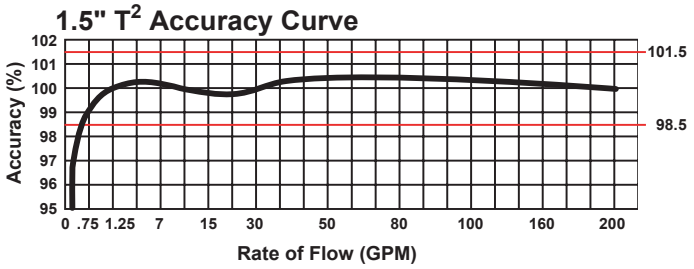
SPECIFICATIONS

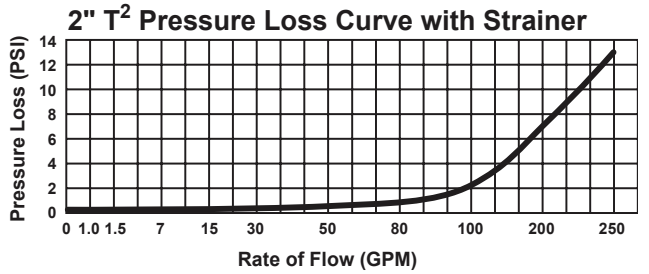
SERVICE	Measurement of potable and reclaim water. Operating temperature range of 33 ºF (56 ºC) - 150 ºF (65.6 ºC)
OPERATING RANGE (100% ± 1.5%)	1-1/2": 1.25 – 200 GPM (.28 - 45 m^3/hr) 2" and 2" without Strainer: 1.5 – 250 GPM (.34 – 57 m^3/hr) 3": 2.5 – 650 GPM (.57 – 148 m^3/hr) 4": 3 – 1250 GPM (.68 – 284 m^3/hr) 6": 4 – 2500 GPM (.91 – 568 m^3/hr) 8": 5 – 3500 GPM (1.1-795 m^3/hr) 10": 6 – 5500 GPM (1.4 - 1249 m^3/hr)
LOW FLOW (95% – 101.5%)	1-1/2": .75 GPM (.17 m^3/hr) 2" and 2" without Strainer: 1.0 GPM (.23 m^3/hr) 3": 1.5 GPM (.34 m^3/hr) 4": 2.0 GPM (.45 m^3/hr) 6": 2.5 GPM (.57 m^3/hr) 8": 4 GPM (0.9 m^3/hr) 10": 5 GPM (1.1 m^3/hr)
MAXIMUM CONTINUOUS OPERATION	1-1/2": 160 GPM (36 m^3/hr) 2" and 2" without Strainer: 200 GPM (45 m^3/hr) 3": 500 GPM (114 m^3/hr) 4": 1000 GPM (227 m^3/hr) 6": 2000 GPM (454 m^3/hr) 8": 3500 GPM (795 m^3/hr) 10": 5500 GPM (1249 m^3/hr)
MAXIMUM INTERMITTENT OPERATION	1-1/2": 200 GPM (45 m^3/hr) 2" and 2" without Strainer: 250 GPM (57 m^3/hr) 3": 650 GPM (148 m^3/hr) 4": 1250 GPM (284 m^3/hr) 6": 2500 GPM (568 m^3/hr) 8": 4700 GPM (1067 m^3/hr) 10": 7000 GPM (1590 m^3/hr)
PRESSURE LOSS	1-1/2": 6.9 psi @ 160 GPM (48 bar @ 36 m^3/hr) 2" and 2" without Strainer: 7.0 psi @ 200 GPM (.48 bar @ 45 m^3/hr) 3": 5.1 psi @ 500 GPM (.35 bar @ 114 m^3/hr) 4": 8.7 psi @ 1000 GPM (.60 bar @ 227 m^3/hr) 6": 8.2 psi @ 2000 GPM (.56 bar @ 454 m^3/hr) 8": 5.1 psi @ 3500 GPM (.35 bar @ 795 m^3/hr) 10": 7.2 psi @ 5500 GPM (.50 bar @ 1249 m^3/hr)
MAXIMUM OPERATING PRESSURE	200 PSI (13.8 bar)
FLANGE CONNECTIONS	U.S. ANSI B16.1 / AWWA Class 125
REGISTER	Fully electronic sealed register with programmable registration (Gal. /Cu.Ft./ Cu. Mtr. / Imp.Gal / Acre Ft.) Programmable AMR/AMI reading and pulse outputs Guaranteed 10 year battery life
NSF APPROVED MATERIALS	**Maincase:** Coated Ductile Iron **Measuring Chamber:** Thermoplastic **Rotor "Floating Ball":** Thermoplastic **Radial Bearings:** Hybrid Thermoplastic **Thrust Bearings:** Sapphire/Ceramic Jewel **Magnets:** Ceramic Magnet **Strainer Screen:** Stainless Steel **Strainer Cover:** Coated Ductile Iron **Test Plug:** Coated Ductile Iron

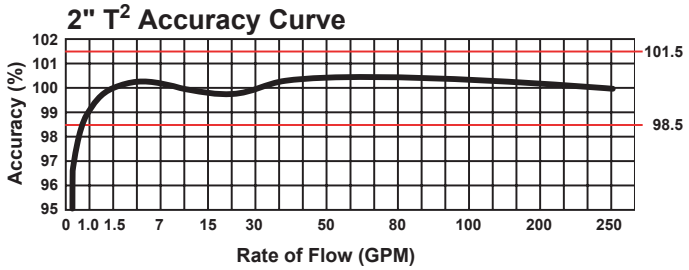
OMNI T²: 1-1/2”, 2”, 3”, 4”, 6”, 8” and 10” Sizes

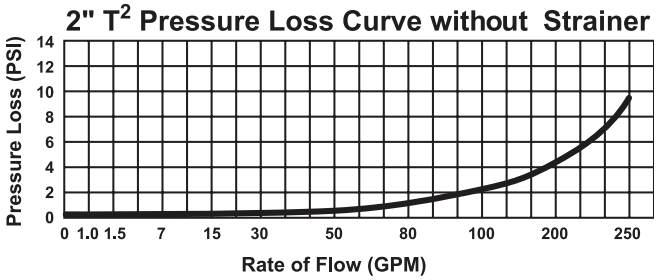
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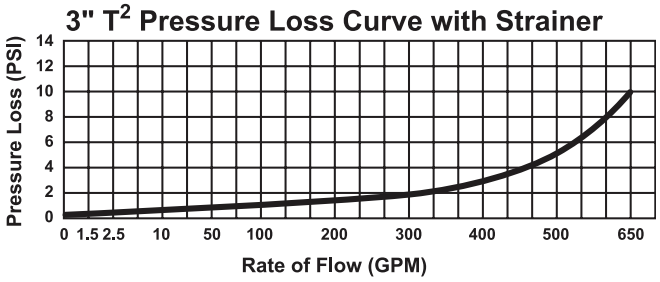


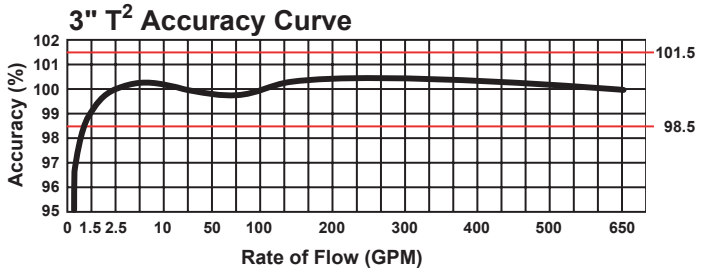


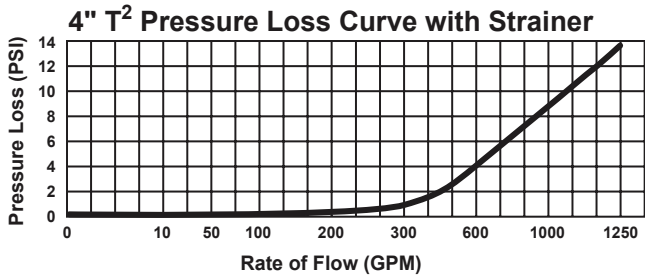


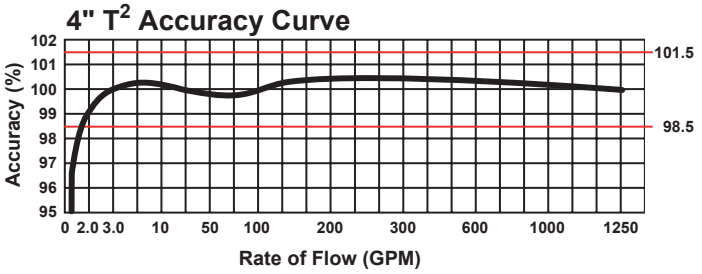






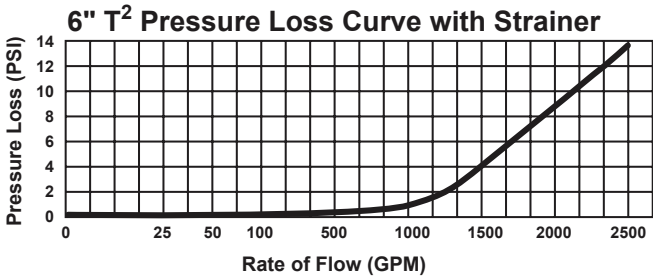


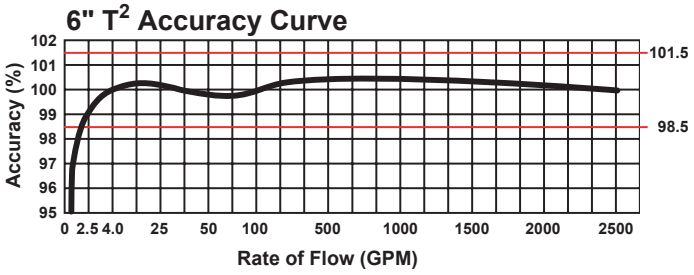


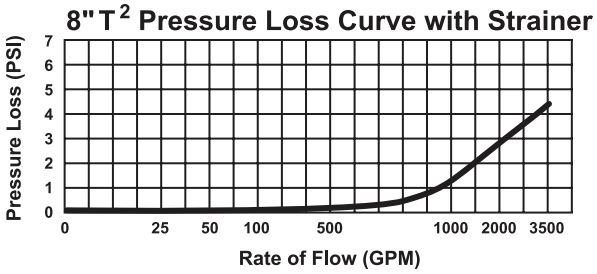


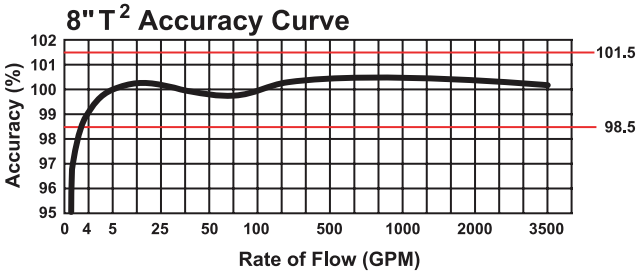
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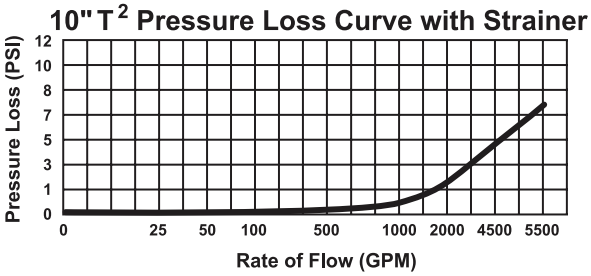
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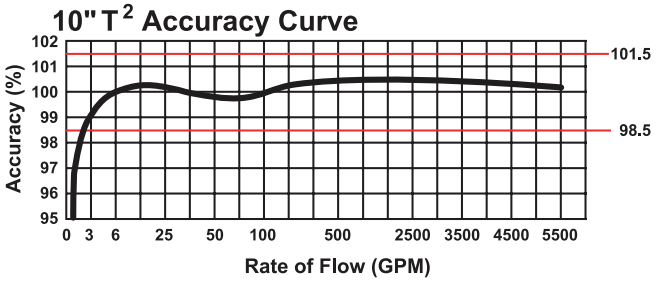










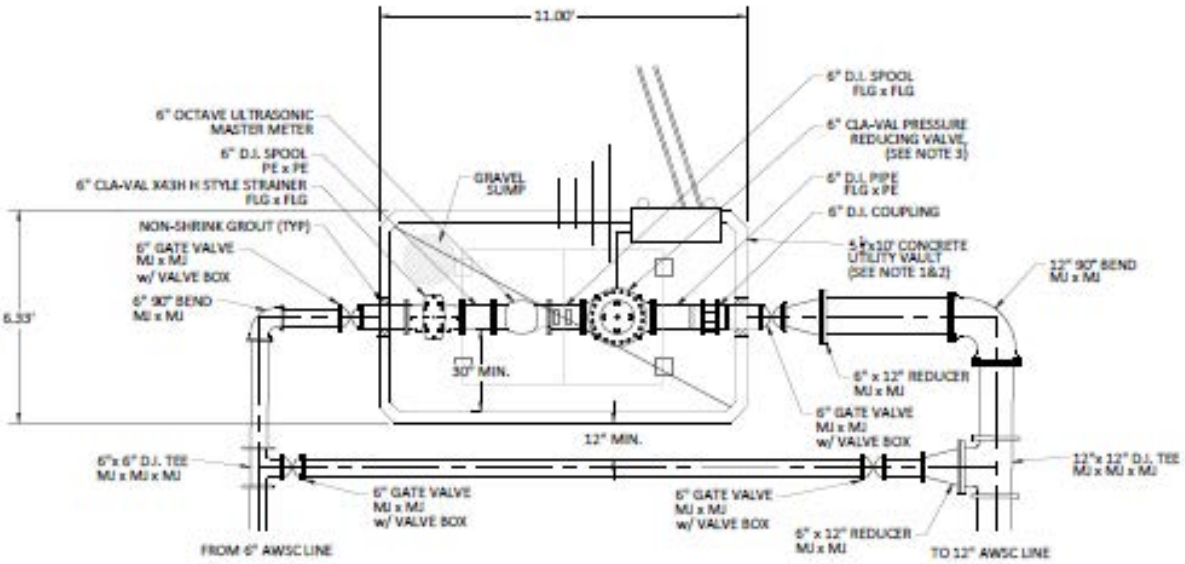


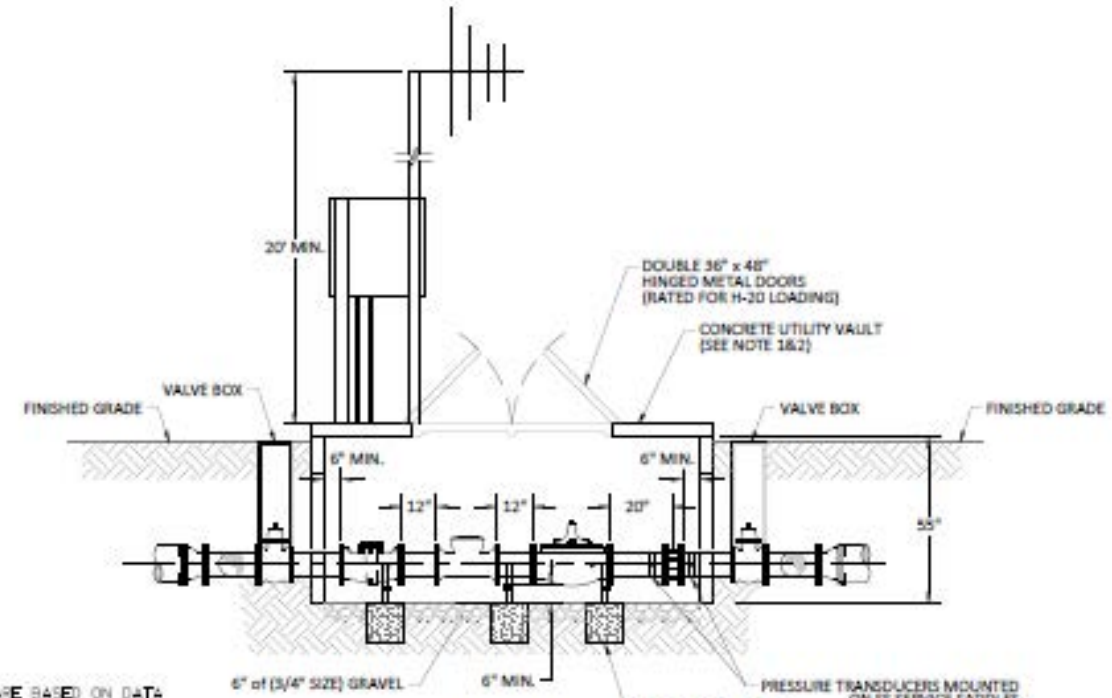
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1-800-638-3748
www.sensus.com/water

SAMPLE EXHIBIT





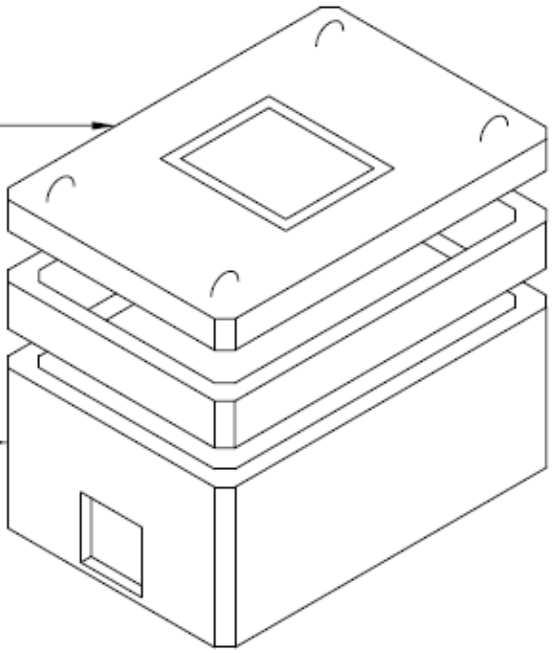
SECTION A-A
SCALE: 1"= 3'

ARE BASED ON DATA
SUA WSC. THE ACTUAL
L EXISTING WATER LINES
NCES AS WELL AS OTHER
ITILITIES SHALL BE THE
OF THE CONTRACTOR TO
JOB SITE.

SAMPLE EXHIBIT

LID

4000 TO 4500 P.S.I. CONCRETE, 28 DAY STRENGTH.
RECESSED VALVE OPENING KNOCKOUTS.
30"X30" DOOR CAST INTO LID.
REINFORCING FOR H-20 LOADING.
LID AS MANUFACTURED BY CONCRETE PRODUCTS, INCORPORATED, OR APPROVED EQUAL.

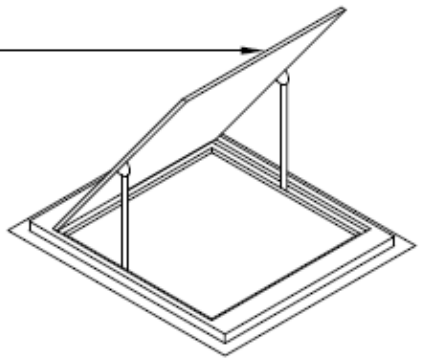


VAULT

4000 TO 4500 P.S.I. CONCRETE, 28 DAY STRENGTH.
18"X18" PIPE KNOCKOUTS.
REINFORCING FOR H-20 LOADING TO DEPTH OF 6'.
BASE WITHOUT FLOOR.
12" EXTENSION FOR BASE.
6" WALLS, WITH OPTIONAL 8" WALLS FOR DEPTH TO 10'.
VAULT AS MANUFACTURED BY CONCRETE PRODUCTS, INCORPORATED, OR APPROVED EQUAL.

HATCH

SPRING ASSISTED STEEL HATCH WITH MANUAL LID LOCKOUTS.
CAST FLUSH TO TOP OF LID.
30"X30" OPENING AREA.
H-20 STEEL DOOR.
DOOR AS MANUFACTURED BY CONCRETE PRODUCTS, INCORPORATED, OR APPROVED EQUAL.



NOTE:

THE METER VAULT SHALL BE LARGE ENOUGH, SO THAT THE FITTED METER ASSEMBLY CAN BE EASILY MAINTAINED.

RECORD SIGNED COPY ON FILE AT PUBLIC WORKS APPROVED MAY 24, 2011 DATE THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR THE APPROPRIATE USE OF THIS DETAIL.	CITY OF BASTROP COMPOUND WATER METER VAULT DETAIL	DRAWING NO: WT-13

To report power outages or after hours emergencies please call (512) 332-8830 or 303-1486

BASTROPTX
Heart of the Lost Pines / Est. 1832

City of Bastrop - Utility Department
Phone: (512) 332-8830 Fax: (512) 332-8869

Account Name: NEW SUBDIVISION TEST
Account Number: 50-1000-00
Service Address: 100 ANYWHERE
Statement Date: 07/02/2019

Make an online payment at www.cityofbastrop.org

Service Dates: 06/29/2019 thru 07/29/2019

WATER SOURCE COST		9,000.00
WATER TRANSMISSION COST		848.74
Consumption	150	
Current Read	150	
Previous Read	0	
WATER METERED		576.73
SEWER METERED		297.73
TOTAL AMOUNT DUE		$10,723.20

Important News and Information

Recycling Days:
JULY 1ST - 5TH; 15TH - 18TH & JULY 29TH - AUG 1ST

ONLINE PAYMENTS: WWW.MY78602.COM
!!!!**** PAY BY PHONE: 512-332-8868***!!!

VISIT OUR WEBSITE AND GIVE US YOUR FEEDBACK
BY TAKING OUR SURVEY
www.cityofbastrop.org FOR CITY INFORMATION

Please return the bottom stub with payment and include your account # on the check. Checks should be made payable to "City of Bastrop" and mailed to PO Drawer S, Bastrop Texas 78602. When making online payments through your Financial Institution, please allow a minimum of 5 days for arrival. Please see back for additional information.

DETACH ALONG PERFORATION AND RETURN THIS PORTION WITH YOUR PAYMENT. KEEP TOP PORTION FOR YOUR RECORDS.

BASTROPTX
Heart of the Lost Pines / Est. 1832

City of Bastrop - Utility Department
PO Drawer S
Bastrop, Texas 78602

Account No: 50-1000-00 Statement Date: 07/02/2019

Previous Balance	0.00
TOTAL AMOUNT DUE Due on or before 07/02/2019	$10,723.20
Penalty Amount after the 15th	$11,795.51

AMOUNT ENCLOSED $

NEW SUBDIVISION TEST
100 ANYWHERE
BASTROP TX 78602

City of Bastrop
PO Drawer S
Bastrop, TX 78602

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9F

TITLE:
Consider action to approve Resolution No. R-2019-113 of the City Council of the City of Bastrop, Texas awarding a contract for the City of Bastrop Streets, Pavement and Preventative Maintenance Project to Angel Brothers Enterprises, Ltd. in the amount of One Million One Hundred Eighty-nine Thousand One Hundred Thirty-nine Dollars and Eighty Cents ($1,189,139.80) as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

STAFF REPRESENTATIVE:
Trey Job, Assistant City Manager of Development Services

BACKGROUND/HISTORY:
The City of Bastrop, in connection with carrying out the duties of its various ordinances and duties to provide maintenance on the current and future infrastructure, has made street maintenance a priority. In August of 2019, the City of Bastrop City Council received an update on street maintenance from Walker Partners. Jed Walker from Walker Partners explained the current market conditions associated with street maintenance, and how market saturation has impacted overall cost for maintenance by at least 25%. With that in mind, a plan was developed that extends the time line of the maintenance contract allowing the contractors to work during off peak season when conditions are right for other various maintenance techniques.

The bid rankings included in this agenda item are a result of extending the contract time and the number of contractors working in the region. The selection to bid the project as a competitive sealed proposal allows the City to select the highest ranking offeror. The ranking was based on a scoring criteria that included Pricing, Experience & References, Ability to meet the budget & Time of construction, and Experience/ Qualifications of key personnel.

Not only were Angel Brothers the highest ranking bidder for street maintenance program, but they were also the overall lowest price. By bidding the project this way, City Staff has the ability to be flexible in the type of surface treatments that are being used.

For example, a FRICTIONAL ASPHALTIC SURFACE PRESERVATION TREATMENT will preserve the surface for a shorter period of time than a SEAL COAT TREATMENT with (AC20-5TR “oil”) coated with a (GR 4 PB TRAP ROCK). The seal coat treatment is a better value because it last longer and is seventy cents ($0.70) cheaper per square yard (SY) than the frictional asphaltic surface preservation treatment. Thereby, this process allows more surface to be covered and provides a better value to the citizen per the City Council’s request.

On October 24, 2019, three proposals were received for the City of Bastrop Streets, Pavement and Preventative Maintenance Project. Walker Partners reviewed and ranked the proposals and

recommends that Council allow the City Manager and Staff to enter into negotiations with the highest-ranking offeror for the project as the best value for the City of Bastrop.

Staff has meet with Angel Brothers and discussed the need for a robust communication schedule. In addition to communication, the importance of meeting the schedule communicated to our citizens was stalwartly emphasized. Lastly we discussed the general conditions portion of the bid items such as traffic control, or mobilization. The City's Consultant felt Angel Brothers were competitive and were industry standard. If the project is awarded on the November 26th agenda, this project will start in January/February and end in July/Aug of 2020.

POLICY EXPLANATION:
The City is required to maintain its infrastructure for all utilities and is given authority to do so in the Local Government Code.

FUNDING SOURCE:
Funding for the Street Maintenance Program was provided by a 2018 Certificate of Obligation (CO) for Four million seven hundred thousand dollars and zero cents ($4,700,000.00), which included the following projects:

- Two million dollars and zero cents ($2,000,000.00) for engineering associated with the Old Iron Bridge,
- One million one hundred thousand dollars and zero cents ($1,100,000.00) for Main Street Rehabilitation;
- One million one hundred thousand dollars and zero cents ($1,100,000.00) for the Street Maintenance Program,
- Two hundred twenty-three thousand five hundred dollars and zero cents ($223,500.00) for Street improvements related to the North Main Street improvements (in-house), and
- Six hundred seventy-six four hundred dollars and zero cents ($674,400.00) will be used for a match to the hazardous mitigation grant funds for the Public Works Detention Pond Project, Pine Street Drainage Channel Improvements, and the Jasper & Newton Street Drainage Improvements.

The original Engineer's Opinion of Probable Cost (OPC) from the August 27, 2019 meeting was eight hundred twenty-six thousand eight hundred dollars and zero cents ($826,800). Based on the new request for proposals, the total needed is $1,189,139.80. The current FY20 budget amount is $1,183,945 (page 270 of the budget book), which includes purchase of a Hot Box and the balance of the Engineering contract both totaling $95,358. This leaves $1,088,587 for construction. There is an available $17,400 in Fund Balance and the interest earned on the 2018 CO issuance of $84,000.00. This will give us a combined total of $1,189,987 needed to cover the contract with Angel Brothers, Ltd.

A budget amendment will be brought on the December 10, 2019 City Council Meeting amending the Street Maintenance Project budget to carry-over the $17,400 and transfer in the $84,000 in interest increasing the budget to $1,285,345.

RECOMMENDATION:
Consider action to approve Resolution No. R-2019-113 of the City Council of the City of Bastrop, Texas awarding a contract for the City of Bastrop Streets, Pavement and Preventative Maintenance Project to Angel Brothers Enterprises, Ltd. in the amount of One Million One Hundred Eighty-nine Thousand One Hundred Thirty-nine Dollars and Eighty Cents

($1,189,139.80) 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
- Walker Partners Recommendation Letter & Proposal Tabulation
- Draft contract documents

RESOLUTION NO. R-2018-113

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AWARDING A CONTRACT FOR THE CITY OF BASTROP STREETS, PAVEMENT AND PREVENTATIVE MAINTENANCE PROJECT TO ANGEL BROTHERS ENTERPRISES, LTD. IN THE AMOUNT OF ONE MILLION ONE HUNDRED EIGHTY-NINE THOUSAND ONE HUNDRED THIRTY-NINE DOLLARS AND EIGHTY CENTS ($1,189,139.80) AS ATTACHED IN EXHIBIT A; 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 importance of public safety provided by performing construction management infrastructure improvements; and

WHEREAS, the City of Bastrop City Council understands providing maintenance on current City Infrastructure should be cost effective; and

WHEREAS, the City of Bastrop understands the importance of focusing on infrastructure improvements in the area of street maintenance; and

WHEREAS, the City of Bastrop has chosen Walker Partners from a list of qualified consulting firms identified by the City of Bastrop City Council on July 10, 2018; and

WHEREAS, Walker Partners has conducted a Request for Proposals for the City of Bastrop Streets, Pavement and Preventative Maintenance project; and

WHEREAS, On October 24, 2019, three proposals were received for the City of Bastrop Streets, Pavement and Preventative Maintenance Project. Walker Partners reviewed and ranked the proposals and recommends that Council allow the City Manager and Staff to enter into negotiations with the highest-ranking offeror for the project as the best value for the City of Bastrop.

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

Section 1. The City Council of the City of Bastrop, Texas has found Walker Partners to be a subject matter expert in the fields of water/wastewater, streets/drainage, and land survey and accepts Walker Partner's recommendation that Council allow the City Manager and Staff to enter into negotiations with the highest ranking offeror for the City of Bastrop Streets, Pavement and Preventative Maintenance Project.

Section 2. The City Manager is hereby authorized to draft and execute a contract with the highest-ranking offeror in an amount not to exceed $1,189,139.80 as attached in Exhibit A, as well as all other necessary documents.

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 26th day of November, 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Walker Partners
engineers ★ surveyors

2700 Earl Rudder Frwy, Suite 1600
College Station, Texas 77845

October 28, 2019

City of Bastrop
1311 Chestnut Street
Bastrop, TX 78602

Attn: Mr. Trey Job, CPM

Re: City of Bastrop Streets, Pavement and Preventative Maintenance
City of Bastrop Proposal No.: 20-001
Walker Partners Project No.: 4-01126

Dear Mr. Job:

On October 24, 2019, three proposals were received for the City of Bastrop Streets, Pavement and Preventative Maintenance Project. The proposals were ranked on the following selection criteria and weighting as provided in the Instructions to Offerors:

1. Proposed Price (50%)
2. Experience and Past Performance of Offeror with Similar Projects (20%)
3. Ability to Meet Budget and Time for Construction (20%)
4. Experience/Qualification of Key Personnel (5%)
5. Other Factors (5%)

The highest ranked proposal representing the best value to the City was received from Angel Brothers Enterprises, Ltd. Their proposed price was also the lowest base bid received at $1,189,139.80 (which includes $45,000 of Contingency Cost) and a total 87 criteria points of a possible 100.

Walker Partners recommends that Council moves to select Angel Brothers as the offeror that has submitted the proposal providing the best value for the City and that the Council further directs the City Manager to attempt to negotiate a contract with the selected offeror and discuss options for scope and/or time modification and any price changes associated with those modifications not to exceed an amount of $1,189,139.80.

Please contact me if you have any questions or require additional information.

Sincerely,

R. Alan Munger, P.E.

R. Alan Munger, P.E.
Manager

RAM:ram

Attachment

Requirement No.	Requirement Description	Level of Importance	Respondents: Angel Brothers	Respondents: Texas Materials	Respondents: Lone Star Paving
1	**Proposal Pricing**				
	A. Proposal Price	50	37	27	20
	Subtotal Proposal Process and Pricing	**50**	**37**	**27**	**20**
2	**Experience and References**				
	A. Listing provided for all sub-contractors and statement of qualifications. Grade sub-contractors overall.	4	4	4	4
	B. Contractor Qualifications - Overall	5	5	5	5
	C. Area of geographical coverage of related project and service activities.	5	5	5	5
	D. References of Asphalt Maintenance and Preventative Projects.	4	4	4	4
	E. List of three (3) similar projects that include the complexity and magnitude of work to be completed in this project (within last 60 months).	~~2~~	2	2	2
	Subtotal Experience and References	**20**	**20**	**20**	**20**
3	**Ability to Meet Budget and Time for Construction**				
	A. Ability to meet project completion date.	5	5	5	0
	B. Respondent has equipment and operators (or subcontractors) necessary for all phases of work.	5	5	5	5
	C. Schedule demonstrates ability to meet milestone dates	5	5	0	0
	D. Respondent has resource capacity to dedicate to project to meet schedule requirements.	5	5	5	5
	Subtotal Project Approach	**20**	**20**	**15**	**10**
4	**Experience/Qualification of Key Personnel and Other Factors**				
	A. Experience of persons assigned to project - grade according to statement	3	3	3	3
	B. Respondent's personnel have experience with Crack Seal, Flexible Pavement Repair, Seal Coat, Scrub Seal, Fog Seal, and Thin Overlay Hot Mix.	2	2	2	2
	C. Demonstrated Quality of Work on Completed Projects	5	5	5	5
	Subtotal Technical Support and Other Factors	**10**	**10**	**10**	**10**
	TOTAL SCORE	**100**	**87**	**72**	**60**

Walker Partners, LLC
Proposal Tabulation

City of Bastrop
Streets, Pavement, and Preventative Maintenance
Project No.: 4-01126
October 24, 2019 / 2:00 p.m.

Proposers

Item No.	Proposal Item Description	Estimated Quantities	Measure	Angel Brothers Unit Price	Angel Brothers Unit Amount	Texas Materials Group Unit Price	Texas Materials Group Unit Amount	Lone Star Paving Unit Price	Lone Star Paving Unit Amount
	Base Proposal								
1.00	**General Conditions**								
1.01	MOBILIZATION & PROJECT INCIDENTALS	1	LS	110,000.00	110,000.00	112,000.00	112,000.00	45,500.00	45,500.00
1.02	PROJECT SIGNS	4	EA	1,000.00	4,000.00	1,500.00	6,000.00	1,300.00	5,200.00
1.03	TRAFFIC CONTROL PLAN	1	LS	2,000.00	2,000.00	44,000.00	44,000.00	6,500.00	6,500.00
1.04	TRAFFIC CONTROL PLAN - IMPLEMENTATION	1	LS	20,000.00	20,000.00	44,000.00	44,000.00	130,000.00	130,000.00
1.05	CONTINGENCY ALLOWANCE	1	LS	45,000.00	45,000.00	45,000.00	45,000.00	45,000.00	45,000.00
1.06	MANHOLE GRADE ADJUSTMENT	7	EA	1,500.00	10,500.00	2,250.00	15,750.00	650.00	4,550.00
	Subtotal General Conditions				**191,500.00**		**266,750.00**		**236,750.00**
2.00	**Street Maintenance**								
	Maintenance Treatments								
2.01	5" FLEXIBLE PAVEMENT REPAIR WITH TYPE B HMAC (PG 64-22)	7,908	SY	63.00	498,204.00	67.55	534,185.40	59.00	466,572.00
2.02	JT / CRCK SEAL (RUBBER - ASPHALT)	36	L-MI	1,200.00	43,200.00	1,500.00	54,000.00	11,000.00	396,000.00
	Preventative Maintenance Surface Treatment								
2.03	FOG SEAL (CMS-1PF)(0.09 gal/SY)	26,604	SY	2.20	58,528.80	2.20	58,528.80	3.00	79,812.00
2.04	SEAL COAT TREATMENT (AC20-5TR W/ GR 4 PB TRAP ROCK)(0.40 GAL/SY and 1 CY/110 SY)	41,728	SY	4.10	171,084.80	7.75	323,392.00	4.75	198,208.00
2.05	SCRUB SEAL TREATMENT (CMS-2P with GR 4 TRAP ROCK)(0.48 GAL/SY and 1 CY/110 SY)	17,590	SY	6.10	107,299.00	6.30	110,817.00	7.25	[1] 127,527.50
2.06	FRICTIONAL ASPHALTIC SURFACE PRESERVATION TREATMENT	24,859	SY	4.80	119,323.20	5.00	124,295.00	6.25	155,368.75
	Subtotal Street Maintenance				**997,639.80**		**1,205,218.20**		**1,423,488.25**
	Total Base Proposal				**$1,189,139.80**		[1] **$1,471,968.20**		[2] **$1,660,238.25**
	Alternate Bid Item #1								
2.04 A	THIN OVERLAY MIXTURE (PG 70-22)(1" THICKNESS) in Lieu of SEAL COAT TREATMENT	41,728	SY	7.40	308,787.20	11.25	469,440.00	11.00	459,008.00
	Subtotal Alternate Bid Item #1				308,787.20		469,440.00		459,008.00
	Total Proposal with Alternative Bid Item				**$1,326,842.20**		[2] **$1,618,016.20**		[3] **$1,921,038.25**

Texas Materials Group
[1] Proposal Amount = $1,674,658.20
[2] Proposal Amount = $1,941,408.20

Lone Star Paving
[1] Proposal Amount = $127,525.50
[2] Proposal Amount = $1,882,496.25
[3] Proposal Amount = $2,119,246.25

CITY OF BASTROP

STREETS, PAVEMENT, AND PREVENTATIVE MAINTENANCE

PROJECT MANUAL

OCTOBER 2019

RFP NO. 20-001

PROJECT NUMBER 4-01126

Walker Partners
engineers ★ surveyors

T.B.P.E. Registration No. 8053

DOCUMENT 00 01 10

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CITY OF AUSTIN – STANDARD SPECIFICATIONS

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TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT) STANDARD SPECIFICATIONS

The Texas Department of Transportation "Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges," 2014 Edition, is incorporated herein by reference for all intents and purposes. If a standard specified in that document conflicts with a standard included within a bid specifications document, the standard in the bid specifications document controls. If the standard is still unclear, the Engineer will determine which standard controls and his determination shall be final.

TxDOT Special Specifications

3005 – Scrub Seal Treatment
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Attachments

1. Special Provisions
2. General Notes
3. Program Maintenance Maps
    - A: Overview
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SECTION 00 11 12

INVITATION TO SUBMIT PROPOSALS

City of Bastrop (Owner) is requesting Competitive Sealed Proposals for the Streets, Pavement, and Preventative Maintenance project, from qualified contractors, to be received until 2:00 PM, on October 24, 2019, in its offices located at 1311 Chestnut Street, Bastrop, TX, 78602. Sealed competitive proposals will be publicly opened and read aloud at shortly thereafter at same location. Proposals are invited for furnishing all labor, equipment, and materials necessary for construction of the following:

RFP No. 20-001 – City of Bastrop - Streets, Pavement, and Preventative Maintenance

Streets, Pavement, and Preventative Maintenance consists of crack seal, flexible pavement repair, fog seal, scrub seal, seal coat, and add alternate thin overlay mix. Project will be awarded on a number of factors including cost, experience of contractor, schedule, and prior work experience.

Proposals must be submitted on forms provided in Proposal Documents and accompanied by a Proposal Security in the penal sum of not less than five percent (5%) of base proposal amount, payable without recourse to Owner. Proposal Security may be in either form of a cashier's check or Offeror's Bond from a security company approved to conduct business in State of Texas as a guarantee that offeror will enter into a contract and execute a 100% payment bond within fifteen (15) days after issuance of a notice of award to that Offeror. Proposals not accompanied by such Security or received after designated proposal time will not be considered. Refer to other proposal requirements described in Document 00 21 13 – Instructions to Offerors.

Copies of Proposal Documents (Project Manual and Drawings) may be obtained electronically online from CivCast (www.civcastusa.com). For more information, contact Rachel Murphy at rmurphy@walkerpartners.com or (254) 714-1402.

Owner reserves the right to reject any or all Proposals and to waive informalities and irregularities.

END OF SECTION

SECTION 00 21 13

INSTRUCTIONS TO OFFERORS

COMPETITIVE SEALED PROPOSALS

1. Overview of Request for Proposal Process.
   1.1 Objective of Request for Proposal (RFP) process is to competitively procure services with a qualified contractor whose Proposal provides best value for the City of Bastrop Streets, Pavement, and Preventative Maintenance project. Proposals will be received, publicly opened, and names and monetary Proposals of each Offeror read aloud. Subsequently, Proposals will be ranked according to criteria described in this RFP Document. Both cost and non-cost factors will be evaluated and scored. One or more Offerors may be invited back for discussions or to present their Proposal to Owner before final rankings are made. Owner may enter into contract negotiations with highest ranked firm for completion of Work. If negotiations with highest ranked firm are unsuccessful, Owner will formally close negotiations with this firm and initiate contract negotiations with next highest ranked firm. Upon agreement between both parties, a Contractor-executed Contract may be recommended for approval by Owner's governing body. Upon approval, Contract will be executed by Owner.

2. Defined Terms.
   2.1. Definitions for the following terms used in these Instructions do not replace definitions for similar terms that may be contained within other sections of Contract Documents.
   2.2. Certain additional terms used in these Instructions to Offerors have meanings indicated below and are applicable to both singular and plural thereof.
      2.2.1. Addendum or Addenda- Additions, deletions, and/or changes to any part of RFP issued in writing by Owner prior to Proposal due date and time.
      2.2.2. Apparent Best Value Offeror-Offering Firm whose Proposal for completion of Work provides best value for Owner as defined by ranking criteria detailed in Article 11 of Instructions to Offerors.
      2.2.3. City Council – Governing body of Owner.
      2.2.4. Contract Negotiations- Discussions which take place between Owner and Apparent Best Value Offeror in an effort to reach agreement on contract scope of work, cost, and other contractual requirements.
      2.2.5. Contractor – Successful Offeror to this RFP who enters into a contractual relationship with Owner for completion of Work.
      2.2.6. Engineer - Walker Partners, LLC
      2.2.7. Issuing Office - Location from which RFP Documents are issued. For this project issuing office is Walker Partners, 804 Las Cimas Parkway, Suite 150, Austin, TX 78746.
      2.2.8. Offeror, Offering Firm- Firm which responds to an RFP by submitting a Proposal directly to Owner. Offeror and Offering Firm shall have same meaning in the Instructions to Offerors.
      2.2.9. Owner – City of Bastrop.
      2.2.10. Proposal- Offeror's submittal which conforms to requirements set forth in this RFP.
      2.2.11. Proposal Form- As detailed in requirements of this RFP, contains unit pricing for all parts of Work and their aggregate as detailed and affirmed on Proposal Form and may include additional forms supplied by Offeror and or Owner that relate to Offeror's proposed cost for completing Work.
      2.2.12. RFP Document- abbreviation of Request for Proposals Document, document used to request Competitive Sealed Proposals for procurement of goods and services as authorized under Government Code Chapter 2269, Subchapter D.
      2.2.13. Statement of Qualifications, (SOQ) - Offeror submitted documents which describe Offering Firm's qualifications for performing Work and contain no pricing or cost data. Requirements for the Statement of Qualifications (SOQ) are set forth in Article 8 and Article 10 of Instructions to Offerors (this RFP).

2.2.14. Subcontractor - Any contractor or Supplier hired by Contractor to furnish materials and services specified in this RFP.
2.2.15. Successful Offeror - Firm who has completed negotiations with Owner and may enter into a Contract with Owner to complete Work.
2.2.16. Supplier- Same as Contractor

3. Schedule.
3.1 Advertisements: September 26, October 3, 2019, and October 10, 2019
Last Addenda/Addendum Issued: October 22, 2019 at 5:00 PM
Proposal Submission Deadline: October 24, 2019 at 2:00 PM
Anticipated Construction Start: December 2, 2019

4. Request for Proposal Documents/Copies.
4.1. This Request for Competitive Sealed Proposals (RFP) consists of the following documents:
4.1.1. Invitation to Submit Proposals (00 11 12);
4.1.2. Instructions to Offerers (00 21 13);
4.1.3. Statement of Qualifications (00 21 14);
4.1.4. Proposal Form (00 41 00);
4.1.5. All Contract Documents referenced in this RFP;
4.1.6. Addenda to this RFP issued by Engineer;
4.1.7. Any attached forms; and
4.1.8. Proposal Security (00 43 13 - Offeror's Bond)
4.2. Complete set of RFP Documents may be accessed at online at CivCast (www.civcastusa.com).
4.3. Complete sets of RFP Documents must be used in preparing Proposals; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from use of incomplete sets of RFP Documents.
4.4. Owner and Engineer, in making copies of RFP Documents available on above noted terms, do so only for purpose of obtaining Proposals for Work and do not confer a license or grant for any other use.

5. Competitive Sealed Proposal Process\Contract Documents.
5.1. All questions about Competitive Sealed Proposal Process or meaning or intent of Contract Documents are to be directed to Engineer.
Contact: Alan Munger, PE
Walker Partners
804 Las Cimas Parkway, Suite 150
Austin, TX 78746
(512) 382-0021
5.2. Any questions submitted to Walker Partners.
5.3. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda. Oral interpretations or clarifications are not binding.

6. Pre- Submittal Conference.
6.1. None

7. Estimated Budget.
7.1. Engineer's Opinion of Probable Construction Cost (project cost estimate) has been generated by Engineer. If an award is made, actual contract amount may vary.
7.2. Engineer's Opinion of Probable Construction Cost for this project is $826,000.00.

8. Basis for Ranking of Proposals.
8.1 Owner will consider qualifications (Statement of Qualifications) of each Offeror and their respective proposed Contract Price (Proposal Form) when evaluating Proposals to determine which Offeror, in sole opinion of Owner, will provide best value to Owner. All procurements shall conform to Chapter 2269 of State of Texas Government Code. Proposals will be evaluated using the following criteria and weighting:

8.1.1. Proposed Project Cost: Offeror's Proposed Cost of Performing Work shall be indicated in Section 00 41 00 – Proposal Form.

8.1.2. Experience/Past Performance of Offeror: Provide general information about Organization and a Statement of Qualifications. Include information on similar Projects on which Offeror has had significant involvement in the last five (5) years, or that demonstrate experience with similar Projects. This list is to include name and a current telephone number of references for each of these Project assignments. Offerors are to include a list of current Project assignments for each of individuals proposed, anticipated completion date for this assignment and percentage of time they will have available to devote to this Project.

8.1.3 Ability to Meet Proposed Time for Construction: Provide information to demonstrate

8.1.4. Experience/Qualifications of Superintendent: Provide information on Superintendent's qualifications including information on similar Projects on which Superintendent has been in charge of in the last five (5) years, or that demonstrate experience with similar Projects. This list is to include name and a current telephone number of references for each of these assignments. Superintendent must be dedicated to this Project full time for duration of Project and may not be changed without written approval by Engineer. ability of Organization to complete Projects within budget and on time.

8.1.5. Other Factors: Owner will consider other factors in evaluating Proposals, including the following:

8.1.5.1. Quality of Work: Demonstrated quality of Work on completed Projects as determined by site visits or discussions with references for Projects. Quality considerations may include appearance of completed Work, amount of warranty or rework required, durability and maintainability of completed Project, and quality of documentation provided.

8.1.5.2. Safety: Demonstrated success in implementation of a site safety program.

8.1.5.3. Claims Experience and Litigation History: Provide a list all claims or litigation involving construction Projects that have been filed by Offeror or Owner within last five (5) years, or that are currently outstanding.

8.2. Table of criteria and weighting for the ranking of Offeror's Proposals.

Category	Description	Weighting Points
1	Proposed Project Cost	55
2	Experience/Past Performance of Offeror with Similar Projects	20
3	Ability to Meet Proposed Budget and Time for Construction	20
4	Experience/Qualifications of Proposed Key Personnel	5
5	Financial Management (Stability)	Pass/Fail
	Total	100

9. Proposal Form.

9.1. Proposal Form (00 41 00) is included with RFP Documents.

9.2. All blanks on Proposal Form must be completed in ink, by hand, or electronically printed.

9.3. Proposal price shall include such amount as Offeror deems proper for overhead and profit.

10. Offering Firm's Statement of Qualifications (SOQ).

10.1. Provide information required on form Section 00 21 14 - Statement of Qualifications.

11. Ranking of Offeror's Proposals.

11.1. Owner will consider qualifications (Statement of Qualifications) of Offerors and Offeror's subcontractors and consultants, in addition to proposed cost(s) (Proposal Form) when evaluating Proposals to determine which Proposal offers best value to Owner. Owner will rank each of Offeror's Proposals based on criteria and criteria weighting described in Article 8, Basis for Ranking of Proposals.

11.2. Evaluation and ranking of Proposals will be completed no later than 6th calendar day from date of Proposal opening. Offerors are requested not to withdraw their Proposals within 60 calendar days from date on which Proposals are opened. Proposal Security of highest ranking firms will be held by Owner until contract negotiations are finalized.

11.3. In evaluating Proposals, Owner will consider selection criteria set forth in Article 8 of these Instructions to Offerors and whether or not Proposals comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested by Owner.

11.4. Owner may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of Work, as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in General Conditions. Owner may also consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in Work when such data is required to be submitted prior to recommendation of award.

11.5. Owner may conduct such investigations as Owner deems necessary to assist in evaluation of any Proposal and to establish the responsibility, qualifications and financial ability of Offerors, proposed Subcontractors, Suppliers and other persons and organizations to perform and furnish Work in accordance with Contract Documents to Owner's satisfaction within prescribed time.

11.6. Owner, at its discretion, may also choose to conduct interviews with to ranking Offerors to provide Offerors a better opportunity to demonstrate they can provide best value to Owner for this Project. Should Owner choose to conduct interviews with top ranking Offerors, they will be notified of:

11.6.1. Time and place for interview.

11.6.2. Interview format and agenda.

11.6.3. Questions to prepare for interview.

11.6.4. Individuals that are expected to participate in the interview. Failure to participate in interview may result in disqualification from consideration for project.

12. Award of Contract.

12.1. It is intent of Owner to award this contract to Offering Firm whose Proposal for completion of Work provides best value for Owner after consideration of relative importance of costs and other evaluation factors described in Basis for Ranking Offerors set forth in Article 8 of these Instructions to Offerors.

12.2. Owner reserves right to adopt most advantageous interpretation of Proposals submitted in case of ambiguity or lack of clearness in stating Proposal Prices, to reject any or all Proposals, and/or waive informalities.

12.3. Owner reserves right to reject any or all Proposals, including without limitation rights to reject any or all nonconforming, non-responsive, unbalanced, or conditional Proposals and to reject the Proposal of any Offeror if Owner believes that it would not be in best interest of Project to make an award to that Offeror, whether because Proposal is not responsive or Offeror is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner.

12.4. Owner also reserves the right to waive all informalities not involving price, time or changes in Work and to negotiate contract terms with Apparent Best Value Offeror. Discrepancies between multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between indicated sum of any column of figures and correct sum thereof will be resolved in favor of correct sum. Discrepancies between words and figures will be resolved in favor of words.

12.5. Qualifications of a firm shall not deprive Owner of right to accept a Proposal, which in its judgment offers best value to Owner. In addition, Owner reserves the right to reject any Proposal where circumstances and developments have, in opinion of Owner, changed qualifications or responsibility of firm.

12.6. Material misstatements in material submitted for evaluation may be ground for rejection of Offeror’s Proposal on this project. Any such misstatement, if discovered after award of contract to such firm, may be grounds for immediate termination of contract. Additionally, Offeror will be liable to Owner for any additional costs or damages to Owner resulting from such misstatements, including costs and attorney’s fees for collecting such costs and damages.

12.7. If Contract is to be awarded, it will be awarded to Apparent Best Value Offeror following successful Contract Negotiations.

12.8. If Contract Negotiations with Apparent Best Value Offeror are unsuccessful, Owner will formally close Contract Negotiations with this Firm and attempt to open Contract Negotiations with next highest-ranked firm according to selection criteria set forth in Article 8 of these Instructions to Offerors.

12.9. If Contract is to be awarded, Owner will notify Successful Offeror of intent to submit contract for approval by Owner within sixty (60) days after day of Proposal opening. Following approval Owner shall execute contract.

12.10. Offeror may submit exceptions or alternatives not in accordance with terms and conditions of Contract Documents, or for Work that is not in strict compliance with Contract Documents. Describe intent and substance of changes in Proposal in adequate detail so they are clearly understood. Alternates will not be considered in ranking and evaluation of Proposals. Upon selection of Proposal that offers the best value to Owner, Owner and Engineer may consider proposed alternates in negotiating a final Contract scope, schedule and price.

12.11. Addenda may be issued to clarify, correct, or change Contract Documents, Addenda or related supplemental data as deemed advisable by Owner or Engineer.

13. Interpretation, Addenda, and Alternate Proposals.

13.1. All questions about meaning or intent of Request for Proposal and Contract Documents are to be directed to Engineer in writing. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by written Addenda.

13.2. To properly qualify his Proposal, each Offeror shall, prior to submitting his Proposal, check receipt of all Addenda and acknowledge such receipt on Proposal Form and on the acknowledgement line of Addendum Cover page. Proposals submitted without such acknowledgment of all issued Addenda and letters of clarification may cause Proposal to be considered non-responsive. Such Addenda and letters of clarification shall become a part of the executed contract and modify contract documents accordingly.

13.3. Questions received after deadline for Questions and Inquiries may not be answered.

13.4. Only questions answered by formal written Addenda issued by Owner will be binding. Oral and other interpretations or clarifications will be without legal effect.

13.5. Addenda may also be issued to modify RFP Documents as deemed advisable by Owner or Engineer.

13.6. Owner or Engineer will not be held liable for any failure by Engineer for notification to reach Offeror. Offerors are encouraged to contact Engineer after legal limit for filing addenda (48 hours prior to Proposal due date and time) has passed to ensure receipt of all addenda.

14. Confidentiality of Proposal Information.

14.1 All materials submitted to Owner will become public property and are subject to Texas Public Information Act, Government Code Chapter 552. If an Offeror does not desire proprietary Information in SOQ to be disclosed, each page must be identified and marked proprietary at time of submittal. Owner will, to extent provided by law, endeavor to protect such information from disclosure. Final decision as to what information must be disclosed, however, lies with Texas Attorney General. Failure to identify proprietary information will result in all unmarked sections being deemed non-proprietary and available upon public request. Proposers shall not be permitted to mark entire Proposal as proprietary.

15. Examination of Contract Documents and Site.

15.1. It is the sole responsibility of each Offeror before submitting a Proposal:

15.1.1. To examine thoroughly Contract Documents and other related data identified in RFP Documents (including "technical data" referred to below):

15.1.2. To visit Site to become familiar with and satisfy Offeror as to general, local and Site conditions that may affect cost, progress, performance or furnishing of Work;

15.1.3. To consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of Work;

15.1.4. To study and carefully correlate Offeror's knowledge and observations with Contract Documents and such other related data; and

15.1.5. To promptly notify Engineer of all conflicts, errors, ambiguities or discrepancies which Offeror has discovered in or between Contract Documents and such other related documents.

15.2. Information and data shown or indicated in Contract Documents with respect to existing Underground Facilities at or contiguous to Site are based upon information and data furnished to Owner and Engineer by Owners of such Underground Facilities or others, and Owner and Engineer do not assume responsibility for accuracy or completeness thereof or for Offeror's interpretation of such information and data. Contractor is advised to coordinate closely with Owner, Engineer and Utility Operator(s) prior to the commencement of any underground construction activities.

15.3. Provisions concerning responsibilities for adequacy of data furnished to prospective Offerors with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in Contract Documents due to differing or unanticipated conditions appear in Article 6 of Agreement and Article 4 of General Conditions.

15.4. Before submitting a Proposal, each Offeror will be responsible for obtaining such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and underground facilities) at or contiguous to site or otherwise, which may affect cost, progress, performance or furnishing of Work, or which relate to any aspect of means, methods, techniques, sequences or procedures of construction to be employed by Offeror and safety precautions and programs incident thereto or which Offeror deems necessary to determine its Proposal for performing and furnishing Work in accordance with time, price and other terms and conditions of Contract Documents.

15.5. On request, Owner will provide each Offeror access to site to conduct such examinations, investigations, explorations, tests and studies, as each Offeror deems necessary for submission of a Proposal. Offeror must fill any resultant holes and clean up and restore Site to its former condition upon completion of such explorations, investigations, tests, and studies.

15.6. Reference is made to Specification Section 01 10 00 - Summary of Work for the identification of general nature of Work that is to be performed at Site by Owner or others (such as utilities and other prime Contractors) that relates to Work for which a Proposal is to be submitted. On request, Owner may provide to each Offeror for examination access to or copies of Contract Documents (other than portions thereof related to price) for such Work.

15.7. Submission of a Proposal will constitute an incontrovertible representation by Offeror that Offeror has complied with every requirement of this Article 15, that without exception Proposal is premised upon performing and furnishing Work required by Contract Documents and applying specific means, methods, techniques, sequences or procedures of construction (if any) that may be shown or indicated or expressly required by Contract Documents, that Offeror has given Owner or Engineer written notice of all conflicts, errors, ambiguities and discrepancies that Offeror has discovered in Contract Documents and written resolutions thereof by Engineer is acceptable to Offeror, and that Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing Work.

15.8. Provisions of 15.1 through 15.8, inclusive, do not apply to Asbestos, Polychlorinated biphenyls (PCBs), Petroleum, Hazardous Waste or Radioactive Material covered by Article 4.06 of General Conditions.

15.9. Addenda may also be issued to modify RFP Documents as deemed advisable by Owner or Engineer.

16. Proposal Security.

16.1. Each Proposal must be accompanied by Proposal Security made payable to Owner in the amount not less than five percent (5%) of total Proposal Amount, including any Cash Allowances and Alternates, and shall be in form of a cashier's check or Offeror’s Bond.

16.2. Offeror’s Bond must be on the form provided within Contract Documents (RFP) and must bear impressed seal of Surety, and be signed by Offeror and an authorized individual of Surety. Bonds will only be accepted from Sureties authorized to execute a bond order and in accordance with state law.

16.3. Proposal Security of Successful Offeror will be retained until such Offeror has executed Agreement, furnished required contract securities and met other conditions contained in

Specification Section 00 41 00 – Proposal Form, whereupon Proposal Security will be returned. If Offeror fails to execute and deliver Agreement and furnish required contract security within thirty (30) days after contract award notification, Owner may annul its award and Proposal Security of that Offeror will be forfeited. Proposal Security of other Offerors whom Owner believes to have a reasonable chance of receiving award may be retained by Owner until the earlier of seventh day after Effective Date of Agreement or ninety-first day after Proposal opening, whereupon Proposal Security furnished by such Offerors will be returned. Proposal Security submitted in form of a cashier's check with Proposals which are not competitive will be returned.

17. Contract Times.
    17.1 Number of days (calendar days) within which, or dates by which, Work is to achieve Substantial and Final Completion are set forth in Section 00 52 00 – Agreement between Owner and Contractor.

18. Substitutes and "Or-Equal" Items.
    18.1 Contract, if awarded, will be on basis of materials and equipment described in Drawings or specified in Specifications with consideration for possible substitute or "or equivalent" items. Whenever it is indicated in Drawings or specified in Specifications that a Substitute or "or-equal"/"or equivalent" item of material or equipment may be furnished or used by Contractor if acceptable to Engineer and Owner, application for such acceptance may be prior to Contract award in accordance with Texas Government Code 2269.155.

19. Subcontractors, Suppliers and Others.
    19.1. If Owner requests the identity of certain Subcontractors, Suppliers or other persons or organizations (including those who are to furnish the principal items of material and equipment) to be submitted to Apparent Best Value Offeror, and any other Offerors so requested, shall within five (5) days from request submit to Owner a list of all such Subcontractors, Suppliers or other persons or organizations proposed for those portions of Work for which such identification is requested. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, person or organization if requested by Owner. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, other person or organization, Owner may, before giving notice of its intent to recommend Award, request that Apparent Best Value Offeror submit an acceptable substitute without an increase in price. If Apparent Best Value Offeror declines to make any such substitution, Owner may formally close contract negotiations with Offeror and enter into contract negotiations with next most highly-ranked Offeror that proposes to use acceptable Subcontractors, Suppliers, and other persons and organizations. Declining to make requested substitutions will not constitute grounds for sacrificing Proposal Security of any Offeror. Any Subcontractor, Supplier, other person or organization listed and to whom Owner or Engineer does not make written objection prior to giving notice of its intent to recommend Award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after Effective Date of Agreement as provided in Article 6.06 of General Conditions.
    19.2. No Contractor shall be required to employ any Subcontractor, Supplier, other person or organization against whom Contractor has reasonable objection.

20. Preparation and of Proposals.
    20.1. Prepare one (1) unbound original of complete Proposal Package, including completed Proposal Form 00 41 00.
    20.2. Original Proposal is Proposal containing Original Signature of a person authorized to sign on behalf of Offering Firm.
    20.3. Proposals shall be enclosed in an opaque sealed Envelope (or Package), marked with RFP name in addition to name and address of Offering Firm.
    20.4. Each Original Proposal submitted by an Offeror shall contain the following:
        20.4.1. Offerors Statement of Qualifications (Form Section 00 21 14 - Statement of Qualifications

20.4.2. Completed Proposal (Form Section 00 41 00 - Proposal)
20.4.3. Proposal Security (Form Section 00 43 13 - Offeror's Bond)
20.4.4. Any other Documentation required by terms of this Request for Proposal.

20.5. Proposals submitted by corporations must be executed in corporate name by president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and corporate seal must be affixed and attested by the secretary or an assistant secretary. Corporate address and state of incorporation must be shown below signature.

20.6. Submitted Proposals by partnerships must be executed in partnership name and signed by a partner, whose title must appear under signature and official address of partnership must be shown below signature.

20.7. All names must be typed or printed in ink below signature.

20.8. Proposal shall contain an acknowledgment of receipt of all Addenda (numbers of which must be filled in on Proposal Form).

20.9. Address and telephone number for communications regarding Proposal must be shown.

20.10. Evidence of authority to conduct business in the State of Texas shall be provided in accordance with 00 41 00 – Proposal Form.

21. Submission of Proposals.

21.1. Proposals shall be submitted at time and place indicated in Invitation to Submit Proposals (00 11 12) and shall be enclosed in an opaque sealed envelope with name and address of Offering Firm and accompanied by Proposal Security and other required documents.

21.2. If Proposal is sent through mail or other delivery system sealed envelope shall be enclosed in a separate envelope with notation "SEALED PROPOSAL ENCLOSED" on face of it. Proposals not received by time or at location specified will be returned unopened to Offeror.

21.3. Clock used by Owner at place used for receiving Proposals shall conclusively determine time that Proposals are received.

21.4. Proposals sent by facsimile or electronic mail or delivered to any other location other than address provided in Invitation to Offerors will NOT be accepted.

22. Modification and Withdrawal of Proposals.

22.1. Proposals may be modified or withdrawn by a document duly executed (in same manner that a Proposal must be executed) and delivered to place where Proposals are to be submitted prior to date and time for opening of Proposals.

22.2. If, within twenty-four (24) hours after Proposals are opened, any Offeror files a duly signed written notice with Owner and promptly thereafter demonstrates to reasonable satisfaction of Owner that there was a material or substantial mistake in preparation of its Proposal, that Offeror may withdraw its Proposal. Proposal Security may be retained by Owner if Offeror cannot clearly demonstrate to Owner evidence of a material or substantial mistake in its Proposal. Thereafter, that Offeror may be disqualified from responding to a reissued RFP for Work to be furnished under these Contract Documents.

23. Opening of Proposals.

23.1 Proposals will be opened and (unless obviously non-responsive) names and Monetary Proposals of Offering Firms read aloud at a public opening. An abstract of Proposals will be made available no later than seventh day after Contract is awarded.

24. Proposals to Remain Subject to Acceptance.

24.1 All Proposals will remain subject to acceptance for ninety days (90) after date of opening, but Owner may, in its sole discretion, release any Proposal and return Proposal Security prior to that date.

25. Prevailing Wage Rates.

25.1 Contractors for this Project must pay no less than prevailing wage rates for area.

26. Liquidated Damages.

26.1 Provisions for liquidated damages are set forth in specification section 00 52 00 – Agreement between Owner and Contractor and specification section 00 72 15 - General Conditions of the Contract.

27. Contract Security and Insurance.

27.1 Article 5 of General Conditions sets forth Owner's requirements as to insurance(s) and Performance and Payment Bonds. When Successful Offeror delivers executed Agreement to Owner, it must be accompanied by required insurances, Performance and Payment Bonds. Insurances shall include all required certificates and/or endorsements.

28. Conflict of Interest.

28.1 Chapter 176 of Texas Local Government Code mandates public disclosure of certain information concerning persons doing business or seeking to do business with Owner, including affiliations and business and financial relationships such persons may have with Owner. An explanation of requirements of Chapter 176, applicable forms and a complete text of this law are available at: http://www.ethics.state.tx.us/forms/CIQ.pdf. BY DOING BUSINESS OR SEEKING TO DO BUSINESS WITH OWNER, YOU ACKNOWLEDGE THAT YOU HAVE BEEN NOTIFIED OF REQUIREMENTS OF CHAPTER 176 OF TEXAS LOCAL GOVERNMENT CODE AND THAT YOU ARE SOLELY RESPONSIBLE FOR COMPLYING WITH THEM.

29. Taxes.

29.1 Owner is exempt from payment of sales and compensating use taxes of State of Texas and of cities and counties thereof on all materials to be incorporated into Work. Owner will furnish required certificates of tax exemption to Contractor for use in purchase of supplies and materials to be incorporated into Work.

29.2. Owner’s exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into Work.

29.3. Sales and Use Tax: Owner is exempt from Texas state sales and use taxes on materials and equipment to be incorporated into Work. Said taxes shall not be included in Proposal.

30. Signing of Agreement.

30.1 Owner will transmit to Successful Offeror required number of unsigned counterparts of Agreement with all other written Contract Documents attached. Contractor shall sign and deliver required number of counterparts of Agreement and written Contract Documents to Owner thirty (30) days.

END OF SECTION

SECTION 00 21 14

STATEMENT OF QUALIFICATIONS

TABLE 1 – GENERAL INFORMATION				
A. COMPANY DATA				
Organization Doing Business:				
Business Address:				
Telephone Number:				
Fax Number:				
Form of Business:	Corporation	Partnership	Individual	Joint Venture
IF A CORPORATION				
Date of Incorporation:				
State Incorporated:				
President's Name:				
Vice President's Name:				
IF A PARTNERSHIP				
Date of Organization:				
Type	General		Limited	
IF AN INDIVIDUAL				
Name:				
Business Address:				
IF A JOINT VENTURE				
Name of Manager:				
Name of Firm:				
Name of Individual Companies:				
B. BUSINESS INFORMATION				
Current Number of Full Time Employees:		Past Year's Revenues:		
Average Number of Projects Annually:		Average Construction Cost of Project:		
C. DIVISION OF WORK BETWEEN CONTRACTOR AND SUBCONTRACTORS				
1. List work that will be provided by Offeror (Prime Contractor) using its own resources.				
2. List work that will be provided by Subcontractors on this project.				

TABLE 2 – CONSTRUCTION EXPERIENCE			
1. Years of experience on asphalt full depth reclamation (FDR) projects:			
As a General Contractor:		Number of Total Projects:	
2. Number of asphalt FDR projects completed in State of Texas in the past five (5) years?			
3. Has this or a predecessor company ever defaulted on a project or failed to complete work award to it?			
4. Has this or a predecessor company ever been released from a bid or proposal in the past ten (10) years?			
5. Has this or a predecessor company ever been disqualified as a bidder or offeror on any project within the last five (5) years?			
6. Is offering company currently involved in any litigation or contemplating any litigation?			
7. Has this or a predecessor company ever refused to construct of refused to provide materials defined in Contract Documents on a project?			
8. Are there any liens currently filed against the offeror by either subcontractor or material suppliers on previous projects?			

TABLE 3 – PROPOSED KEY PERSONNEL	
PROJECT MANAGER	
Name of Project Manager	
Years of Experience as PM	
Number of Similar Projects as PM with this company	
Number of Similar Projects with other companies (PM)	
Current Assignments	
% of time dedicated to this project	
Reference Project	
Project Name:	Reference Name:
Title:	Organization:
Telephone Number:	Email:
PROJECT SUPERINTENDENT	
Name of Superintendent	
Years of Experience as Superintendent	
Number of Similar Projects as Super with this company	
Number of Similar Project with other companies (Super)	
Current Assignments	
% of time dedicated to this project	
Reference Project	
Project Name:	Reference Name:
Title:	Organization:
Telephone Number:	Email:

TABLE 4 – SIMILAR PROJECTS COMPLETED WITHIN LAST 5 YEARS				
REFERENCE PROJECT 1				
Project Description				
Owner	Project Name	Contract Amount	Date Completed	% Change Orders
Owner's Reference Information				
Name	Title	Organization	Telephone	E-Mail
Engineer's Reference Information				
Name	Title	Company	Telephone	E-Mail
REFERENCE PROJECT 2				
Project Description				
Owner	Project Name	Contract Amount	Date Completed	% Change Orders
Owner's Reference Information				
Name	Title	Organization	Telephone	E-Mail
Engineer's Reference Information				
Name	Title	Company	Telephone	E-Mail
REFERENCE PROJECT 3				
Project Description				
Owner	Project Name	Contract Amount	Date Completed	% Change Orders
Owner's Reference Information				
Name	Title	Organization	Telephone	E-Mail
Engineer's Reference Information				
Name	Title	Company	Telephone	E-Mail

TABLE 5 – SUBCONTRACTORS AND SUPPLIERS		
PROJECT SPECIFIC SUBCONTRACTORS (greater than 10% of work)		
Name	Work to be Provided	% of Contract

Provide a list of major equipment or material suppliers for use on project.	
Supplier Name	Material or Equipment Supplied

AFFIDAVIT

State _____

County of _____

_____, being duly sworn deposes and attests that he/she is
(name)
_____ and is a duly authorized representative of the Offeror
(title)

submitting the foregoing Section 00 21 14 – Statement of Qualifications and related information, that he/she has read such documents, that he/she is authorized to submit such information on behalf of the Offeror, and that such documents are true and correct and contain no factual errors or material misrepresentations.

_____
Signature

Signed and sworn to me before this _____ day of _____, 20____ .

_____
Notary Public

My Commission expires: _____

SECTION 00 41 00

PROPOSAL FORM

To: City of Bastrop
1311 Chestnut Street
Bastrop, TX 78602

Project: City of Bastrop – Streets, Pavement, and Preventative Maintenance

RFP No.: 20-001

Offerer:_____
(Print or type full name of proprietorship, partnership, corporation, or joint venture)

1.0 OFFER

A. Total Proposal Price: Undersigned Offerer proposes and agrees, if this Proposal is accepted, to enter into an Agreement with Owner on form included in Contract Documents to perform all Work as specified or indicated in Contract Documents for Contract Price indicated in this Proposal or as modified by written Amendment.

B. Proposal Security: Included with the Proposal is a Proposal Security in amount of 5% of Total Proposal Price subject to terms described in Document 00 21 13 – Instructions to Offerers.

C. Period for Proposal Acceptance: Offerer accepts all of terms and conditions of Request for Proposals and Instructions to Offerers, including without limitation those dealing with disposition of required Bonds. This offer shall remain open to acceptance and is irrevocable for 90 days from Proposal Date (opening). That period may be extended by mutual written agreement of Owner and Offerer.

D. Liquidated Damages: Offerer accepts the provisions of Agreement as to liquidated damages in the event of its failure to complete Work in accordance with schedule as set forth in Agreement.

E. Addenda: Offerer hereby acknowledges it has received, examined and carefully studied all Addenda and modifications to Proposal Documents have been considered and all related costs are included in Total Proposal Price. Offerer hereby acknowledges receipt of the following Addenda:

F. Proposal Supplements: The following documents shall be provided with proposal:

☐ Offerer's Statement of Qualifications (SOQ).

☐ Completed Certification of Proposal

☐ Proposal Security

☐ Non-Collusion Affidavit

2.0 CONTRACT TIME

A. If offer is accepted, Contractor shall achieve Date of Substantial Completion and Date of Final Completion within Contract Times prescribed in Article 3 of Section 00 52 00 - Agreement Between Owner and Contractor, subject to adjustments of Contract Time as provided in Contract.

3.0 OFFERER REPRESENTATIONS

A. Offerer is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and furnishing of Goods and Special Services.

B. Offerer has visited Site and become familiar with and is satisfied as to general, local and Site conditions that may affect cost, progress, and performance of Work.

C. Offerer has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to Site (except Underground Facilities) and (2) Hazardous Environmental Conditions identified in reports and drawings provided to Offerer or available for Offerer review. Offerer understands that neither Owner nor Engineer is responsible for the accuracy of these documents and that they are not part of Contract Documents.

D. Offerer has obtained and carefully studied all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions including surface, subsurface and Underground Facilities at or contiguous to Site which may affect cost, progress, or performance of Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Offerer, including applying specific means, methods, techniques, sequences, and procedures of construction expressly required by Contract Documents to be employed by Offerer, and safety precautions and programs incident thereto and accepts all consequences for not doing so.

E. Offerer does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Proposal for performance of Work at the Contract Price proposed, within Contract Times proposed and in accordance with terms and conditions of Contract Documents.

F. Offerer is aware of general nature of work to be performed by Owner and others at Site that relates to Work as indicated in the Contract Documents.

G. Offerer has correlated information known to Offerer, information and observations obtained from visits to Site, reports and drawings identified in Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with Contract Documents.

H. Offerer has given Owner written notice of all conflicts, errors, ambiguities, or discrepancies that Offerer has discovered in Contract Documents, and written resolution thereof by Owner or Engineer is acceptable to Offerer.

I. Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of Work for which this Proposal is submitted.

J. Laws to be Observed: In execution of Contract, Contractor must comply with all applicable Federal, State, and Local laws, including, but not limited to laws concerned with labor, safety, minimum wages, and environment. Contractor will make himself familiar with and shall at all times observe and comply with all Federal, State, and Local laws, ordinances and regulations which in any manner affect the conduct of the work, and shall indemnify and save harmless the Owner and its representatives against any claim arising from violation of any such law, ordinance or regulation by himself or by his subcontractor or by his employees.

K. Review by Owner: Owner and authorized representatives and agents of owner shall at all times have access to and be permitted to observe and review all work, materials, equipment, payrolls, personnel records, employment conditions, material invoices, and other relevant data and records pertaining to this Contract.

L. Offerer will submit written evidence of its authority to do business in State of Texas.

M. Offerer further represents that this Proposal is genuine and not made in interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Offerer has not directly or indirectly induced or solicited any other Offerer to submit a false or sham Proposal; Offerer has not solicited or induced any individual or

entity to refrain from making an offer; and Offerer has not sought by collusion to obtain for itself any advantage over any other Offerer or over Owner.

4.0 DEFINED TERMS:

A. Defined terms used in this Proposal, if any, shall be for purposes of this Proposal and shall not change any meanings indicated in General Conditions. Significance of terms with initial capital letters is defined in General Conditions.

5.0 TOTAL PROPOSAL PRICE HAS BEEN CALCULATED BY OFFERER, USING THE FOLLOWING COMPONENT PRICES AND PROCESS (PRINT OR TYPE NUMERICAL AMOUNTS):

CITY OF BASTROP
STREETS, PAVEMENT, AND PREVENTATIVE MAINTENANCE
PROPOSAL TABULATION

Item	Description	Quantity	Unit	Unit Price	Total Amount
1.00	**General Conditions**				
1.01	MOBILIZATION & PROJECT INCIDENTALS - Section 01 21 00	1	LS		
1.02	PROJECT SIGNS	4	EA		
1.03	TRAFFIC CONTROL PLAN - PROJECT NOTES	1	LS		
1.04	TRAFFIC CONTROL PLAN - IMPLEMENTATION	1	LS		
1.05	CONTINGENCY ALLOWANCE	1	LS		
1.06	MANHOLE GRADE ADJUSTMENT	7	EA	$40,000.00	$40,000.00
	Subtotal General Conditions				**$**
2.00	**Street Maintenance**				
	Maintenance Treatments				
2.01	5" FLEXIBLE PAVEMENT REPAIR WITH TYPE B HMAC	7,908	SY		
2.02	JT / CRCK SEAL (RUBBER - ASPHALT)	36.00	L-MI		
	Preventative Maintenance Surface Treatments				
2.03	FOG SEAL (CMS-1PF)(0.09 gal/SY)	26,604	SY		
2.04	SEAL COAT TREATMENT (AC20-5TR W/ GR 4 PB TRAP ROCK)(0.40 GAL/SY and 1 CY/110 SY)	41,728	SY		
2.05	SCRUB SEAL TREATMENT (CMS-2P with GR 4 TRAP ROCK)(0.48 GAL/SY and 1 CY/110 SY)	17,590	SY		
2.06	FRICTIONAL ASPHALTIC SURFACE PRESERVATION TREATMENT	24,859	SY		
Alternate Bid Item #1					
2.07	THIN OVERLAY MIXTURE (1" THICKNESS) in Lieu of SEAL COAT TREATMENT	41,728	SY		
	Subtotal Street Maintenance				**$**

Total Bid Price **$** _____

6.0 ADDENDA

Following Addenda have been received by Offerer. Modifications to Proposal Documents noted below have been considered and all costs are included in Proposal Price.

Addendum # ..... Dated .....

Addendum # ..... Dated .....

Addendum # ..... Dated .....

Addendum # ..... Dated .....

Addendum # ..... Dated .....

Addendum # ..... Dated .....

7.0 PROPOSAL FORM SIGNATURES*

This Proposal is submitted by:

_____
(Offerer - print the full name of firm submitting Proposal)**

was hereunto affixed in the presence of:

Name and Title (printed or typed):_____

By:_____
(Authorized signing officer signature)

(Seal)

Person with Offerer authorized to discuss contents of Proposal and Qualifications:

_____

Phone Number: _____

* If Proposal is a joint venture, add additional Proposal Form signature sheets for each member of joint venture.

** Offerer certifies that only person or parties interested in this offer as principals are those named above. Offerer has not directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive Proposing.

Note: This document constitutes a government record, as defined by § 37.01 of Texas Penal Code. Submission of a false government record is punishable as provided in § 37.10 of Texas Penal Code.

END OF SECTION

SECTION 00 43 13

OFFERER'S BOND

THAT WE, _____, as Principal, ("Offerer"), and the other subscriber hereto, _____, as Surety, do hereby acknowledge ourselves to be held and firmly bound to City of Bastrop, ("Owner") a political sub-division of the State of Texas, in the sum of _____ Dollars ($_____) an amount equal to five (5) percent of the Total Bid Price, including Cash Allowances and Alternates, if any, for payment of which sum, well and truly to be made to Owner and its successors, Offerer and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

CONDITIONS OF THIS OBLIGATION ARE SUCH THAT: WHEREAS, Offerer has submitted on or about this day a proposal offering to perform the following:

RFP No. 20-001 City of Bastrop – Streets, Pavement, and Preventative Maintenance in accordance with Drawings, Specifications, and terms and conditions related thereto to which reference is hereby made.

NOW, THEREFORE, if Offerer's offer as stated in Document 00 41 00 – Proposal Form is accepted by Owner, and Offerer executes and returns to Owner executed Section 00 52 00 – Agreement on forms provided in Proposal Documents, for Work and also executes and returns same number of Performance, Payment, and Maintenance Bonds (such bonds to be executed by a Corporate Surety authorized by State Board of Insurance to conduct insurance business in the State of Texas, and having an underwriting limitation in at least the amount of bond) and other submittals as required, in connection with Work, within allotted Contract Time, then this obligation shall become null and void; otherwise it is to remain in full force and effect.

If Offerer is unable to or fails to perform its obligations undertaken herein, the undersigned Offerer and Surety shall be liable to Owner for full amount of this obligation which is hereby acknowledged as amount of damages which will be suffered by Owner on account of failure of such Offerer to perform such obligations, the actual amount of such damages being difficult to ascertain. Notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on third day following deposit in a United States Postal Service post office or receptacle, with proper postage affixed (certified mail, return receipt requested), addressed to respective other Party at address prescribed in Contract Documents, or at such other address as receiving Party may hereafter prescribe by written notice to sending Party.

IN WITNESS THEREOF, both Offerer and Surety have signed and sealed this instrument on the respective dates written below their signatures and have attached current Power of Attorney.

ATTEST, SEAL: (if a corporation)

OFFERER	**SURETY**
_____ (Seal)	_____ (Seal)
Bidder's Name and Corporate Seal	Surety's Name and Corporate Seal
By: _____	By: _____
Signature and Title	Signature and Title (Attach Power of Attorney)
Attest: _____	Attest: _____
Signature and Title	Signature and Title

END OF SECTION

Notice of Award

Dated _____

Project: Streets, Pavement, and Preventative Maintenance	Owner: City of Bastrop	Owner's Contract No.:
Contract: City of Bastrop – Streets, Pavement, and Preventative Maintenance		Engineer's Project No.: 4-01126

Bidder:

Bidder's Address: (send Certified Mail, Return Receipt Requested)

You are notified that your Bid dated for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for _____

_____

(Indicate total Work, alternates or sections or Work awarded.)

The Contract Price of your Contract is _____ Dollars ($_____).

_____ copies of each of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

_____ sets of the Drawings will be delivered separately or otherwise made available to you immediately.

You must comply with the following conditions precedent within [15] days of the date you receive this Notice of Award.

1. Deliver to the Owner [_____] fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the Contract security [Bonds] as specified in the Instructions to Bidders (Article 20), [and] General Conditions (Paragraph 5.01).
3. Other conditions precedent:

_____

_____

_____

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Contract Documents.

City of Bastrop
Owner

By: _____
Authorized Signature

_____
Title

Copy to Engineer

DRAFT

Notice to Proceed

Dated _____

Project: Streets, Pavement, and Preventative Maintenance	Owner: City of Bastrop	Owner's Contract No.:
Contract: City of Bastrop –Streets, Pavement, and Preventative Maintenance		Engineer's Project No.: 4-01126

Contractor:

Contractor's Address: [send Certified Mail, Return Receipt Requested]

You are notified that the Contract Times under the above contract will commence to run on_____. On or before that date, you are to start performing your obligations under the Contract Documents. In accordance with Article 3 of the Agreement, the number of days to achieve Substantial Completion is 210, and the number of days to achieve readiness for final payment is 240.

Before you may start any Work at the Site, Paragraph 2.01.B of the General Conditions provides that you and Owner must each deliver to the other (with copies to Engineer and other identified additional insureds) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

Also, before you may start any Work at the Site, you must:

1.0 The contractor shall call the Texas One-Call System @ 1-800-344-8377 at least 48 hours prior to digging.

2.0 Prepare a Traffic Control Plan. Prepare and submit to Project Manager for approval as prescribed in the Technical Specifications.

	City of Bastrop
Contractor	Owner
Received by:	Given by:
Authorized Signature	Authorized Signature
Title	Title
Date	Date

Copy to Engineer

DRAFT

SECTION 00 52 00

AGREEMENT

THIS AGREEMENT is dated as of by and between City of Bastrop (hereinafter called "OWNER") and _____ (hereinafter called "CONTRACTOR"). OWNER and CONTRACTOR, in consideration of covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK. CONTRACTOR shall complete all Work as specified or indicated in Contract Documents. Work is generally described as follows:

RFP No. 20-001 City of Bastrop – Streets, Pavement, and Preventative Maintenance in accordance with Drawings, Specifications, and terms and conditions related thereto to which reference is hereby made.

ARTICLE 2. ENGINEER AND OWNER'S REPRESENTATIVE. Project has been designed by Walker Partners, 804 Las Cimas Parkway, Suite 150, Austin, TX 78746 who is hereinafter called "ENGINEER" and who assumes all duties and responsibilities and has rights and authority assigned to ENGINEER in Contract Documents in connection with completion of Work in accordance with Contract Documents. Owner's Representative for Project shall be Walker Partners, LLC.

ARTICLE 3. CONTRACT TIMES. Work will be Substantially Completed within 80 calendar days after date when Contract Time Requirements commence to run as provided in Article 2.03 of General Conditions, and CONTRACTOR shall achieve Final Completion within 10 calendar days of date required for Substantial Completion. OWNER and CONTRACTOR recognize that time is of essence of this Agreement and that OWNER will suffer financial loss including, but not limited to, loss of revenue, additional professional fees, fines, labor costs, insurance premiums, etc. if the Work is not completed within times specified in above paragraph, plus any extensions thereof allowed in accordance with Article 12 of General Conditions. They also recognize delays, expense and difficulties involved in proving actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) and, as a reasonable estimate of such damages, CONTRACTOR shall pay OWNER Five Hundred Dollars ($500.00) for each and every day of delay in CONTRACTOR achieving Substantial Completion of Work and readiness for final payment beyond times specified in above paragraph. OWNER shall have option of deducting the amount of any liquidated damages from any monies that may be owed to CONTRACTOR or to recover such amount from CONTRACTOR or its sureties, at CONTRACTOR'S expense.

ARTICLE 4. CONTRACT AMOUNT. OWNER shall pay CONTRACTOR for completion of Work in accordance with Contract Documents an amount in current funds equal to sum of amounts determined pursuant to Proposal and any subsequent Change Orders and Change Directives thereto in the amount of _____ ($_____).

ARTICLE 5. PAYMENT PROCEDURES. CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of General Conditions. Applications for Payment will be processed by

ENGINEER and as provided in General Conditions and Supplemental Conditions. OWNER shall make progress payments on account of Contract Amount on the basis of CONTRACTOR'S Applications for Payment as recommended by ENGINEER and in conformance with the procedures described in General Conditions. All such payments will be measured by schedule of values established in Article 2.05 of General Conditions (and on number of units of each Unit Price item completed, if unit price contract). Upon final completion and acceptance of Work in accordance with Article 14 of General Conditions, OWNER shall pay the remainder of Contract Amount as recommended by Owner's Representative as provided in said Article 14. In accordance with Texas Water Code Section 49.276 – PAYMENT FOR CONSTRUCTION WORK, Subsection (d), in making progress payments, 5% of estimated amount shall be retained until final completion and acceptance of contract work.

ARTICLE 6. CONTRACTOR'S REPRESENTATIONS. In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

- CONTRACTOR has examined and carefully studied Contract Documents (including Addenda listed in Article 7) and other related data identified in Proposal Documents.
- CONTRACTOR has visited site and become familiar with and is satisfied as to general, local, and site conditions that may affect cost, progress, performance, or furnishing of Work.
- CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Legal Requirements that may affect cost, progress, performance, and furnishing of Work.
- CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to Site.
- CONTRACTOR acknowledges that such reports and drawings are not Contract Documents, are not warranted or represented in any manner by Owner to accurately show the conditions at Site, and may not be complete for CONTRACTOR'S purposes.
- CONTRACTOR acknowledges that OWNER and ENGINEER do not assume responsibility for accuracy or completeness of information and data shown or indicated in Contract Documents with respect to subsurface conditions or Underground Facilities at or contiguous to Site or CONTRACTOR'S interpretation of such information and data.
- CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary research, examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto.
- CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of Work at Contract Amount, within Contract Time Requirements and in accordance with other terms and conditions of Contract Documents.
- CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at Site that relates to Work as indicated in Contract Documents.

- CONTRACTOR has correlated information known to CONTRACTOR, information and observations obtained from visits to Site, reports, and Drawings identified in Contract Documents and all additional examinations, investigations, explorations, tests, studies, and data with Contract Documents.
- CONTRACTOR has provided ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR, and Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of Work.

ARTICLE 7. CONTRACT DOCUMENTS. Contract Documents are comprised of the following:

1. This Agreement.
2. Exhibits to this Agreement:
   a. Document Title Date Page(s) - N/A
3. Performance and Payment Bonds.
4. General Conditions of Contract.
5. Supplemental Conditions, if any.
6. Specifications, prepared by Walker Partners, dated October 2019.
7. Drawings.
8. Addenda: Addendum No. ___ through Addendum No. ____
9. CONTRACTOR'S Proposal Form pursuant to Request for Proposal.
10. Prevailing Wage Rates.
11. Following which may be delivered or issued after Effective Date of Agreement and are not attached thereto: All written Change Orders or Work Orders pursuant to Article 3.04 of General Conditions. There are no Contract Documents other than those listed in this Article. Contract Documents may only be amended, modified, or supplemented as provided in Article 3.04 of General Conditions.

ARTICLE 8. INDEMNITY PROVISIONS. GENERAL, SPECIAL, AND SUPPLEMENTAL CONDITIONS, IF ANY, INCORPORATED INTO THIS AGREEMENT CONTAIN PROVISIONS THAT MAY RELIEVE ONE PARTY FOR RESPONSIBILITY IT WOULD OTHERWISE HAVE UNDER LAW FOR DAMAGES OR OTHER LIABILITY ARISING OUT OF WORK. EACH OF THE PARTIES HERETO SPECIFICALLY AGREES THAT IT HAS A DUTY TO READ THIS AGREEMENT, GENERAL, SPECIAL, AND SUPPLEMENTAL CONDITIONS, IF ANY, AND ALL OTHER CONTRACT DOCUMENTS AND AGREES THAT IT IS CHARGED WITH NOTICE AND KNOWLEDGE OF TERMS OF THIS AGREEMENT AND ALL CONTRACT DOCUMENTS; THAT IT HAS IN FACT READ THIS AGREEMENT AND ALL CONTRACT DOCUMENTS AND IS FULLY INFORMED AND HAS FULL NOTICE AND KNOWLEDGE OF TERMS, CONDITIONS AND EFFECTS OF THIS AGREEMENT; THAT IT HAS HAD OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL OF ITS CHOICE PRECEDING ITS EXECUTION OF THIS AGREEMENT AND HAS RECEIVED OR VOLUNTARILY CHOSEN NOT TO RECEIVE ADVICE OF ITS ATTORNEY IN ENTERING INTO THIS AGREEMENT; AND THAT IT RECOGNIZES THAT CERTAIN TERMS OF THIS AGREEMENT AND CONTRACT DOCUMENTS RESULT IN ONE PARTY ASSUMING THE LIABILITY INHERENT IN SOME ASPECTS OF TRANSACTION AND RELIEVING OTHER PARTY OF ITS RESPONSIBILITY FOR SUCH LIABILITY. EACH

PARTY HERETO AGREES AND COVENANTS THAT IT WILL NOT CONTEST VALIDITY OR ENFORCEMENT OF ANY EXCULPATORY PROVISION OF THIS AGREEMENT ON BASIS THAT THE PARTY HAD NO NOTICE OR KNOWLEDGE OF SUCH PROVISION OR THAT THE PROVISION IS NOT "CONSPICUOUS".

ARTICLE 9. MISCELLANEOUS. Terms used in this Agreement which are defined in Article 1 of General Conditions will have the meanings indicated in General Conditions. CONTRACTOR certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing Contract. For purposes of this Article 9:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in proposal process or in Contract execution;
2. "fraudulent practice" means an intentional misrepresentation of facts made
   (a) to influence proposal process or execution of Contract to detriment of OWNER,
   (b) to establish Proposal or Contract prices at artificial noncompetitive levels, or
   (c) to deprive OWNER of benefits of free and open competition;
3. "collusive practice" means a scheme or arrangement between two or more Proposers, with or without knowledge of OWNER, a purpose of which is to establish Proposal prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the proposal process or affect execution of Contract.

No assignment by a party hereto of any rights or interests in Contract will be binding on another party hereto without written consent of party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that effect of this restriction may be limited by law), and unless specifically stated to contrary in any written consent to an assignment no assignment will release or discharge assignor from any duty or responsibility under Contract.

OWNER and CONTRACTOR each binds itself, its officers, directors, shareholders, partners, members, successors, assigns, and legal representatives to other party hereto, its officers, directors, shareholders, partners, members, successors, assigns and legal representatives in respect to all covenants, agreements, and obligations contained in Contract Documents. Any provision or part thereof of Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions or parts thereof shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing intention of the stricken provision or part thereof.

IN WITNESS WHEREOF, OWNER, and CONTRACTOR have signed this Agreement in duplicate. One counterpart has been delivered to OWNER, one counterpart has been delivered to CONTRACTOR and one counterpart has been delivered to ENGINEER. All portions of Contract Documents have been signed, initialed, or otherwise clearly identified by OWNER and CONTRACTOR or identified by ENGINEER on their behalf.

This Agreement will be effective on _____, (which is effective date of Agreement).

OWNER: City of Bastrop_____

By:_____

Attest:_____

Address for giving notices:
_____

_____

_____

CONTRACTOR:_____

By:_____

(CORPORATE SEAL)

Attest:_____

Address for giving notices:
_____

_____

_____

END OF SECTION

SECTION 00 61 13

PAYMENT BOND

STATE OF TEXAS

COUNTY OF _____

KNOW ALL MEN BY THESE PRESENTS: That _____(Contractor) of City of _____, County of _____, and State of Texas, as Principal, and_____ authorized under the Laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto City of Bastrop (Owner), in the penal sum of _____ Dollars ($_____) for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, by these presents:

WHEREAS, Principal has entered into a certain written contract with Owner, dated the ____ day of _____ _____, 20__, for construction of RFP No. 20-001 City of Bastrop – Streets, Pavement, and Preventative Maintenance in accordance with Drawings, Specifications, and terms and conditions related thereto to which Contract is hereby referred to and make a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION IS SUCH, that if said Principal shall pay all claimants supplying labor and material to him or a Sub-Contractor in prosecution of work provided for in said contract, then, this obligation shall be void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of Texas Government Code as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Statute to the same extent as if it were copied at length herein. Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of contract, or to work performed thereunder, or Specifications, or Drawings, accompanying the same, shall in anyway affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to terms of contract, or work to be performed thereunder.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument on the _____ day of _____, 20__.

Contractor:	Surety:
By:_____	By:_____
Name:_____	Name:_____
Title:_____	Title:_____
Date:	

ATTEST/SURETY WITNESS:

Full Name of Surety:_____

(SEAL)

Address of Surety for Notice

_____

_____

Telephone Number of Surety:_____

By:_____	By:_____
Name:_____	Name:_____
Title:_____	Title: Attorney-in-Fact
Date_____	Date:_____

END OF SECTION

SECTION 00 61 14

PERFORMANCE BOND

STATE OF TEXAS

COUNTY OF _____

KNOW ALL MEN BY THESE PRESENTS: That _____(Contractor) of City of _____, County of _____, and State of Texas, as Principal, and _____ authorized under Laws of State of Texas to act as surety on bonds for principals, are held and firmly bound unto City of Bastrop (Owner), in the penal sum of _____ Dollars ($_____) for the payment whereof, said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, by these presents:

WHEREAS, Principal has entered into a certain written contract with Owner, dated _____ day of _____, 20____, for construction of RFP No. 20-001 City of Bastrop – Streets, Pavement, and Preventative Maintenance in accordance with Drawings, Specifications, and terms and conditions related thereto to which Contract is hereby referred to and make a part hereof as fully and to same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Principal shall faithfully perform said Contract and shall in all respects duly and faithfully observe and perform all and singular the covenants, conditions an agreements in and by said contract agreed and covenanted by Principal to be observed and performed, and according to the true intent and meaning of said Contract and Drawings and Specifications hereto annexed, then this obligation shall be void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to provisions of Chapter 2253 of Texas Government Code as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Statute to same extent as if it were copied at length herein. Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of contract, or to work performed thereunder, or drawings, Specifications, or Drawings, accompanying same, shall in anyway affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to terms of contract, or work to be performed thereunder.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument on _____ day of _____, 20__.

Contractor:	Surety:
By:_____	By:_____
Name:_____	Name:_____
Title:_____	Title:_____
Date:	

ATTEST/SURETY WITNESS:

Full Name of Surety:_____

(SEAL)

Address of Surety for Notice

_____

_____

Telephone Number of Surety:_____

By:_____	By:_____
Name:_____	Name:_____
Title:_____	Title: Attorney-in-Fact
Date_____	Date:_____

END OF SECTION

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

2. *Agreement*--The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.

3. *Application for Payment*--The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*--The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidder*--The individual or entity who submits a Bid directly to Owner.

7. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda).

8. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, bid security of acceptable form, if any, and the Bid Form with any supplements.

9. *Change Order*--A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*--A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*-- Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor's submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

13. *Contract Price*--The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*--The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any, (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.

15. *Contractor*--The individual or entity with whom Owner has entered into the Agreement.

16. *Cost of the Work*--See Paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *Engineer*--The individual or entity named as such in the Agreement.

20. *Field Order*--A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

21. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

22. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

23. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

24. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

25. *Liens*--Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

26. *Milestone*--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

27. *Notice of Award*--The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.

28. *Notice to Proceed*--A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.

29. *Owner*--The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.

30. *PCBs*--Polychlorinated biphenyls.

31. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

32. *Progress Schedule*--A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

33. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

34. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

35. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

36. *Related Entity* -- An officer, director, partner, employee, agent, consultant, or subcontractor.

37. *Resident Project Representative*--The authorized representative of Engineer who may be assigned to the Site or any part thereof.

38. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

39. *Schedule of Submittals*--A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

40. *Schedule of Values*--A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

41. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

42. *Site*--Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

43. *Specifications*--That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain

administrative requirements and procedural matters applicable thereto.

44. *Subcontractor*--An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.

45. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

46. *Successful Bidder*--The Bidder submitting a responsive Bid to whom Owner makes an award.

47. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

48. *Supplier*--A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or any Subcontractor.

49. *Underground Facilities*--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

50. *Unit Price Work*--Work to be paid for on the basis of unit prices.

51. *Work*--The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

52. *Work Change Directive*--A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

A. The following words or terms are not defined but, when used in the Bidding Requirements or Contract Documents, have the following meaning.

B. *Intent of Certain Terms or Adjectives*

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered", "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action or determination will be solely to evaluate, in general, the Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

C. *Day*

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective*

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

a. does not conform to the Contract Documents, or

b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents, or

c. has been damaged prior to Engineer's - recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

E. *Furnish, Install, Perform, Provide*

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. When "furnish," "install," "perform," or "provide" is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, "provide" is implied.

F. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Commencement of Contract Times; Notice to Proceed*

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.04 *Starting the Work*

A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 *Before Starting Construction*

A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review**:**

1. a preliminary Progress Schedule; indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;

2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.06 *Preconstruction Conference*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 *Initial Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to Owner.

C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

A. Standards, Specifications, Codes, Laws, and Regulations

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, or Engineer, or any of, their Related Entities, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. Reporting Discrepancies

1. *Contractor's Review of Contract Documents Before Starting Work*: Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.

2. *Contractor's Review of Contract Documents During Performance of Work*: If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor knew or reasonably should have known thereof.

B. Resolving Discrepancies

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work

(unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

1. A Field Order;

2. Engineer's approval of a Shop Drawing or Sample; (Subject to the provisions of Paragraph 6.17.D.3); or

3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier or other individual or entity performing or furnishing all of the Work under a direct or indirect contract with Contractor, shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or Engineer's consultants, including electronic media editions; or

2. reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaption by Engineer.

B. The prohibition of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

A. Copies of data furnished by Owner or Engineer to Contractor or Contractor to Owner or Engineer that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party..

C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Contract Documents; and

2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that Engineer has used in preparing the Contract Documents.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If Contractor believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

1. is of such a nature as to establish that any "technical data" on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or

2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *Engineer's Review*: After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.

C. Possible Price and Times Adjustments

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and

b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:

a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or

c. Contractor failed to give the written notice as required by Paragraph 4.03.A.

3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, Owner and Engineer, and any of their Related Entities shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:

a. reviewing and checking all such information and data,

b. locating all Underground Facilities shown or indicated in the Contract Documents,

c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction, and

d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *Reference Points*

A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.06 *Hazardous Environmental Condition at Site*

A. *Reports and Drawings:* Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the Engineer in the preparation of the Contract Documents.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.

D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any.

E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered to Contractor written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.

F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06. G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified

in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.

B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent must be accompanied by a certified copy of the agent's authority to act.

C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

A. Contractor shall deliver to Owner, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.

B. Owner shall deliver to Contractor, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.

5.04 *Contractor's Liability Insurance*

A. Contractor shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:

   a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

   b. by any other person for any other reason;

5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insured (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

3. include completed operations insurance;

4. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

6. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and

7. with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment.

a. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

5.06 *Property Insurance*

A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;

2. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, (other than caused by flood) and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;

5. allow for partial utilization of the Work by Owner;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. Owner shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.

D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any

deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

5.07 *Waiver of Rights*

A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insured or additional insured (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them for:

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order .

B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract

Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances. The superintendent will be Contractor's representative at the Site and shall have authority to act on behalf of Contractor. All communications given to or received from the superintendent shall be binding on Contractor.

6.02 *Labor; Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.

1. *"Or-Equal" Items:* If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment Engineer determines that:

1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole,

3) it has a proven record of performance and availability of responsive service; and

b. Contractor certifies that, if approved and incorporated into the Work:

1) there will be no increase in cost to the Owner or increase in Contract Times, and

2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. Substitute Items

a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. Contractor shall submit sufficient information as provided below to allow Engineer to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.

c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented in the General Requirements and as Engineer may decide is appropriate under the circumstances.

d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

1) shall certify that the proposed substitute item will:

a) perform adequately the functions and achieve the results called for by the general design,

b) be similar in substance to that specified, and

c) be suited to the same use as that specified;

2) will state:

a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time;

b) whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and

c) whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;

3) will identify:

a) all variations of the proposed substitute item from that specified , and

b) available engineering, sales, maintenance, repair, and replacement services;

4) and shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change,

B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.

C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by either a Change Order for a substitute or an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.

D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

E. *Engineer's Cost Reimbursement*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B Whether or not Engineer approves a substitute item so proposed or submitted by Contractor, Contractor shall reimburse Owner for the charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

F. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued . No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity, nor

2. shall anything in the Contract Documents create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual

or entity except as may otherwise be required by Laws and Regulations.

D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.

F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, and Engineer,, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of Owner or Engineer its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

B. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 *Permits*

A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

6.09 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor’s compliance with any Laws or Regulations.

B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor’s primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor’s obligations under Paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *Taxes*

A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

6.11 *Use of Site and Other Areas*

A. Limitation on Use of Site and Other Areas

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

B. *Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to Engineer for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to Engineer for Owner.

6.13 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

C. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Draw-

ings or Specifications or to the acts or omissions of Owner or Engineer or , or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

D. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Hazard Communication Programs*

A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

6.16 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the acceptable Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

1. Shop Drawings

a. Submit number of copies specified in the General Requirements.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples:* Contractor shall also submit Samples to Engineer for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals.

a. Submit number of Samples specified in the Specifications.

b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.

B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals , any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. Submittal Procedures

1. Before submitting each Shop Drawing or Sample, Contractor shall have determined and verified:

a. all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

b. the suitability of all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;

c. all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto; and

d. shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents

with respect to Contractor's review and approval of that submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations, that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawing's or Sample Submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. *Engineer's Review*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. *Resubmittal Procedures*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

6.18 *Continuing the Work*

A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 *Contractor's General Warranty and Guarantee*

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its Related Entities shall be entitled to rely on representation of Contractor's warranty and guarantee.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;

2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;

5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;

6. any inspection, test, or approval by others; or

7. any correction of defective Work by Owner.

6.20 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or

arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .

B. In any and all claims against Owner or Engineer or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.

B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 - OTHER WORK AT THE SITE

7.01 *Related Work at Site*

A. Owner may perform other work related to the Project at the Site with Owner's employees, or via other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to Contractor prior to starting any such other work; and

2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.

B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and shall properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and

properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

2. the specific matters to be covered by such authority and responsibility will be itemized; and

3. the extent of such authority and responsibilities will be provided.

B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

7.03 *Legal Relationships*

A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.

B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's actions or inactions.

C. Contractor shall be liable to Owner and any other contractor for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's action or inactions.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

8.02 *Replacement of Engineer*

A. In case of termination of the employment of Engineer, Owner shall appoint an engineer to whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer.

8.03 *Furnish Data*

A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

8.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

A. Owner's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by Engineer in preparing the Contract Documents.

8.06 *Insurance*

A. Owner's responsibilities, if any, in respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 *Change Orders*

A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

8.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility in respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

8.09 *Limitations on Owner's Responsibilities*

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

A. If and to the extent Owner has agreed to furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents, Owner's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents and will not be changed without written consent of Owner and Engineer.

9.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Project Representative*

A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Authorized Variations in Work*

A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment , a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

A. Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.06 *Shop Drawings, Change Orders and Payments*

A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.

B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.

C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.

D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

9.08 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question

B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believe that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.

C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.

D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to, the Resident Project Representative, if any, and assistants, if any.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall

promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

A.Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.B.

10.03 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:

1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *Notification to Surety*

A. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any bond to be given to a surety, the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

10.05 *Claims*

A. *Engineer's Decision Required*: All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

B. *Notice:* Written notice stating the general nature of each Claim, shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).

C. *Engineer's Action*: Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

1. deny the Claim in whole or in part,

2. approve the Claim, or

3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.

F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

ARTICLE 11 - COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in Paragraph 11.01.B.

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time at the Site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

4. Costs of special consultants (including but not limited to Engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have

resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expresses, and similar petty cash items in connection with the Work.

i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A and 11.01.B.

C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.02 *Allowances*

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances*

1. Contractor agrees that:

a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

b. Contractor's costs for unloading and handling on the Site, labor, installation , overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. Contingency Allowance

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect any other item of Work; and

3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;

b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted

by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times , or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

C If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.

D. Owner, Engineer and the Related Entities of each of them shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of Engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspecting, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's Site safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in said Paragraph 13.04.C; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to

be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, it must, if requested by Engineer, be uncovered for observation.

F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.

B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.

D. If, the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

A. Promptly after receipt of notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. repair such defective land or areas; or

2. correct such defective Work; or

3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and

4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications .

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.09 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress

payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. Applications for Payments

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. *Review of Applications*

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations on the Site of the executed Work as an experienced and qualified design professional and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and to any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or

b. that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

a. to supervise, direct, or control the Work, or

b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or

e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent

inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;

b. the Contract Price has been reduced by Change Orders;

c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or

d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. *Payment Becomes Due*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

D. *Reduction in Payment*

1. Owner may refuse to make payment of the full amount recommended by Engineer because:

a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;

b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

c. there are other items entitling Owner to a set-off against the amount recommended; or

d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.

2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor corrects to Owner's satisfaction the reasons for such action.

3. If it is subsequently determined that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1.

14.03 *Contractor's Warranty of Title*

A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.04 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

B. Promptly after Contractor's notification, , Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will within 14 days after submission of the tentative certificate to Owner notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will within said 14 days execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial

Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.

E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to complete or correct items on the tentative list.

14.05 *Partial Utilization*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions.

1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor will certify to Owner and Engineer that such part of the Work is substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. Application for Payment

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.7;

b. consent of the surety, if any, to final payment;

c. a list of all Claims against Owner that Contractor believes are unsettled; and

d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner or Owner's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

B. *Engineer's Review of Application and Acceptance*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations

under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and , will be paid by Owner to Contractor.

14.08 *Final Completion Delayed*

A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);

2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;

3. Contractor's disregard of the authority of Engineer; or

4. Contractor's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:

1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion),

2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and

3. complete the Work as Owner may deem expedient.

C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph Owner shall not be required to obtain the lowest price for the Work performed.

D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B, and 15.02.C.

15.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. reasonable expenses directly attributable to termination.

B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

ARTICLE 16 - DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be

governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:

1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions, or

2. agrees with the other party to submit the Claim to another dispute resolution process, or

3. gives written notice to the other party of their intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 - MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or

2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

17.05 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

17.06 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. C-700) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect:

SC-4.02 Delete Paragraphs 4.02.A and 4.02.B in their entirety and insert the following:

A. No Geotechnical Report is known to Owner or Engineer.

SC-4.06 Delete Paragraphs 4.06.A and 4.06.B in their entirety and insert the following:

A. No reports or drawings related to Hazardous Environmental Conditions are known to Owner or Engineer.

B. Left Blank Intentionally.

SC-5.04 Add the following new paragraph immediately after Paragraph 5.04.B:

CONTRACTOR'S Insurance. Before commencing the work, and as a condition of payment, the CONTRACTOR shall purchase and maintain insurance that will protect it from the claims arising out of its operations under this Agreement, whether the operations are by the CONTRACTOR, or any of its consultants or subcontractors or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

C. Minimum Limits of Liability. The CONTRACTOR shall maintain insurance with limits of liability equal to the limits of liability as set forth below.

1. Workers Compensation

   A. Statutory Workers Compensation Benefits
   B. Employer Liability:
      Bodily Injury by Accident - $1,000,000 Each Accident
      Bodily Injury by Disease - $1,000,000 Policy Limit
      Bodily Injury by Disease - $1,000,000 Each Employee

2. Commercial General Liability

   $1,000,000 Combined Single Limit of Bodily Injury
   Liability and Property Damage Liability Per Occurrence

   $2,000,000 General Aggregate Limit
   $2,000,000 Products & Completed Operations Aggregate Limit
   $1,000,000 Personal and Advertising Injury Limit

   Products and Completed Operations Coverage must be maintained for not less than two full years after final payment.

3. Business Auto Liability

A. $1,000,000 Combined Single Limit of Bodily Injury Liability and Property Damage Liability

4. Excess Liability

A. $2,000,000 Each Occurrence Limit
$2,000,000 Aggregate Limit

D. Number of Policies. Commercial General Liability Insurance and other liability insurance may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability Policy.

E. Additional Insured. The CONTRACTOR shall endorse all policies identified in Subparagraph 5.04(C) (with the exception of Workers Compensation) to name Owner as an Additional Insured. On the Commercial General Liability Policy, the Owner shall be given Additional Insured status for BOTH the ongoing operations of the CONTRACTOR and the completed operations of the CONTRACTOR. Also, the coverage provided to the Owner as an Additional Insured shall be written on a Primary Basis.

F. Waiver of Subrogation Endorsements. The CONTRACTOR shall endorse all policies identified in Subparagraph 5.04(C) with a Waiver of Subrogation in favor of the Owner. The CONTRACTOR shall also require similar waivers from its subcontractors in favor of the CONTRACTOR and Owner.

G. Acceptable Insurance Companies. The CONTRACTOR shall maintain in effect all insurance coverages under this Agreement at the CONTRACTOR'S sole expense and with insurance companies acceptable to the Owner and which have an A. M. Best Company rating of A- VII or better.

H. Notice of Cancellation or Non-Renewal. The CONTRACTOR'S insurance policies identified in Subparagraph 5.04(C) shall contain a provision that coverage will not be cancelled or non-renewed until at least thirty (30) days' prior written notice has been given to the Owner.

I. Certificates of Insurance. Certificates of insurance showing required coverage to be in force pursuant to Subparagraph 5.04(C) shall be filed with the Owner prior to commencement of the CONTRACTOR'S work. In the event the CONTRACTOR fails to obtain or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage as desired for Owner's benefit and charge the expense to the CONTRACTOR, or terminate this Agreement.

J. Continuation of Coverage. The CONTRACTOR shall continue to carry Completed Operations Liability Insurance for at least two years after either ninety (90) days following substantial completion of the work or final payment to the CONTRACTOR, whichever is earlier. The CONTRACTOR shall furnish the Owner evidence of such insurance at final payment and one year from final payment.

SC-5.06.A. Delete Paragraph 5.06.A in its entirety and insert the following in its place:

A. Contractor shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof.

1. This insurance shall:

a. include the interests of Owner, Contractor, Subcontractors, Engineer and any other individuals or entities identified herein, and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of them each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;

b. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss and damage to the Work, temporary buildings, falsework, and materials and equipment in transit and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

c. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

d. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;

e. allow for partial utilization of the Work by Owner;

f. include testing and startup; and

g. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor and Engineer with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

2. Contractor shall be responsible for any deductible or self-insured retention.

3. The policies of insurance required to be purchased and maintained by Contractor in accordance with this Paragraph SC-5.06.A shall comply with the requirements of paragraph 5.06.C of the General Conditions.

SC-5.06.E. Delete Paragraph GC-5.06.E in its entirety.

SC-6.02 Add a new sentence immediately after Paragraph 6.02A:

A1. The scope of Contractor's work does not require a need for line and grade staking. The Engineer will provide direction for locations of work, one time, on behalf of the Owner, and at no expense to the Contractor, if required.

SC-6.10 Add a new paragraph immediately after Paragraph 6.10.A:

B. Owner is exempt from payment of sales and compensating use taxes of the Texas and of cities and counties thereof on all materials to be incorporated into the public streets, drainage, and sanitary sewer portions of the Work.

1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.

2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

SC-7.04 Claims Between Contractors

A. Should Contractor cause damage to the work or property of any other contractor at the Site, or should any claim arising out of Contractor's performance of the Work at the Site be made by any other contractor against Contractor, Owner, Engineer, or the construction coordinator, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute by arbitration or at law.

B. Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner, Engineer, the construction coordinator and the officers, directors, partners, employees, agents and other consultants and subcontractors of each and any of them from and against all claims, costs, losses and damages (including, but not limited to, fees and charges of engineers, architects, attorneys, and other professionals and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any other contractor against Owner, Engineer, Engineer's Consultants, or the construction coordinator to the extent said claim is based on or arises out of Contractor's performance of the Work. Should another contractor cause damage to the Work or property of Contractor or should the performance of work by any other contractor at the Site give rise to any other Claim, Contractor shall not institute any action, legal or equitable, against Owner, Engineer, or the construction coordinator or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any arbiter which seeks to impose liability on or to recover damages from Owner, Engineer, or the construction coordinator on account of any such damage or Claim.

C. If Contractor is delayed at any time in performing or furnishing Work by any act or neglect of another contractor, and Owner and Contractor are unable to agree as to the extent of any adjustment in Contract Times attributable thereto, Contractor may make a Claim for an extension of times in accordance with Article 12. An extension of the Contract Times shall be Contractor's exclusive

remedy with respect to Owner, Engineer, and construction coordinator for any delay, disruption, interference, or hindrance caused by any other contractor. This paragraph does not prevent recovery from Owner, Engineer, or construction coordinator for activities that are their respective responsibilities.

ADDENDUM NO.

OWNER

PROJECT NAME

PROJECT NO.:

DATE OF ADDENDUM:

BID OPENING DATE:

This Addendum forms a part of Contract and clarifies, corrects or modifies original Bid Documents, dated _____. Acknowledge receipt of this addendum in space provided on Bid Form. Failure to do so may subject bidder to disqualification.

1)

2)

3)

Approved by:

_____

Engineer

NON-COLLUSION AFFIDAVIT

STATE OF TEXAS §
§
COUNTY OF §

By the signature below, the signatory for the bidder certifies that neither he nor the firm, corporation, partnership or institution represented by the signatory or anyone acting for the firm bidding this project has violated the antitrust laws of this State, codified at Section 15.01, *et seq.*, Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in the same line of business, nor has the signatory or anyone acting for the firm, corporation or institution submitting a bid committed any other act of collusion related to the development and submission of this bid proposal.

Signature: _____

Printed Name: _____

Title: _____

Company: _____

Date: _____

SUBSCRIBED and sworn to before me the undersigned authority by _____ the _____ of, _____on behalf of said bidder.

_____
Notary Public in and for the
State of Texas

My commission expires: _____

SAMPLE FORMS

Work Change Directive

No. _____

Date of Issuance: _____ Effective Date: _____

Project:	Owner:	Owner's Contract No.:
Contract:		Date of Contract:
Contractor:		Engineer's Project No.:

You are directed to proceed promptly with the following change(s):

Item No.	Description

Attachments (list documents supporting change):

_____

_____

Purpose for Work Change Directive:

☐ Authorization for Work described herein to proceed on the basis of Cost of the Work due to:

☐ Nonagreement on pricing of proposed change.

☐ Necessity to expedite Work described herein prior to agreeing to changes on Contract Price and Contract Time.

Estimated change in Contract Price and Contract Times:

Contract Price $ _____ (increase/decrease) Contract Time _____ (increase/decrease)
days

If the change involves an increase, the estimated amounts are not to be exceeded without further authorization.

Recommended for Approval by Engineer:	Date
Authorized for Owner by:	Date
Accepted for Contractor by:	Date
Approved by Funding Agency (if applicable):	Date:

Field Order

No. _____

Date of Issuance: _____ Effective Date: _____

Project:	Owner:	Owner's Contract No.:
Contract:		Date of Contract:
Contractor:		Engineer's Project No.:

Attention:
You are hereby directed to promptly execute this Field Order issued in accordance with General Conditions Paragraph 9.05A., for minor changes in the Work without changes in Contract Price or Contract Times. If you consider that a change in Contract Price or Contract Times is required, please notify the Engineer immediately and before proceeding with this Work.

Reference: _____ _____
(Specification Section(s)) (Drawing(s) / Detail(s))

Description: _____

Attachments: _____

	Engineer:

Receipt Acknowledged by (Contractor):	Date:

Copy to Owner

Change Order

No. _____

Date of Issuance: _____ Effective Date: _____

Project:	Owner:	Owner's Contract No.:
Contract:		Date of Contract:
Contractor:		Engineer's Project No.:

The Contract Documents are modified as follows upon execution of this Change Order:

Description:

Attachments: (List documents supporting change):

CHANGE IN CONTRACT PRICE:

Original Contract Price:

$_____

[Increase] [Decrease] from previously approved Change Orders No._____ to No._____:

$_____

Contract Price prior to this Change Order:

$_____

[Increase] [Decrease] of this Change Order:

$_____

Contract Price incorporating this Change Order:

$_____

CHANGE IN CONTRACT TIMES:

Original Contract Times: ☐ Working days ☐ Calendar days

Substantial completion (days or date): _____

Ready for final payment (days or date): _____

[Increase] [Decrease] from previously approved Change Orders No._____ to No._____:

Substantial completion (days): _____

Ready for final payment (days): _____

Contract Times prior to this Change Order:

Substantial completion (days or date): _____

Ready for final payment (days or date): _____

[Increase] [Decrease] of this Change Order:

Substantial completion (days or date): _____

Ready for final payment (days or date): _____

Contract Times with all approved Change Orders:

Substantial completion (days or date): _____

Ready for final payment (days or date): _____

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: _____	By: _____	By: _____
Engineer (Authorized Signature)	Owner (Authorized Signature)	Contractor (Authorized Signature)
Date: _____	Date: _____	Date: _____

Approved by Funding Agency (if applicable): _____ Date: _____

A. GENERAL INFORMATION

This document was developed to provide a uniform format for handling contract changes that affect Contract Price or Contract Times. Changes that have been initiated by a Work Change Directive must be incorporated into a subsequent Change Order if they affect Price or Times.

Changes that affect Contract Price or Contract Times should be promptly covered by a Change Order. The practice of accumulating Change Orders to reduce the administrative burden may lead to unnecessary disputes.

If Milestones have been listed in the Agreement, any effect of a Change Order thereon should be addressed.

For supplemental instructions and minor changes not involving a change in the Contract Price or Contract Times, a Field Order should be used.

B. COMPLETING THE CHANGE ORDER FORM

Engineer normally initiates the form, including a description of the changes involved and attachments based upon documents and proposals submitted by Contractor, or requests from Owner, or both.

Once Engineer has completed and signed the form, all copies should be sent to Owner or Contractor for approval, depending on whether the Change Order is a true order to the Contractor or the formalization of a negotiated agreement for a previously performed change. After approval by one contracting party, all copies should be sent to the other party for approval. Engineer should make distribution of executed copies after approval by both parties.

If a change only applies to price or to times, cross out the part of the tabulation that does not apply.

Contractor's Application For Payment No. _____

	Application Period:	Application Date:
To (Owner):	From (Contractor):	Via (Engineer)
Project:	Contract:	
Owner's Contract No.:	Contractor's Project No.:	Engineer's Project No.:

APPLICATION FOR PAYMENT

Change Order Summary

Approved Change Orders		
Number	Additions	Deductions
TOTALS		
NET CHANGE BY CHANGE ORDERS		

1. ORIGINAL CONTRACT PRICE	$	
2. Net change by Change Orders	$	
3. CURRENT CONTRACT PRICE (Line 1 ± 2)	$	
4. TOTAL COMPLETED AND STORED TO DATE (Column F on Progress Estimate)	$	
5. RETAINAGE:		
a. _____ % x $_____ Work Completed	$	
b. _____ % x $_____ Stored Material	$	
c. Total Retainage (Line 5a + Line 5b)	$	
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c)	$	
7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application)	$	
8. AMOUNT DUE THIS APPLICATION	$	
9. BALANCE TO FINISH, PLUS RETAINAGE (Column G on Progress Estimate + Line 5 above)	$	

CONTRACTOR'S CERTIFICATION

The undersigned Contractor certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

By:	Date:

Payment of: $_____
(Line 8 or other - attach explanation of other amount)

is recommended by: _____ _____
(Engineer) (Date)

Payment of: $_____
(Line 8 or other - attach explanation of other amount)

is approved by: _____ _____
(Owner) (Date)

Approved by: _____ _____
Funding Agency (if applicable) (Date)

Progress Estimate

Contractor's Application

For (contract):	Application Number:
Application Period:	Application Date:

A		B	Work Completed		E	F		G
Item			C	D		Total Completed and Stored to Date (C + D + E)	% (F) B	Balance to Finish (B - F)
Specification Section No.	Description	Scheduled Value	From Previous Application (C + D)	This Period	Materials Presently Stored (not in C or D)			
	Totals							

Progress Estimate

Contractor's Application

For (contract):	Application Number:
Application Period:	Application Date:

A				B	C	D	E	F		G
Item		Bid Quantity	Unit Price	Bid Value	Estimated Quantity Installed	Value	Materials Presently Stored (not in C)	Total Completed and Stored to Date (D + E)	% (F) B	Balance to Finish (B - F)
Bid Item No.	Description									
	Totals									

Stored Material Summary

Contractor's Application

For (contract):					Application Number:				
Application Period:					Application Date:				
A	B	C	D		E		F		G
Invoice No.	Shop Drawing Transmittal No.	Materials Description	Stored Previously		Stored this Month		Incorporated in Work		Materials Remaining in Storage ($) (D + E - F)
			Date (Month/Year)	Amount ($)	Amount ($)	Subtotal	Date (Month/Year)	Amount ($)	
		Totals							

Certificate of Substantial Completion

Project:	Owner:	Owner's Contract No.:
Contract:		Date of Contract:
Contractor:		Engineer's Project No.:

This [tentative] [definitive] Certificate of Substantial Completion applies to:

☐ All Work under the Contract Documents: ☐ The following specified portions:

_____

_____

_____

_____

_____
Date of Substantial Completion

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Project or portion thereof designated above is hereby declared and is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below.

A [tentative] [revised tentative] [definitive] list of items to be completed or corrected, is attached hereto. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

The responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties shall be as provided in the Contract Documents except as amended as follows:

☐ Amended Responsibilities ☐ Not Amended

Owner's Amended Responsibilities:

_____

_____

_____

Contractor's Amended Responsibilities:

_____

_____

_____

The following documents are attached to and made part of this Certificate:

_____

_____

_____

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract Documents.

_____ _____
Executed by Engineer Date

_____ _____
Accepted by Contractor Date

_____ _____
Accepted by Owner Date

TECHNICAL SPECIFICATIONS

DIVISION 1 – GENERAL REQUIREMENTS

TABLE OF CONTENTS

Section Title

DIVISION 1 – GENERAL REQUIREMENTS

01 10 00 Summary
01 20 00 Price and Payment Procedures
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01 25 00 Substitution Procedures
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01 33 00 Submittal Procedures
01 40 00 Quality Requirements
01 50 00 Temporary Facilities and Controls
01 60 00 Product Requirements
01 70 00 Execution and Closeout Requirements

END OF SECTION

SECTION 01 10 00 - SUMMARY

PART 1 GENERAL

1.1 SUMMARY

A. Section Includes:
1. Contract description.
2. Work by Owner or other Work at the Site.
3. Owner-furnished products.
4. Contractor's use of Site and premises.
5. Future work.
6. Work sequence.
7. Owner occupancy.
8. Permits.
9. Specification conventions.
10. Reference specifications and standards.

1.2 CONTRACT DESCRIPTION

A. Work of the Project includes construction of streets pavement maintenance and streets pavement preventative maintenance.

B. Construct the Work in accordance with the Bid Items listed on the Bid Form and as generally described below:
1. Mobilization/Demobilization.
2. Flexible Pavement Repair
3. Chip Seal
4. Fog Seal
5. Scrub Seal
6. Frictional Asphaltic Surface Preservation Treatment
7. All other Work.
    a. Install all other project Work as presented in the Project Manual.

1.3 WORK BY OWNER OR OTHERS

A. If Owner-awarded contracts interfere with each other due to work being performed at the same time or at the same Site, Owner will determine the sequence of work under all contracts according to "Work Sequence" and "Contractor's Use of Site and Premises" Articles in this Section.

B. Coordinate Work with utilities of Owner and public or private agencies.

1.4 OWNER-FURNISHED PRODUCTS

A. Owner's Responsibilities:
1. Arrange for and deliver Owner-reviewed Shop Drawings, Product Data, and Samples to Contractor.
2. Upon delivery, inspect products jointly with Contractor.

3. Submit claims for transportation damage and replace damaged, defective, or deficient items.
4. Arrange for manufacturers' warranties, inspections, and service.

B. Contractor's Responsibilities:
1. Review Owner-reviewed Shop Drawings, Product Data, and Samples.
2. Receive and unload products at Site; inspect for completeness or damage jointly with Owner.
3. Handle, store, install, and finish products.
4. Repair or replace items damaged after receipt.

1.5 CONTRACTOR'S USE OF SITE AND PREMISES

A. Limit use of Site and premises to allow:
1. Owner occupancy.
2. Use of Site by the public.

B. Construction Operations: **Limited to areas indicated on Drawings**.
1. Noisy and Disruptive Operations (such as Use of Jack Hammers and Other Noisy Equipment): Not allowed in close proximity to existing building during regular hours of operation. Coordinate and schedule such operations with Owner to minimize disruptions.

C. Time Restrictions for Performing Work: as shown in Special Provision 5.

D. Construction Plan: Before start of construction, submit a construction plan regarding access to Work and use of Site for acceptance by Owner. After acceptance of plan, construction operations shall comply with accepted plan unless deviations are accepted by Owner in writing.

1.6 WORK SEQUENCE

A. Sequencing of Construction Plan: Before start of construction, submit one copy of construction plan regarding phasing of construction and new Work for acceptance by Owner. After acceptance of plan, construction sequencing shall comply with accepted plan unless deviations are accepted by Owner in writing.

1.7 OWNER OCCUPANCY

A. Cooperate with Owner to minimize conflict and to facilitate Owner's operations.

B. Schedule the Work to accommodate Owner occupancy.

1.8 PERMITS

A. Furnish all necessary permits for construction of Work including the following:
1. TxDOT.
2. Stormwater permit.

1.9 SPECIFICATION CONVENTIONS

A. These Specifications are written in imperative mood and streamlined form. This imperative language is directed to Contractor unless specifically noted otherwise. The words "shall be" are included by inference where a colon (:) is used within sentences or phrases.

1.10 REFERENCE SPECIFICATIONS AND STANDARDS

A. Materials which are specified by reference to Federal Specifications; ASTM, ASME, ANSI or AWWA specifications; Federal Standards; or other standard specifications must comply with latest editions, revisions, amendments or supplements in effect on date bids are received. Requirements in reference specifications and standards are considered minimum acceptable quality for all equipment, material and work. In instances where capacities, size or other feature of equipment, devices or materials exceed these minimums, meet listed or shown capacities.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SECTION 01 20 00 - PRICE AND PAYMENT PROCEDURES

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Contingency allowances.

B. Testing and inspection allowances.

C. Schedule of Values.

D. Application for Payment.

E. Change procedures.

F. Defect assessment.

G. Unit prices.

H. Alternates.

1.2 CONTINGENCY ALLOWANCES

A. Include in Contract a stipulated sum/price of $40,000.00 for use upon Owner's instruction as a contingency allowance.

B. Contractor's costs for products, delivery, installation, labor, insurance, payroll, taxes, bonding, equipment rental, overhead, and profit will be included in Change Orders authorizing expenditure of funds from this contingency allowance.

C. Funds will be drawn from contingency allowance only by Change Order.

D. At closeout of Contract, funds remaining in contingency allowance will be credited to Owner by Change Order.

1.3 SCHEDULE OF VALUES

A. Submit printed schedule on either EJCDC Form C-620 or on a Contractor’s standard form as approved by the Engineer.

B. Submit Schedule of Values in duplicate within 15 days after date established in Notice to Proceed.

C. Format: Use Table of Contents of this Project Manual. Identify each line item with number and title of major Specification Section.

D. Include within each line item, direct proportional amount of Contractor's overhead and profit.

E. Revise schedule to list approved Change Orders with each Application for Payment.

1.4 APPLICATION FOR PAYMENT

A. Submit three copies of each Application for Payment on EJCDC C-620 - Contractor's Application for Payment or a Contractor's electronic media driven form as approved by the Engineer.

B. Content and Format: Use Schedule of Values for listing items in Application for Payment.

C. Submit updated construction schedule with each Application for Payment.

D. Payment Period: Submit at intervals stipulated in the Agreement.

E. Submit submittals with transmittal letter as specified in Section 01 33 00 - Submittal Procedures.

F. Substantiating Data: When Engineer requires substantiating information, submit data justifying dollar amounts in question. Include the following with Application for Payment:
   1. Partial release of liens from major Subcontractors and vendors.
   2. Record Documents as specified in Section 01 70 00 - Execution and Closeout Requirements, for review by Owner, which will be returned to Contractor.
   3. Affidavits attesting to off-Site stored products.
   4. Construction Progress Schedule, revised and current as specified in Section 01 32 16 – Construction Project Schedule.

1.5 CHANGE PROCEDURES

A. Submittals: Submit name of individual who is authorized to receive change documents and is responsible for informing others in Contractor's employ or Subcontractors of changes to the Work.

B. Carefully study and compare Contract Documents before proceeding with fabrication and installation of Work. Promptly advise Architect/Engineer of any error, inconsistency, omission, or apparent discrepancy.

C. Engineer will advise of minor changes in the Work not involving adjustment to Contract Sum/Price or Contract Time by issuing supplemental instructions on EJCDC C-942.

D. Engineer may issue Proposal Request including a detailed description of proposed change with supplementary or revised Drawings and Specifications, a change in Contract Time for executing the change and with the period of time during which the requested price will be considered valid. Contractor will prepare and submit estimate within 10 calendar days.

E. Contractor may propose changes by submitting a request for change to Engineer, describing proposed change and its full effect on the Work. Include a statement describing reason for the change and the effect on Contract Sum/Price and Contract Time with full documentation and a statement describing effect on the Work by separate or other Contractors. Document requested substitutions according to Section 01 60 00 – Product Requirements.

F. Stipulated Sum/Price Change Order: Based on Proposal Request and Contractor's fixed price quotation or Contractor's request for Change Order as recommended by Engineer and approved by Owner.

G. Unit Price Change Order: For Contract unit prices and quantities, the Change Order will be executed on a fixed unit price basis. For unit costs or quantities of units of that which are not predetermined, execute Work under Work Directive Change. Changes in Contract Sum/Price or Contract Time will be computed as specified for Time and Material Change Order.

H. Work Directive Change: Engineer may issue directive, on EJCDC C-940 - Work Change Directive signed by Owner, instructing Contractor to proceed with change in the Work, for subsequent inclusion in a Change Order. Document will describe changes in the Work and designate method of determining any change in Contract Sum/Price or Contract Time. Promptly execute change.

I. Document each quotation for change in Project Cost or Time with sufficient data to allow evaluation of quotation.

J. Change Order Forms: EJCDC C-941 - Change Order or as approved by Engineer.

K. Execution of Change Orders: Engineer will issue Change Orders for signatures of parties as provided in Conditions of the Contract.

L. Correlation of Contractor Submittals:
   1. Promptly revise Schedule of Values and Application for Payment forms to record each authorized Change Order as separate line item and adjust Contract Sum/Price.
   2. Promptly revise Progress Schedules to reflect change in Contract Time, revise subschedules to adjust times for other items of Work affected by the change, and resubmit.
   3. Promptly enter changes in Record Documents.

1.6 DEFECT ASSESSMENT

A. Replace the Work, or portions of the Work, not conforming to specified requirements.

B. If, in the opinion of Engineer, it is not practical to remove and replace the Work, Engineer will direct appropriate remedy or adjust payment.

C. The defective Work may remain, but unit sum/price will be adjusted to new sum/price at discretion of Engineer and Owner.

D. Individual Specification Sections may modify these options or may identify specific formula or percentage sum/price reduction.

E. Authority of Engineer and Owner to assess defects and identify payment adjustments is final.

F. Nonpayment for Rejected Products: Payment will not be made for rejected products for any of the following reasons:
   1. Products wasted or disposed of in a manner that is not acceptable.
   2. Products determined as unacceptable before or after placement.

3. Products not completely unloaded from transporting vehicle.
4. Products placed beyond lines and levels of the required Work.
5. Products remaining on hand after completion of the Work.
6. Loading, hauling, and disposing of rejected products.

1.7 UNIT PRICES

A. Authority: Measurement methods are delineated in individual Specification Sections.

B. Measurement methods delineated in individual Specification Sections complement criteria of this Section. In event of conflict, requirements of individual Specification Section govern.

C. Take measurements and compute quantities. Engineer will verify measurements and quantities.

D. Unit Quantities: Quantities and measurements indicated on Bid Form are for Contract purposes only. Actual quantities provided shall determine payment.
   1. When actual Work requires more or fewer quantities than those quantities indicated, provide required quantities at contracted unit sum/prices.
   2. When actual Work requires 25 percent or greater change in quantity than those quantities indicated, Owner or Contractor may claim a Contract Price adjustment.

E. Payment Includes: Full compensation for required labor, products, tools, equipment, plant and facilities, transportation, services and incidentals; erection, application, or installation of item of the Work; overhead and profit.

F. Final payment for Work governed by unit prices will be made on basis of actual measurements and quantities accepted by Architect/Engineer multiplied by unit sum/price for Work incorporated in or made necessary by the Work.

G. Measurement of Quantities:
   1. Measurement by Volume: Measured by cubic dimension using mean length, width, and height or thickness.
   2. Measurement by Area: Measured horizontally by square dimension using mean length and width or radius.
   3. Linear Measurement: Measured horizontally by linear dimension, at item centerline or mean chord.
   4. Stipulated Sum/Price Measurement: Items measured by weight, volume, area, or linear means or combination, as appropriate, as completed item or unit of the Work.

1.8 ALTERNATES

A. Alternates quoted on Bid Forms will be reviewed and accepted or rejected at Owner's option. Accepted Alternates will be identified in Owner-Contractor Agreement.

1.9 MOBILIZATION, TRAFFIC HANDLING, AND INCIDENTALS

A. As specified in Section 01 21 00.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SECTION 01 21 00 – MOBILIZATION, TRAFFIC HANDLING, AND INCIDENTALS

PART 1 GENERAL

1.1 SUMMARY

A. Section Includes:
   1. Project Mobilization and Demobilization.
   2. Traffic Handling.
   3. All project costs (incidentals) not included in the contract bid items.

1.2 UNIT PRICE - MEASUREMENT AND PAYMENT

A. Basis of Measurement: By the Lump Sum as the work progresses.

B. Basis of Payment: This item will be paid for at the contract unit price bid for "Mobilization, Traffic Handling, and Project Incidentals," which price shall be full compensation for mobilization and demobilization of all contractor personnel, facilities, equipment, and supplies, for all equipment, labor, and material associated with traffic handling, and all other project costs not specifically covered in the contract bid items.

C. Partial payments for this item will be administered as follows. The adjusted contract amount for construction items as used below is defined as the total contract amount less the lump sum bid for mobilization.
   1. When 1% of the adjusted contract amount for construction items is earned, 50% of the mobilization lump sum bid will be paid.
   2. When 5% of the adjusted contract amount for construction items is earned, 75% of the mobilization lump sum bid will be paid.
   3. When 10% of the adjusted contract amount for construction items is earned, 90% of the mobilization lump sum bid will be paid.
   4. Upon completion of all work items, payment for the remainder of the mobilization lump sum bid will be made.

D. The lump sum bid for mobilization shall not exceed 10% of the total contract.

1.3 REFERENCES – Not used.

1.4 QUALITY ASSURANCE – Not used.

PART 2 PRODUCTS – Not used.

PART 3 EXECUTION – Not used.

END OF SECTION

SECTION 01 25 00 - SUBSTITUTION PROCEDURES

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Quality assurance.

B. Product options.

C. Product substitution procedures.

1.2 QUALITY ASSURANCE

A. Contract is based on products and standards established in Contract Documents without consideration of proposed substitutions.

B. Products specified define standard of quality, type, function, dimension, appearance, and performance required.

C. Substitution Proposals: Permitted for specified products except where specified otherwise. Do not substitute products unless substitution has been accepted and approved in writing by Owner.

1.3 PRODUCT OPTIONS

A. See Section 01 60 00 - Product Requirements

1.4 PRODUCT SUBSTITUTION PROCEDURES

A. Engineer will consider requests for substitutions only within 15 days after date of Owner-Contractor Agreement.

B. Substitutions may be considered when a product becomes unavailable through no fault of Contractor.

C. Document each request with complete data, substantiating compliance of proposed substitution with Contract Documents, including:
   1. Manufacturer's name and address, product, trade name, model, or catalog number, performance and test data, and reference standards.
   2. Itemized point-by-point comparison of proposed substitution with specified product, listing variations in quality, performance, and other pertinent characteristics.
   3. Reference to Article and Paragraph numbers in Specification Section.
   4. Cost data comparing proposed substitution with specified product and amount of net change to Contract Sum.
   5. Changes required in other Work.
   6. Availability of maintenance service and source of replacement parts as applicable.
   7. Certified test data to show compliance with performance characteristics specified.
   8. Samples when applicable or requested.
   9. Other information as necessary to assist Architect/Engineer's evaluation.

D. A request constitutes a representation that Contractor:
   1. Has investigated proposed product and determined that it meets or exceeds quality level of specified product.
   2. Will provide same warranty for substitution as for specified product.
   3. Will coordinate installation and make changes to other Work that may be required for the Work to be complete with no additional cost to Owner.
   4. Waives claims for additional costs or time extension that may subsequently become apparent.
   5. Will coordinate installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.
   6. Will reimburse Owner for review or redesign services associated with reapproval by authorities having jurisdiction.

E. Substitutions will not be considered when they are indicated or implied on Shop Drawing or Product Data submittals without separate written request or when acceptance will require revision to Contract Documents.

F. Substitution Submittal Procedure:

   1. Submit requests for substitutions in writing.
   2. Submit electronic files of Request for Substitution for consideration. Limit each request to one proposed substitution.
   3. Submit Shop Drawings, Product Data, and certified test results attesting to proposed product equivalence. Burden of proof is on proposer.
   4. Architect/Engineer will notify Contractor in writing of decision to accept or reject request.

1.5 INSTALLER SUBSTITUTION PROCEDURES

A. Engineer will consider requests for substitutions only within 15 days after date of Owner-Contractor Agreement.

B. Document each request with:
   1. Installer's qualifications.
   2. Installer's experience in work similar to that specified.
   3. Other information as necessary to assist Architect/Engineer's evaluation.

C. Substitution Submittal Procedure:
   1. Submit electronic files of Request for Substitution for consideration. Limit each request to one proposed substitution.
   2. Engineer will notify Contractor in writing of decision to accept or reject request.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SECTION 01 30 00 - ADMINISTRATIVE REQUIREMENTS

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Coordination and Project conditions.

B. Preconstruction meeting.

C. Site mobilization meeting.

D. Progress meetings.

E. Preinstallation meetings.

F. Closeout meeting.

G. Alteration procedures.

1.2 COORDINATION AND PROJECT CONDITIONS

A. Coordinate scheduling, submittals, and Work of various Sections of Project Manual to ensure efficient and orderly sequence of installation of interdependent construction elements, with provisions for accommodating items installed later.

B. Verify that utility requirements and characteristics of operating equipment are compatible with building utilities. Coordinate Work of various Sections having interdependent responsibilities for installing, connecting to, and placing operating equipment in service.

C. Coordinate space requirements, supports, and installation of mechanical and electrical Work indicated diagrammatically on Drawings. Follow routing shown for pipes, ducts, and conduit as closely as practical; place runs parallel with lines of building. Use spaces efficiently to maximize accessibility for other installations, for maintenance, and for repairs.

D. Coordinate interruptions of all utilities and services. All work shall be in accordance with the requirements of the applicable utility company or agency involved.

E. In finished areas except as otherwise indicated, conceal pipes, ducts, and wiring within construction. Coordinate locations of fixtures and outlets with finish elements.

F. Coordinate completion and clean-up of Work of separate Sections in preparation for Substantial Completion and for portions of Work designated for Owner's partial occupancy.

G. After Owner's occupancy of premises, coordinate access to Site for correction of defective Work and Work not complying with Contract Documents, to minimize disruption of Owner's activities.

1.3 PRECONSTRUCTION MEETING

A. Engineer will schedule and preside over meeting after the Agreement has been executed and all bonds and insurance are in affect for the project.

B. Attendance Required: Engineer, Owner, Inspector, and Contractor.

C. Minimum Agenda:
1. Execution of Owner-Contractor Agreement.
2. Submission of executed bonds and insurance certificates.
3. Distribution of Contract Documents.
4. Submission of list of Subcontractors, list of products, schedule of values, and Progress Schedule.
5. Security and housekeeping procedures.
6. Application for payment procedures.
7. Designation of personnel representing parties in Contract and Engineer.
8. Procedures and processing of requests for interpretations, field decisions, submittals, substitutions, Applications for Payments, proposal request, Change Orders, and Contract closeout procedures.
9. Scheduling.
10. Scheduling activities of Contractor. Procedures of testing.
11. Procedures for maintaining record documents.
12. Inspection and acceptance of work during construction period.

1.4 PROGRESS MEETINGS

A. Schedule and administer meetings throughout progress of the Work at monthly intervals.

B. Engineer will make arrangements for meetings, prepare agenda with copies for participants, and preside over meetings.

C. Attendance Required: Job superintendent, major Subcontractors and suppliers, and Engineer, as appropriate to agenda topics for each meeting.

D. Minimum Agenda:
1. Review minutes of previous meetings.
2. Review of Work progress.
3. Field observations, problems, and decisions.
4. Identification of problems impeding planned progress.
5. Review of submittal schedule and status of submittals.
6. Maintenance of Progress Schedule.
7. Corrective measures to regain projected schedules.
8. Planned progress during succeeding work period.
9. Coordination of projected progress.
10. Maintenance of quality and work standards.
11. Effect of proposed changes on Progress Schedule and coordination.
12. Other business relating to Work.

1.5 PREINSTALLATION MEETINGS

A. When required in individual Specification Sections, convene preinstallation meetings at Project Site before starting Work of specific Section.

B. Require attendance of parties directly affecting, or affected by, Work of specific Section.

C. Notify Engineer four days in advance of meeting date.

D. Prepare agenda and preside over meeting:
   1. Review conditions of installation, preparation, and installation procedures.
   2. Review coordination with related Work.

1.6 CLOSEOUT MEETING

A. Schedule Project closeout meeting with sufficient time to prepare for requesting Substantial Completion. Preside over meeting and be responsible for minutes.

B. Attendance Required: Contractor, Engineer, Owner, and others appropriate to agenda.

C. Notify Engineer ten days in advance of meeting date.

D. Minimum Agenda:
   1. Contractor's inspection of Work.
   2. Contractor's preparation of an initial "punch list."
   3. Procedure to request Engineer inspection to determine date of Substantial Completion.
   4. Completion time for correcting deficiencies.
   5. Inspections by authorities having jurisdiction.
   6. Certificate of Occupancy and transfer of insurance responsibilities.
   7. Partial release of retainage.
   8. Final cleaning.
   9. Preparation for final inspection.
   10. Closeout Submittals:
      a. Project record documents.
      b. Operating and maintenance documents.
      c. Operating and maintenance materials.
      d. Affidavits.
   11. Final Application for Payment.
   12. Contractor's demobilization of Site.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION

3.1 ALTERATION PROCEDURES

A. Designated areas of existing facilities will be occupied for normal operations during progress of construction. Cooperate with Owner in scheduling operations to minimize conflict and to permit continuous usage.

1. Perform Work not to interfere with operations of occupied areas.
2. Keep utility and service outages to a minimum and perform only after written approval of Owner.
3. Clean Owner-occupied areas daily. Clean spillage, overspray, and heavy collection of dust in Owner-occupied areas immediately.

B. Materials: As specified in product Sections; match existing products with new products for patching and extending Work.

C. Employ original and/or skilled and experienced installer to perform alteration and renovation Work.

D. Cut, move, or remove items as necessary for access to alterations and renovation Work. Replace and restore at completion. Comply with Section 01 70 00 - Execution and Closeout Requirements

E. Remove unsuitable material not marked for salvage, including rotted wood, corroded metals, and deteriorated masonry and concrete. Replace materials as specified for finished Work.

F. Remove debris and abandoned items from area and from concealed spaces.

G. Prepare surface and remove surface finishes to permit installation of new Work and finishes.

H. Close openings in exterior surfaces to protect existing Work from weather and extremes of temperature and humidity.

I. Remove, cut, and patch Work to minimize damage and to permit restoring products and finishes to original or specified condition.

J. Refinish existing visible surfaces to remain in renovated rooms and spaces, to specified condition for each material, with neat transition to adjacent finishes.

K. Where new Work abuts or aligns with existing Work, provide smooth and even transition. Patch Work to match existing adjacent Work in texture and appearance.

L. When finished surfaces are cut so that smooth transition with new Work is not possible, terminate existing surface along straight line at natural line of division and submit recommendation to Engineer for review.

M. Where change of plane of 1/4 inch or more occurs, submit recommendation for providing smooth transition to Engineer for review.

N. Patch or replace portions of existing surfaces that are damaged, lifted, discolored, or showing other imperfections.

O. Finish surfaces as specified in individual product Sections.

END OF SECTION

SECTION 01 32 16 - CONSTRUCTION PROGRESS SCHEDULE

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Submittals.

B. Quality assurance.

C. Format for network analysis schedules.

D. Network analysis schedules.

E. Bar chart schedules.

F. Review and evaluation.

G. Updating schedules.

H. Distribution.

1.2 SUBMITTALS

A. Within 10 days after date of Owner-Contractor Agreement, submit proposed preliminary network diagram defining planned operations for first 60 days of Work, with general outline for remainder of Work.

B. Participate in review of preliminary and complete network diagrams jointly with Engineer.

C. Within 20 days after joint review of proposed preliminary network diagram, submit draft of proposed complete network diagram for review. Include written certification that major Subcontractors have reviewed and accepted proposed schedule.

D. Within 10 days after joint review, submit complete network analysis consisting of network diagrams and mathematical analyses.

E. Submit updated network schedules with each Application for Payment.

F. Submit one opaque reproduction.

G. Post as electronic file to Project website.

H. Submit network schedules under transmittal letter form specified in Section 01 33 00 - Submittal Procedures.

I. Schedule Updates:
   1. Overall percent complete, projected and actual.

2. Completion progress by listed activity and subactivity, to within five working days prior to submittal.
3. Changes in Work scope and activities modified since submittal.
4. Delays in submittals or resubmittals, deliveries, or Work.
5. Adjusted or modified sequences of Work.
6. Other identifiable changes.
7. Revised projections of progress and completion.

J. Narrative Progress Report:
1. Submit with each monthly submission of Progress Schedule.
2. Summary of Work completed during the past period between reports.
3. Work planned during the next period.
4. Explanation of differences between summary of Work completed and Work planned in previously submitted report.
5. Current and anticipated delaying factors and estimated impact on other activities and completion milestones.
6. Corrective action taken or proposed.

1.3 QUALITY ASSURANCE

A. Scheduler: Contractor's personnel specializing in CPM scheduling with two years' minimum experience in scheduling construction work of complexity comparable to the Project, and having use of computer facilities capable of delivering detailed graphic printout within 48 hours of request.

B. Contractor's Administrative Personnel: two years' minimum experience in using and monitoring CPM schedules on comparable Projects.

1.4 FORMAT FOR NETWORK ANALYSIS SCHEDULE

A. Listings: Reading from left to right, in ascending order for each activity. Identify each activity with applicable Specification Section number.

B. Diagram Sheet Size: 22 inches high x 34 inches wide.

C. Scale and Spacing: To allow for notations and revisions.

1.5 NETWORK ANALYSIS SCHEDULES

A. Prepare network analysis diagrams and supporting mathematical analyses using critical path method.

B. Illustrate order and interdependence of activities and sequence of Work; how start of given activity depends on completion of preceding activities, and how completion of activity may restrain start of subsequent activities.

C. Illustrate complete sequence of construction by activity, identifying Work of separate stages. Indicate dates for submittals, including dates for Owner-furnished items, and return of submittals; dates for procurement and delivery of critical products; and dates for installation and provision for testing. Include legend for symbols and abbreviations used.

D. Mathematical Analysis: Tabulate each activity of detailed network diagrams using calendar dates, and identify for each activity:
   1. Preceding and following event numbers.
   2. Activity description.
   3. Estimated duration of activity, in maximum 30-day intervals. Status of critical activities.
   4. Earliest start date.
   5. Earliest finish date.
   6. Actual start date.
   7. Actual finish date.
   8. Latest start date.
   9. Latest finish date.
   10. Total and free float; accrue float time to Owner and to Owner's benefit.
   11. Monetary value of activity, keyed to Schedule of Values.
   12. Percentage of activity completed.
   13. Responsibility.

E. Analysis Program: Capable of compiling monetary value of completed and partially completed activities, of accepting revised completion dates, and of recomputing of scheduled dates and float.

F. Required Sorts: List activities in sorts or groups:
   1. By preceding Work item or event number from lowest to highest.
   2. By longest float, then in order of early start.
   3. By responsibility in order of earliest possible start date.
   4. In order of latest allowable start dates.
   5. In order of latest allowable finish dates.
   6. Contractor's periodic payment request sorted by Schedule of Values list.
   7. List of basic input data-generating report.
   8. List of activities on critical path.

G. Prepare subschedules for each stage of Work identified in Section 01 10 00 - Summary.

H. Coordinate contents with Schedule of Values in Section 01 33 00 - Submittal Procedures.

1.6 BAR CHART SCHEDULES

A. Format: Bar chart Schedule, to include at least:
   1. Identification and listing in chronological order of those activities reasonably required to complete the Work, including:
      a. Subcontract Work.
      b. Major equipment design, fabrication, factory testing, and delivery dates including required lead times.
      c. Move-in and other preliminary activities.
      d. Equipment and equipment system test and startup activities.
      e. Project closeout and cleanup.
      f. Work sequences, constraints, and milestones.
   2. Listings identified by Specification Section number.
   3. Identification of the following:
      a. Horizontal time frame by year, month, and week.
      b. Duration, early start, and completion for each activity and subactivity.

c. Critical activities and Project float.
d. Subschedules to further define critical portions of Work.

1.7 REVIEW AND EVALUATION

A. Participate in joint review and evaluation of schedules with Engineer at each submittal.

B. Evaluate Project status to determine Work behind schedule and Work ahead of schedule.

C. After review, revise schedules incorporating results of review, and resubmit within 10 days.

1.8 UPDATING SCHEDULES

A. Maintain schedules to record actual start and finish dates of completed activities.

B. Indicate progress of each activity to date of revision, with projected completion date of each activity. Update schedules to depict current status of Work.

C. Identify activities modified since previous submittal, major changes in Work, and other identifiable changes.

D. Upon approval of a Change Order, include the change in the next schedule submittal.

E. Indicate changes required to maintain Date of Substantial Completion.

F. Submit sorts as required to support recommended changes.

G. Prepare narrative report to define problem areas, anticipated delays, and impact on schedule. Report corrective action taken or proposed and its effect including effects of changes on schedules of separate Contractors.

1.9 DISTRIBUTION

A. Following joint review, distribute copies of updated schedules to Contractor's Project site file, to Subcontractors, suppliers, Engineer, Owner, and other concerned parties.

B. Instruct recipients to promptly report, in writing, problems anticipated by projections shown in schedules.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SECTION 01 33 00 - SUBMITTAL PROCEDURES

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Submittal procedures.
B. Construction progress schedules.
C. Proposed product list.
D. Product data.
E. Samples.
F. Design data.
G. Test reports.
H. Certificates.
I. Manufacturer's instructions.
J. Manufacturer's field reports.
K. Contractor review.
L. Engineer review.

1.2 SUBMITTAL PROCEDURES

A. Submittals shall be directly from the Contractor. Submittals from others (i.e., suppliers or subcontractors) shall not be accepted.

B. Transmit each submittal on an Engineer accepted form.

C. Sequentially number transmittal forms. Mark revised submittals with original number and sequential alphabetic suffix.

D. Identify Project, Contractor, subcontractor and supplier; pertinent drawing and detail number, and specification section number, appropriate to submittal.

E. Apply Contractor's stamp, signed or initialed certifying that review, approval, verification of products required, field dimensions, adjacent construction Work, and coordination of information is in accordance with requirements of the Work and Contract Documents.

F. Schedule submittals to expedite Project, and deliver to Engineer at business address. Coordinate submission of related items.

G. For each submittal for review, allow 15 days excluding delivery time to and from Contractor.

H. Identify variations from Contract Documents and product or system limitations which may be detrimental to successful performance of completed Work.

I. Allow space on submittals for Contractor and Engineer review stamps.

J. When revised for resubmission, identify changes made since previous submission.

K. Distribute copies of reviewed submittals as appropriate. Instruct parties to promptly report inability to comply with requirements.

L. Submittals not requested will not be recognized or processed.

M. Incomplete Submittals: Engineer will not review. Complete submittals for each item are required. Delays resulting from incomplete submittals are not the responsibility of Engineer.

1.3 CONSTRUCTION PROGRESS SCHEDULES

A. Comply with Section 01 32 16 - Construction Progress Schedule (when required)

1.4 PROPOSED PRODUCT LIST

A. Within 15 days after date of Notice to Proceed, submit list of major products proposed for use, with name of manufacturer, trade name, and model number of each product.

B. For products specified only by reference standards, indicate manufacturer, trade name, model or catalog designation, and reference standards.

1.5 PRODUCT DATA

A. Product Data: Action Submittal: Submit to Engineer for review for assessing conformance with information given and design concept expressed in Contract Documents.

B. Submit electronic submittals via email as PDF electronic files.

C. Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturers' standard data to provide information specific to this Project.

D. Indicate product utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.

E. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 01 70 00 - Execution and Closeout Requirements.

1.6 ELECTRONIC CAD FILES OF PROJECT DRAWINGS

A. Electronic CAD Files of Project Drawings: May only be used to expedite production of Shop Drawings for the Project. Use for other Projects or purposes is not allowed.

B. Electronic CAD Files of Project Drawings: Distributed only under the following conditions:
   1. Use of files is solely at receiver's risk. Engineer does not warrant accuracy of files. Receiving files in electronic form does not relieve receiver of responsibilities for measurements, dimensions, and quantities set forth in Contract Documents. In the event of ambiguity, discrepancy, or conflict between information on electronic media and that in Contract Documents, notify Engineer of discrepancy and use information in hard-copy Drawings and Specifications.
   2. CAD files do not necessarily represent the latest Contract Documents, existing conditions, and as-built conditions. Receiver is responsible for determining and complying with these conditions and for incorporating addenda and modifications.
   3. User is responsible for removing information not normally provided on Shop Drawings and removing references to Contract Documents. Shop Drawings submitted with

information associated with other trades or with references to Contract Documents will not be reviewed and will be immediately returned.

4. Receiver shall not hold Engineer responsible for data or file clean-up required to make files usable, nor for error or malfunction in translation, interpretation, or use of this electronic information.
5. Receiver shall understand that even though Engineer has computer virus scanning software to detect presence of computer viruses, there is no guarantee that computer viruses are not present in files or in electronic media.
6. Receiver shall not hold Engineer responsible for such viruses or their consequences, and shall hold Engineer harmless against costs, losses, or damage caused by presence of computer virus in files or media.

1.7 SHOP DRAWINGS

A. Shop Drawings: Action Submittal: Submit to Engineer for assessing conformance with information given and design concept expressed in Contract Documents.

B. Indicate special utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.

C. When required by individual Specification Sections, provide Shop Drawings signed and sealed by a professional Engineer responsible for designing components shown on Shop Drawings.
   1. Include signed and sealed calculations to support design.
   2. Submit Shop Drawings and calculations in form suitable for submission to and approval by authorities having jurisdiction.
   3. Make revisions and provide additional information when required by authorities having jurisdiction.

D. Submit number of opaque reproductions Contractor requires, plus two copies Engineer will retain.

E. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 01 70 00 - Execution and Closeout Requirements.

1.8 SAMPLES

A. Samples: Action Submittal: Submit to Engineer for assessing conformance with information given and design concept expressed in Contract Documents.

B. Samples for Selection as Specified in Product Sections:
   1. Submit to Engineer for aesthetic, color, and finish selection.
   2. Submit Samples of finishes, textures, and patterns for Engineer selection.

C. Submit Samples to illustrate functional and aesthetic characteristics of products, with integral parts and attachment devices. Coordinate Sample submittals for interfacing work.

D. Include identification on each Sample, with full Project information.

E. Submit number of Samples specified in individual Specification Sections; Engineer will retain one Sample.

F. Reviewed Samples that may be used in the Work are indicated in individual Specification Sections.

G. Samples will not be used for testing purposes unless specifically stated in Specification Section.

H. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 01 70 00 - Execution and Closeout Requirements.

1.9 TEST REPORTS

A. Submit test reports to the Engineer for assessing conformance and compliance to the Contract Documents.

1.10 DESIGN DATA

A. Submit for Engineer's knowledge as contract administrator or for Owner.

B. Submit for information for limited purpose of assessing conformance with information given and design concept expressed in Contract Documents.

1.11 TEST REPORTS

A. Informational Submittal: Submit reports for Engineer's knowledge as Contract administrator or for Owner.

B. Submit test reports for information for assessing conformance with information given and design concept expressed in Contract Documents.

1.12 CERTIFICATES

A. Informational Submittal: When specified in Technical Specifications, submit certification by manufacturer, installation/application Subcontractor, or Contractor to Engineer, in quantities specified for Product Data.

B. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.

C. Certificates may be recent or previous test results on material or product but must be acceptable to Engineer.

1.13 MANUFACTURER'S INSTRUCTIONS

A. Informational Submittal: When specified in Technical Specifications, submit manufacturer's installation instructions for Engineer's knowledge as Contract administrator or for Owner.

B. Submit printed instructions for delivery, storage, assembly, installation, startup, adjusting, and finishing, to Engineer for delivery to Owner in quantities specified for Product Data.

C. Indicate special procedures, perimeter conditions requiring special attention, and special environmental criteria required for application or installation.

1.14 MANUFACTURER'S FIELD REPORTS

A. Informational Submittal: Submit reports for Engineer's knowledge as Contract administrator or for Owner.

B. Submit report in duplicate within three days of observation to Engineer for information.

C. Submit reports for information for limited purposes of assessing conformance with information given and design concept expressed in Contract Documents.

1.15 ERECTION DRAWINGS

A. Informational Submittal: Submit Drawings for Engineer's benefit as Contract administrator or for Owner.

B. Submit Drawings for information assessing conformance with information given and design concept expressed in Contract Documents.

C. Data indicating inappropriate or unacceptable Work may be subject to action by Engineer or Owner.

1.16 CONTRACTOR REVIEW

A. Review for compliance with Contract Documents and approve submittals before transmitting to Engineer.

B. Contractor: Responsible for:
1. Determination and verification of materials including manufacturer's catalog numbers.
2. Determination and verification of field measurements and field construction criteria.
3. Checking and coordinating information in submittal with requirements of Work and of Contract Documents.
4. Determination of accuracy and completeness of dimensions and quantities.
5. Confirmation and coordination of dimensions and field conditions at Site.
6. Construction means, techniques, sequences, and procedures.
7. Safety precautions.
8. Coordination and performance of Work of all trades.

C. Stamp, sign or initial, and date each submittal to certify compliance with requirements of Contract Documents.

D. Do not fabricate products or begin Work for which submittals are required until approved submittals have been received from Engineer.

1.17 ENGINEER REVIEW

A. Do not make "mass submittals" to Engineer. "Mass submittals" are defined as six or more submittals or items in one day or 15 or more submittals or items in one week. If "mass submittals" are received, Engineer's review time stated above will be extended as necessary to perform proper review. Engineer will review "mass submittals" based on priority determined by Engineer after consultation with Owner.

B. Informational submittals and other similar data are for Engineer's information, do not require Engineer's responsive action, and will not be reviewed or returned with comment.

C. Submittals made by Contractor that are not required by Contract Documents may be returned without action.

D. Submittal approval does not authorize changes to Contract requirements unless accompanied by Change Order, Field Order, or Work Change Directive.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SECTION 01 40 00 - QUALITY REQUIREMENTS

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Quality control.

B. Tolerances.

C. References.

D. Labeling.

E. Testing and inspection services.

F. Manufacturers' field services.

1.2 QUALITY CONTROL

A. Monitor quality control over suppliers, manufacturers, products, services, Site conditions, and workmanship, to produce Work of specified quality.

B. Comply with manufacturers' instructions, including each step in sequence.

C. When manufacturers' instructions conflict with Contract Documents, request clarification from Engineer before proceeding.

D. Products, materials, and equipment may be subject to inspection by Engineer and Owner at place of manufacture or fabrication. Such inspections shall not relieve Contractor of complying with requirements of Contract Documents.

E. Supervise performance of Work in such manner and by such means to ensure that Work, whether completed or in progress, will not be subjected to harmful, dangerous, damaging, or otherwise deleterious exposure during construction period.

1.3 TOLERANCES

A. Monitor fabrication and installation tolerance control of products to produce acceptable Work. Do not permit tolerances to accumulate.

B. Comply with manufacturers' recommended tolerances and tolerance requirements in reference standards. When such tolerances conflict with Contract Documents, request clarification from Engineer before proceeding.

C. Adjust products to appropriate dimensions; position before securing products in place.

1.4 REFERENCES

A. For products or workmanship specified by association, trade, or other consensus standards, comply with requirements of standard except when more rigid requirements are specified or are required by applicable codes.

B. Conform to reference standard by date of issue current as of date for receiving Bids except where specific date is established by code.

C. Obtain copies of standards and maintain on Site when required by product Specification Sections.

D. When requirements of indicated reference standards conflict with Contract Documents, request clarification from Engineer before proceeding.

E. Neither contractual relationships, duties, or responsibilities of parties in Contract nor those of Engineer shall be altered from Contract Documents by mention or inference in reference documents.

1.5 LABELING

A. Attach label from agency approved by authorities having jurisdiction for products, assemblies, and systems required to be labeled by applicable code.

B. Label Information: Include manufacturer's or fabricator's identification, approved agency identification, and the following information, as applicable, on each label:
   1. Model number.
   2. Serial number.
   3. Performance characteristics.

C. Manufacturer's Nameplates, Trademarks, Logos, and Other Identifying Marks on Products: Not allowed on surfaces exposed to view in public areas, interior or exterior.

1.6 TESTING AND INSPECTION SERVICES

A. Owner will employ and pay for specified services of an independent firm to perform testing and inspection.

B. Independent testing firm will perform tests, inspections, and other services specified in individual Specification Sections and as required by Engineer. In the event of a conflict in the Contract Documents concerning sampling and testing frequency, the more stringent standard shall be enforced, unless otherwise approved by the Engineer.
   1. Laboratory: Authorized to operate in State of Texas.
   2. Laboratory Staff: Maintain full-time Professional Engineer on staff to review services.
   3. Testing Equipment: Calibrated at reasonable intervals with devices of an accuracy traceable to National Bureau of Standards or accepted values of natural physical constants.

C. Testing, inspections, and source quality control may occur on or off Project Site. Perform off-Site testing as required by Engineer or Owner.

D. Cooperate with independent testing firm; furnish samples of materials, design mix, equipment, tools, storage, safe access, and assistance by incidental labor as requested.
   1. Notify Engineer and independent testing firm 48 hours before expected time for operations requiring services.
   2. Make arrangements with independent testing firm and pay for additional Samples and tests required for Contractor's use.

E. Testing and employment of testing agency or laboratory shall not relieve Contractor of obligation to perform Work according to requirements of Contract Documents.

F. Retesting or re-inspection required because of nonconformance with specified or indicated requirements shall be performed by same independent testing firm on instructions from Engineer. Payment for retesting or re-inspection will be charged to Contractor by deducting testing charges from Contract Sum/Price.

G. Independent Testing Firm Responsibilities:
   1. Test Samples of mixes submitted by Contractor.
   2. Provide qualified personnel at Site. Cooperate with Engineer and Contractor in performance of services.
   3. Perform indicated sampling and testing of products according to specified standards.
   4. Ascertain compliance of materials and mixes with requirements of Contract Documents.
   5. Promptly notify Engineer and Contractor of observed irregularities or nonconformance of Work or products.
   6. Perform additional tests required by Engineer.
   7. Attend preconstruction meetings and progress meetings.

H. Material Testing Reports: After each test, Independent Testing Firm shall promptly submit two copies of testing reports to Engineer, Contractor, and other entities as directed, indicating observations and results of tests and compliance or noncompliance with Contract Documents. At a minimum, include the following information in testing reports:
   1. Date issued.
   2. Project title and number.
   3. Name of inspector/testing technician.
   4. Date and time of sampling or inspection.
   5. Identification of product and Specification Section.
   6. Location in Project.
   7. Type of inspection or test.
   8. Date of test.
   9. Results of tests.
   10. Compliance or noncompliance with Contract Documents.
   11. Special observations, if any.

   Submit final report indicating correction of Work previously reported as noncompliant. Log all test results in an electronic spreadsheet for each test procedure and provide updated versions to Engineer at agreed upon time interval.

I. Limits on Independent Testing Firm:
   1. Independent Testing Firm may not release, revoke, alter, or enlarge on requirements of Contract Documents.
   2. Independent Testing Firm may not approve or accept any portion of the Work.

3. Independent Testing Firm may not assume duties of Contractor.
4. Independent Testing Firm has no authority to stop the Work.

1.7 MANUFACTURER'S FIELD SERVICES

A. When specified in individual Specification Sections, require material or product suppliers or manufacturers to provide qualified staff personnel to observe Site conditions, conditions of surfaces and installation, quality of workmanship, startup of equipment, testing, adjusting, and balancing of equipment as applicable, and to initiate instructions when necessary.

B. Submit qualifications of observer to Engineer 30 days in advance of required observations. Observer is subject to approval of Engineer.

C. Report observations and Site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturer's written instructions.

D. Refer to Section 01 33 00 - Submittal Procedures, "Manufacturer's Field Reports" Article.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SECTION 01 50 00 - TEMPORARY FACILITIES AND CONTROLS

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Temporary Utilities:
   1. Temporary electricity.
   2. Temporary lighting for construction purposes.
   3. Temporary ventilation.
   4. Temporary water service.
   5. Temporary sanitary facilities.

B. Construction Facilities:
   1. Field offices and sheds.
   2. Vehicular access.
   3. Parking.
   4. Progress cleaning and waste removal.
   5. Project identification.
   6. Traffic regulation.
   7. Fire-prevention facilities.

C. Temporary Controls:
   1. Barriers.
   2. Enclosures and fencing.
   3. Security.
   4. Water control.
   5. Dust control.
   6. Erosion and sediment control.
   7. Noise control.
   8. Pest and rodent control.
   9. Pollution control.

D. Removal of utilities, facilities, and controls.

1.2 REFERENCES

A. ASTM International:
   1. ASTM E 84 - Standard Test Method for Surface Burning Characteristics of Building Materials.
   2. ASTM E 90 - Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements.
   3. ASTM E 119 - Standard Test Methods for Fire Tests of Building Construction and Materials.

1.3 TEMPORARY ELECTRICITY

A. Provide and pay for power service required from utility source as needed for construction operation.

B. Provide temporary electric feeder from electrical service at location as directed by Engineer. Do not disrupt Owner's use of service.

C. Complement existing power service capacity and characteristics as required for construction operations.

D. Provide power outlets with branch wiring and distribution boxes located as required for construction operations. Provide suitable, flexible power cords as required for portable construction tools and equipment.

E. Provide main service disconnect and overcurrent protection at feeder switch at source distribution equipment.

F. Permanent convenience receptacles may be used during construction.

G. Provide distribution equipment, wiring, and outlets for single-phase branch circuits for power and lighting.
   1. Provide 20-ampere duplex outlets, single-phase circuits for power.
   2. Provide 20-ampere, single-phase branch circuits for lighting.

1.4 TEMPORARY LIGHTING FOR CONSTRUCTION PURPOSES

A. Provide and maintain lighting for construction operations.

B. Provide branch wiring from power source to distribution boxes with lighting conductors, pigtails, lamps, and the like, for specified lighting levels.

C. Maintain lighting and provide routine repairs.

D. Permanent lighting may be used during construction.

1.5 TEMPORARY WATER SERVICE

A. Owner will pay cost of temporary water. Exercise measures to conserve energy. Use Owner's existing water system, extended and supplemented with temporary devices as needed to maintain specified conditions for construction operations.

B. Extend branch piping with outlets located so that water is available by hoses with threaded connections. Provide temporary pipe insulation and heat tape to prevent freezing.

1.6 TEMPORARY SANITARY FACILITIES

A. Provide and maintain required facilities and enclosures. Existing facility use is not permitted. Provide facilities at time of Project mobilization.

B. At end of construction, return existing facilities used for construction operations to same or better condition as original condition.

1.7 FIELD OFFICES AND SHEDS

A. Field Office: Weathertight, with lighting, electrical outlets, heating, cooling and ventilating equipment, and equipped with sturdy furniture including drawing display table.

B. Provide space for Project meetings, with table and chairs to accommodate six persons.

C. Locate field offices and sheds a minimum distance of 30 feet from existing and new structures.

D. Do not use permanent facilities for field offices or for storage.

E. Construction: Portable or mobile buildings, or buildings constructed with floors raised aboveground, securely fixed to foundations with steps and landings at entrance doors.
   1. Construction: Structurally sound, secure, weathertight enclosures for office and storage spaces. Maintain during progress of Work; remove enclosures when no longer needed.
   2. Thermal Resistance of Floors, Walls, and Ceilings: Compatible with occupancy and storage requirements.
   3. Exterior Materials: Weather-resistant, finished in one color acceptable to Engineer.
   4. Interior Materials in Field Offices: Sheet-type materials for walls and ceilings, prefinished or painted; resilient floors and bases.
   5. Interior Materials in Storage Sheds: As required to provide specified conditions for storage of products.

F. Environmental Control:
   1. Heating, Cooling, and Ventilating for Offices: Automatic equipment to maintain comfort conditions.
   2. Storage Spaces: Heating and ventilating as needed to maintain products according to Contract Documents; lighting for maintenance and inspection of products.

G. Storage Areas and Sheds: Size to storage requirements for products of individual Sections, allowing for access and orderly provision for maintenance and inspection of products to suit requirements in Section 01 60 00 - Product Requirements.

H. Preparation: Fill and grade Sites for temporary structures sloped for drainage away from buildings.

I. Installation:
   1. Install field office spaces ready for occupancy 15 days after date established by Owner-Contractor Agreement.
   2. Employee Residential Occupancy: Not allowed on Owner's property.

J. Maintenance and Cleaning:
   1. Weekly janitorial services for field offices; periodic cleaning and maintenance for sheds and storage areas.
   2. Maintain walks free of mud, water, snow, and the like.

K. Removal: At completion of Work remove buildings, foundations, utility services, and debris. Restore areas to same or better condition as original condition.

1.8 VEHICULAR ACCESS

A. Construct temporary all-weather access roads from public thoroughfares to serve construction area, of width and load-bearing capacity to accommodate unimpeded traffic for construction purposes.

B. Construct temporary bridges and culverts to span low areas and allow unimpeded drainage.

C. Extend and relocate vehicular access as Work progress requires and provide detours as necessary for unimpeded traffic flow.

D. Location as approved by Engineer.

E. Provide unimpeded access for emergency vehicles. Maintain 20 foot-wide driveways with turning space between and around combustible materials.

F. Provide and maintain access to fire hydrants and control valves free of obstructions.

G. Provide means of removing mud from vehicle wheels before entering streets.

H. Use designated existing on-Site roads for construction traffic.

1.9 PARKING

A. Construct temporary gravel surface parking areas to accommodate construction personnel.

B. Location as approved by Engineer.

C. If Site space is not adequate, provide additional off-Site parking.

D. Use of existing on-Site streets and driveways used for construction traffic is not permitted. Tracked vehicles are not allowed on paved areas.

E. Use of designated areas of existing parking facilities used by construction personnel is not permitted.

F. Do not allow heavy vehicles or construction equipment in parking areas.

G. Do not allow vehicle parking on existing pavement.

H. Designate one parking space for Engineer and Owner.

I. Permanent Pavements and Parking Facilities:
   1. Before Substantial Completion, bases for permanent roads and parking areas may be used for construction traffic.
   2. Avoid traffic loading beyond paving design capacity. Tracked vehicles are not allowed.
   3. Use of permanent parking structures is not permitted.

J. Maintenance:

1. Maintain traffic and parking areas in sound condition free of excavated material, construction equipment, products, mud, snow, ice, and the like.
2. Maintain existing and permanent paved areas used for construction; promptly repair breaks, potholes, low areas, standing water, and other deficiencies, to maintain paving and drainage in original condition.

K. Removal, Repair:
1. Remove temporary materials and construction before Substantial Completion.
2. Remove underground Work and compacted materials to depth of 2 feet; fill and grade Site as indicated.
3. Repair existing facilities damaged by use, to original condition.

L. Mud from Site vehicles: Provide means of removing mud from vehicle wheels before entering streets.

1.10 PROGRESS CLEANING AND WASTE REMOVAL

A. Maintain areas free of waste materials, debris, and rubbish. Maintain Site in clean and orderly condition.

B. Remove debris and rubbish from pipe chases, plenums, attics, crawl spaces, and other closed or remote spaces, before enclosing spaces.

C. Broom and vacuum clean interior areas before starting surface finishing, and continue cleaning to eliminate dust.

D. Collect and remove waste materials, debris, and rubbish from Site periodically and dispose of off-Site.

E. Open free-fall chutes are not permitted. Terminate closed chutes into appropriate containers with lids.

F. Comply with all applicable local, state, and federal requirements regarding excess and waste material, including methods of handling and disposal.

1.11 PROJECT IDENTIFICATION

A. Project Identification Sign:
1. One painted sign, 32-sq ft area, bottom 4 feet aboveground.
2. Content:
   a. Project number, title, logo, and name of Owner.
   b. Names and titles of authorities.
   c. Names and titles of Engineer and Consultants.
   d. Name of Prime Contractor.
3. Graphic Design, Colors, and Style of Lettering: Designated by Engineer.

B. Project Informational Signs:
1. Painted informational signs of same colors and lettering as Project identification sign or standard products; size lettering for legibility at 100-foot distance.

2. Provide sign at each field office and storage shed, and provide directional signs to direct traffic into and within Site. Relocate as Work progress requires.
3. No other signs are allowed without Owner's permission except those required by law.

C. Design sign and structure to withstand 70-mph wind velocity.

D. Sign Painter: Experienced as professional sign painter for minimum of three years.

E. Finishes, Painting: Adequate to withstand weathering, fading, and chipping for duration of construction.

F. Show content, layout, lettering, color, foundation, structure, sizes, and grades of members.

G. Sign Materials:
1. Structure and Framing: New wood, structurally adequate.
2. Sign Surfaces: Exterior grade plywood with medium-density overlay, minimum of 3/4 inches thick, standard large sizes to minimize joints.
3. Rough Hardware: Galvanized.
4. Paint and Primers: Exterior quality, two coats; sign background of color as selected.
5. Lettering: Exterior quality paint, contrasting colors as selected.

H. Installation:
1. Install Project identification sign within 15 days after date established by Notice to Proceed.
2. Erect at designated location.
3. Erect supports and framing on secure foundation, rigidly braced and framed to resist wind loadings.
4. Install sign surface plumb and level, with butt joints. Anchor securely.
5. Paint exposed surfaces of sign, supports, and framing.

I. Maintenance: Maintain clean signs and supports; repair deterioration and damage.

J. Removal: Remove signs, framing, supports, and foundations at completion of Project and restore area.

1.12 TRAFFIC REGULATION

A. Signs, Signals, and Devices:
1. Post-Mounted and Wall-Mounted Traffic Control and Informational Signs: As approved by authorities having jurisdiction.
2. Traffic Control Signals: As approved by local jurisdictions.
3. Traffic Cones, Drums, Flares, and Lights: As approved by authorities having jurisdiction.
4. Flag Person Equipment: As required by authorities having jurisdiction.

B. Flag Persons: Provide trained and equipped flag persons to regulate traffic when construction operations or traffic encroach on public traffic lanes.

C. Flares and Lights: Use flares and lights during hours of low visibility to delineate traffic lanes and to guide traffic.

D. Haul Routes:
   1. Consult with authorities having jurisdiction and establish public thoroughfares to be used for haul routes and Site access.
   2. Confine construction traffic to designated haul routes.
   3. Provide traffic control at critical areas of haul routes to regulate traffic and to minimize interference with public traffic.

E. Traffic Signs and Signals:
   1. Provide signs at approaches to Site and on Site, at crossroads, detours, parking areas, and elsewhere as needed to direct construction and affected public traffic.
   2. Provide, operate, and maintain traffic control signals to direct and maintain orderly flow of traffic in areas under Contractor's control and areas affected by Contractor's operations.
   3. Relocate signs and signals as Work progresses, to maintain effective traffic control.

F. Removal:
   1. Remove equipment and devices when no longer required.
   2. Repair damage caused by installation.
   3. Remove post settings to depth of 2 feet.

1.13 FIRE-PREVENTION FACILITIES

A. Prohibit smoking within buildings under construction and demolition. Designate area on Site where smoking is permitted. Provide approved ashtrays in designated smoking areas.

B. Establish fire watch for cutting, welding, and other hazardous operations capable of starting fires. Maintain fire watch before, during, and after hazardous operations until threat of fire does not exist.

C. Portable Fire Extinguishers: NFPA 10; 10-pound capacity, 4A-60B: C UL rating.
   1. Provide one fire extinguisher at each facility.
   2. Provide minimum of one fire extinguisher in every construction trailer and storage shed.
   3. Provide minimum of one fire extinguisher on roof during roofing operations using heat-producing equipment.

1.14 BARRIERS

A. Provide barriers to prevent unauthorized entry to construction areas, to allow for Owner's use of Site, and to protect existing facilities and adjacent properties from damage from construction operations and demolition.

B. Provide barricades and covered walkways required by authorities having jurisdiction for public rights-of-way.

C. Tree and Plant Protection: Preserve and protect existing trees and plants designated to remain.
   1. Protect areas within drip lines from traffic, parking, storage, dumping, chemically injurious materials and liquids, ponding, and continuous running water.
   2. Provide 4-foot-high barriers around drip line, with access for maintenance.
   3. Replace trees and plants damaged by construction operations.

D. Protect non-owned vehicular traffic, stored materials, Site, and structures from damage.

1.15 ENCLOSURES AND FENCING

A. Construction: Commercial-grade chain-link fence or orange plastic construction netting.

B. Provide 6-foot-high fence around construction Site; equip with vehicular and pedestrian gates with locks.

C. Provide orange plastic construction netting around open excavations.

D. Exterior Enclosures:
1. Provide temporary weathertight closure of exterior openings to accommodate acceptable working conditions and protection for products, to allow for temporary heating and maintenance of required ambient temperatures identified in individual Specification Sections, and to prevent entry of unauthorized persons. Provide access doors with self-closing hardware and locks.

1.16 WATER CONTROL

A. Grade Site to drain. Maintain excavations free of water. Provide, operate, and maintain necessary pumping equipment.

B. Protect Site from puddles or running water. Provide water barriers as required to protect Site from soil erosion.

1.17 DUST CONTROL

A. Execute Work by methods that minimize raising dust from construction operations.

B. Provide positive means to prevent airborne dust from dispersing into atmosphere.

1.18 EROSION AND SEDIMENT CONTROL

A. Plan and execute construction by methods to control surface drainage from cuts and fills from borrow and waste disposal areas. Prevent erosion and sedimentation.

B. Minimize surface area of bare soil exposed at one time.

C. Provide temporary measures including berms, dikes, drains, and other devices to prevent water flow.

D. Construct fill and waste areas by selective placement to avoid erosive surface silts and clays.

E. Periodically inspect earthwork to detect evidence of erosion and sedimentation. Promptly apply corrective measures.

1.19 NOISE CONTROL

A. Provide methods, means, and facilities to minimize noise produced by construction operations.

1.20 POLLUTION CONTROL

A. Provide methods, means, and facilities to prevent contamination of soil, water, and atmosphere from discharge of noxious, toxic substances and pollutants produced by construction operations.

B. Comply with pollution and environmental control requirements of authorities having jurisdiction.

C. Control dust caused by the work and comply with pollution control regulations of governing authorities. Sprinkling or similar methods will be permitted to control dust. Use of petroleum products or chlorides is prohibited. Sprinkling must be repeated as needed to keep the disturbed area damp. Dust control shall be performed as the work proceeds whenever a potential for dust nuisance or hazard occurs.

D. Burning is not allowed on this project.

E. Blasting is not allowed on this project.

1.21 REMOVAL OF UTILITIES, FACILITIES, AND CONTROLS

A. Remove temporary utilities, equipment, facilities, and materials before Final Application for Payment inspection.

B. Remove underground installations to minimum depth of 2 feet. Grade Site as indicated on Drawings.

C. Clean and repair damage caused by installation or use of temporary Work.

D. Restore existing and permanent facilities used during construction to original condition. Restore permanent facilities used during construction to specified condition.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SECTION 01 60 00 - PRODUCT REQUIREMENTS

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Products.

B. Product delivery requirements.

C. Product storage and handling requirements.

D. Product options.

E. Equipment electrical characteristics and components.

F. Product substitutions and procedures.

1.2 PRODUCTS

A. Specified products define standard of quality, type, function, dimension, appearance, and performance required.

B. Furnish products of qualified manufacturers that are suitable for intended use. Furnish products of each type by single manufacturer unless specified otherwise. Confirm that manufacturer's production capacity can provide sufficient product, on time, to meet Project requirements.

C. Domestic Products: Except where specified otherwise, domestic products are required and interpreted to mean products mined, manufactured, fabricated, or produced in United States or its territories.

D. Do not use materials and equipment removed from existing premises except as specifically permitted by Contract Documents.

E. Furnish interchangeable components from same manufacturer for components being replaced.

1.3 PRODUCT DELIVERY REQUIREMENTS

A. Transport and handle products according to manufacturer's instructions.

B. Promptly inspect shipments to ensure products comply with requirements, quantities are correct, and products are undamaged.

C. Provide equipment and personnel to handle products; use methods to prevent soiling, disfigurement, or damage.

1.4 PRODUCT STORAGE AND HANDLING REQUIREMENTS

A. Store and protect products according to manufacturer's instructions.

B. Store products with seals and labels intact and legible.

C. Store sensitive products in weathertight, climate-controlled enclosures in an environment suitable to product.

D. For exterior storage of fabricated products, place products on sloped supports aboveground.

E. Cover products subject to deterioration with impervious sheet covering. Provide ventilation to prevent condensation and degradation of products.

F. Store loose granular materials on solid flat surfaces in well-drained area. Prevent mixing with foreign matter.

G. Provide equipment and personnel to store products; use methods to prevent soiling, disfigurement, or damage.

H. Arrange storage of products to permit access for inspection. Periodically inspect to verify products are undamaged and are maintained in acceptable condition.

1.5 PRODUCT OPTIONS

A. Products Specified by Reference Standards or by Description Only: Products complying with specified reference standards or description.

B. Products Specified by Naming One or More Manufacturers: Products of one of manufacturers named and complying with Specifications; no options or substitutions allowed.

C. Products Specified by Naming One or More Manufacturers with Provision for Substitutions: Submit Request for Substitution for any manufacturer not named, according to Section 01 25 00 - Substitution Procedures.

PART 2 PRODUCTS – Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SECTION 01 70 00 - EXECUTION AND CLOSEOUT REQUIREMENTS

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Field engineering.

B. Closeout procedures.

C. Project record documents.

D. Product warranties and product bonds.

E. Examination.

F. Preparation.

G. Execution.

H. Cutting and patching.

I. Protecting installed construction.

J. Final cleaning.

1.2 FIELD ENGINEERING

A. Owner will locate and Contractor shall protect survey control and reference points. Promptly notify Engineer of discrepancies discovered.

B. Control datum for survey is established by Owner-provided survey indicated on Drawings.

C. Contractor shall verify setbacks and easements; confirm Drawing dimensions and elevations.

D. Protect survey control points prior to starting Site Work; preserve permanent reference points during construction.

E. Promptly report to Engineer loss or destruction of reference point or relocation required because of changes in grades or other reasons.

F. Contractor shall retain Engineer to replace dislocated survey control points based on original survey control.

1.3 CLOSEOUT PROCEDURES

A. Prerequisites to Substantial Completion: Complete following items before requesting Certification of Substantial Completion, either for entire Work or for portions of Work:
   1. Submit maintenance manuals, Project record documents, digital images of construction photographs, and other similar final record data in compliance with this Section.

2. Complete facility startup, testing, adjusting, balancing of systems and equipment, demonstrations, and instructions to Owner's operating and maintenance personnel as specified in compliance with this Section.
3. Conduct inspection to establish basis for request that Work is substantially complete. Create comprehensive list (initial punch list) indicating items to be completed or corrected, value of incomplete or nonconforming Work, reason for being incomplete, and date of anticipated completion for each item. Include copy of list with request for Certificate of Substantial Completion.
4. Obtain and submit releases enabling Owner's full, unrestricted use of Project and access to services and utilities. Include certificate of occupancy, operating certificates, and similar releases from authorities having jurisdiction and utility companies.
5. Deliver tools, spare parts, extra stocks of material, and similar physical items to Owner.
6. Make final change-over of locks and transmit keys directly to Owner. Advise Owner's personnel of change-over in security provisions.
7. Discontinue or change over and remove temporary facilities and services from Project Site, along with construction tools, mockups, and similar elements.
8. Perform final cleaning according to this Section.

B. Prerequisites for Final Completion: Complete following items before requesting final acceptance and final payment.
   1. When Contractor considers Work to be complete, submit written certification that:
      a. Contract Documents have been reviewed.
      b. Work has been examined for compliance with Contract Documents.
      c. Work has been completed according to Contract Documents.
      d. Work is completed and ready for final inspection.
   2. Submittals: Submit following:
      a. Final punch list indicating all items have been completed or corrected.
      b. Final payment request with final releases and supporting documentation not previously submitted and accepted. Include certificates of insurance for products and completed operations where required.
      c. Specified warranties, workmanship/maintenance bonds, maintenance agreements, and other similar documents.
      d. Accounting statement for final changes to Contract Sum.
      e. Contractor's affidavit of payment of debts and claims on Contractor's Affidavit of Payment of Debts and Claims.
      f. Contractor affidavit of release of liens on Contractor's Affidavit of Release of Liens.
      g. Consent of surety to final payment on Consent of Surety to Final Payment Form.
   3. Perform final cleaning for Contractor-soiled areas according to this Section.

1.4 PROJECT RECORD DOCUMENTS

A. Maintain on Site one set of the following record documents; record actual revisions to the Work:
   1. Drawings.
   2. Specifications.
   3. Addenda.
   4. Change Orders and other modifications to the Contract.
   5. Reviewed Shop Drawings, product data, and Samples.
   6. Manufacturer's instruction for assembly, installation, and adjusting.

B. Ensure entries are complete and accurate, enabling future reference by Owner.

C. Store record documents separate from documents used for construction.

D. Record information concurrent with construction progress, not less than weekly.

E. Specifications: Legibly mark and record, at each product Section, description of actual products installed, including the following:
   1. Manufacturer's name and product model and number.
   2. Product substitutions or alternates used.
   3. Changes made by Addenda and modifications.

F. Record Drawings and Shop Drawings: Legibly mark each item to record actual construction as follows:
   1. Include Contract modifications such as Addenda, supplementary instructions, change directives, field orders, minor changes in the Work, and change orders.
   2. Include locations of concealed elements of the Work.
   3. Identify depth of buried utility lines and provide dimensions showing distances from permanent facility components that are parallel to utilities.
   4. Dimension ends, corners, and junctions of buried utilities to permanent facility components using triangulation.
   5. Identify and locate existing buried or concealed items encountered during Project.
   6. Measured depths of foundations in relation to vertical datum.
   7. Measured horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements.
   8. Measured locations of internal utilities and appurtenances concealed in construction, referenced to visible and accessible features of the Work.
   9. Field changes of dimension and detail.
   10. Details not on original Drawings.

G. Submit marked-up paper copy documents to Engineer with claim for final Application for Payment.

H. Submit PDF electronic files of marked-up documents to Engineer with claim for final Application for Payment.

1.5 PRODUCT WARRANTIES AND PRODUCT BONDS

A. Obtain warranties and bonds executed in duplicate by responsible Subcontractors, suppliers, and manufacturers within ten days after completion of applicable item of Work.

B. Execute and assemble transferable warranty documents and bonds from Subcontractors, suppliers, and manufacturers.

C. Verify documents are in proper form, contain full information, and are notarized.

D. Co-execute submittals when required.

E. Include table of contents and assemble in three D side ring binder with durable plastic cover.

F. Submit prior to final Application for Payment.

G. Time of Submittals:
   1. For equipment or component parts of equipment put into service during construction with Owner's permission, submit documents within ten days after acceptance.
   2. Make other submittals within ten days after date of Substantial Completion, prior to final Application for Payment.
   3. For items of Work for which acceptance is delayed beyond Substantial Completion, submit within ten days after acceptance, listing date of acceptance as beginning of warranty or bond period.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION

3.1 EXAMINATION

A. Verify that existing Site conditions and substrate surfaces are acceptable for subsequent Work. Beginning new Work means acceptance of existing conditions.

B. Verify that existing substrate is capable of structural support or attachment of new Work being applied or attached.

C. Examine and verify specific conditions described in individual Specification Sections.

D. Verify that utility services are available with correct characteristics and in correct locations.

3.2 PREPARATION

A. Clean substrate surfaces prior to applying next material or substance according to manufacturer's instructions.

B. Seal cracks or openings of substrate prior to applying next material or substance.

C. Apply manufacturer-required or -recommended substrate primer, sealer, or conditioner prior to applying new material or substance in contact or bond.

3.3 EXECUTION

A. Comply with manufacturer's installation instructions, performing each step in sequence. Maintain one set of manufacturer's installation instructions at Project Site during installation and until completion of construction.

B. When manufacturer's installation instructions conflict with Contract Documents, request clarification from Engineer before proceeding.

C. Verify that field measurements are as indicated on approved Shop Drawings or as instructed by manufacturer.

D. Secure products in place with positive anchorage devices designed and sized to withstand stresses, vibration, physical distortion, or disfigurement.
   1. Secure Work true to line and level and within specified tolerances, or if not specified, industry-recognized tolerances.
   2. Physically separate products in place, provide electrical insulation, or provide protective coatings to prevent galvanic action or corrosion between dissimilar metals.
   3. Exposed Joints: Provide uniform joint width and arrange to obtain best visual effect. Refer questionable visual-effect choices to Engineer for final decision.

E. Allow for expansion of materials and building movement.

F. Climatic Conditions and Project Status: Install each unit of Work under conditions to ensure best possible results in coordination with entire Project.
   1. Isolate each unit of Work from incompatible Work as necessary to prevent deterioration.
   2. Coordinate enclosure of Work with required inspections and tests to minimize necessity of uncovering Work for those purposes.

G. Mounting Heights: Where not indicated, mount individual units of Work at industry recognized standard mounting heights for particular application indicated.
   1. Refer questionable mounting heights choices to Engineer for final decision.
   2. Elements Identified as Accessible to Handicapped: Comply with applicable codes and regulations.

H. Adjust operating products and equipment to ensure smooth and unhindered operation.

I. Clean and perform maintenance on installed Work as frequently as necessary through remainder of construction period. Lubricate operable components as recommended by manufacturer.

3.4 CUTTING AND PATCHING

A. Employ skilled and experienced installers to perform cutting and patching.

B. Submit written request in advance of cutting or altering elements affecting:
   1. Structural integrity of element.
   2. Integrity of weather-exposed or moisture-resistant elements.
   3. Efficiency, maintenance, or safety of element.
   4. Visual qualities of sight-exposed elements.
   5. Work of Owner or separate contractor.

C. Execute cutting, fitting, and patching including excavation and fill to complete Work and to:
   1. Fit the several parts together, to integrate with other Work.
   2. Uncover Work to install or correct ill-timed Work.
   3. Remove and replace defective and nonconforming Work.
   4. Remove samples of installed Work for testing.
   5. Provide openings in elements of Work for penetrations of mechanical and electrical Work.

D. Execute Work by methods to avoid damage to other Work and to provide proper surfaces to receive patching and finishing.

E. Cut masonry and concrete materials using masonry saw or core drill.

F. Restore Work with new products according to requirements of Contract Documents.

G. Refinish surfaces to match adjacent finishes. For continuous surfaces, refinish to nearest intersection; for assembly, refinish entire unit.

H. Identify hazardous substances or conditions exposed during the Work to Engineer for decision or remedy.

3.5 PROTECTING INSTALLED CONSTRUCTION

A. Protect installed Work and provide special protection where specified in individual Specification Sections.

B. Provide temporary and removable protection for installed products. Control activity in immediate Work area to prevent damage.

C. Prohibit traffic from landscaped areas.

3.6 FINAL CLEANING

A. Execute final cleaning prior to final Project assessment.

B. Clean debris from drainage systems.

C. Clean Site; sweep paved areas, rake clean landscaped surfaces.

D. Remove waste and surplus materials, rubbish, and construction facilities from Site.

END OF SECTION

SECTION 33 01 31 - MANHOLE GRADE ADJUSTMENT

PART 1 GENERAL

1.1 SUMMARY

A. Section Includes:
   1. Raising manhole frames and covers.
   2. Replacing manhole frames and covers.

1.2 UNIT PRICE - MEASUREMENT AND PAYMENT

A. Raising Manhole Frames and Covers:
   1. Basis of Measurement: By each.
   2. Basis of Payment: Includes removal and reinstalling manhole frame and cover, manhole rings and joint sealant.

B. Repairing Manhole Frames and Covers:
   1. Basis of Measurement: By each.
   2. Basis of Payment: Includes removal of old frame and cover, installing new frame and cover, and joint sealant.

1.3 REFERENCES

A. ASTM International:
   1. ASTM A48/A48M - Standard Specification for Gray Iron Castings.
   2. ASTM C32 - Standard Specification for Sewer and Manhole Brick (Made from Clay or Shale).
   3. ASTM C531 - Standard Test Method for Linear Shrinkage and Coefficient Mortars, Grouts, Monolithic Surfacings, and Polymer Concretes.
   4. ASTM C642 - Standard Test Method for Density, Absorption, and Voids in Hardened Concrete.
   5. ASTM C672 - Standard Test Method for Scaling Resistance of Concrete Surfaces Exposed to Deicing Chemicals.
   6. ASTM C990 - Standard Specification for Joints for Concrete Pipe, Manholes, and Precast Box Sections Using Preformed Flexible Joint Sealants.
   7. ASTM D395 - Standard Test Method for Rubber Property - Compression Set.
   8. ASTM D412 - Standard Test Methods for Vulcanized Rubber and Thermoplastic Elastomers-Tension.
   9. ASTM D573 - Standard Test Method for Rubber-Deterioration in an Air Oven.
   10. ASTM D575 - Standard Test Methods for Rubber Properties in Compression.
   11. ASTM D2240 - Standard Test Method for Rubber Property-Durometer Hardness.
   12. ASTM F593 - Standard Specification for Stainless Steel Bolts, Hex Cap Screws, and Studs.
   13. ASTM F1554 - Standard Specification for Anchor Bolts, Steel, 36, 55, and 105-ksi Yield Strength.

1.4 SUBMITTALS

A. Section 01 33 00 - Submittal Procedures: Requirements for submittals.

1.5 CLOSEOUT SUBMITTALS

A. Section 01 70 00 - Execution and Closeout Requirements: Requirements for submittals.

B. Project Record Documents: Record actual grade adjustment elevation of manhole.

1.6 QUALIFICATIONS

A. Manufacturer: Company specializing in manufacturing Products specified in this section.

B. Installer: Company specializing in performing work of this section.

1.7 DELIVERY, STORAGE, AND HANDLING

A. Accept materials on site in undamaged, unopened container, bearing manufacturer's original labels. Inspect for damage.

B. Protect materials from damage by storage in secure location.

1.8 FIELD MEASUREMENTS

A. Verify field measurements prior to fabrication.

PART 2 PRODUCTS

2.1 MANHOLE FRAMES, GRATES, RINGS AND COVERS

A. Manufacturers:
   1. East Jordan Iron Works (EJ Group. Inc.)
   2. Neenah Foundry (Neenah Enterprises, Inc.)

2.2 RISER RINGS

A. Rubber Adjustment Riser Rings:
   1. Flat or tapered.
   2. Physical properties as follows:

Physical Properties	Test Results	Test Method
Density	□±1.098 g/cm^3	ASTM C642
Durometer Hardness		Based on ASTM D2240
Molded Surface	75A ±10 points	
Interior Surface	73A ±10 points	

Tensile Strength	232 psi (not less than 145 psi)	ASTM D412
Compression Deformation	under 145 psi	Based on ASTM D575
Initial Compression Deformation	6 ±4 percent	
Final Compression Deformation	6 ±4 percent	
Compression Set	0.4 percent (no more than 4 percent) under 145 psi	Based on ASTM D395
Freeze and Thaw When Exposed to Deicing Chemicals	No loss after 50 cycles	ASTM C672
Coefficient of Thermal Expansion	$6x10^{-5}$in/in/degree F	ASTM C531
Weathering	(70 hours at 158 degree F)	ASTM D573
Hardness Retained	100 percent ±5 percent	
Compressive Strength Retained	100 percent ±5 percent	
Tensile Strength Retained	100 percent ±5 percent	
Elongation Retained	100 rcent ±5 percent	

B. Nuts and Bolts:
   1. Hot-dipped galvanized ASTM F1554 – Standard Specification for Anchor Bolts, Steel, 36, 55 and 105-ksi Yield Strength.

C. Accessories:
   1. Joint Sealant: ASTM C990 – Standard Specification for Joints for Concrete Pipe, Manholes, and Precast Box Sections Using Preformed Flexible Joint Sealants.
   2. Riser Rings.

PART 3 EXECUTION

3.1 EXAMINATION

A. Section 01 30 00 - Administrative Requirements: Verification of existing conditions before starting work.

B. Verify and locate manholes requiring grade adjustment.

3.2 CONSTRUCTION METHODS

A. Frames, grates, rings and covers shall be constructed of the materials as specified and shall be placed carefully to the lines or grades as directed by the City.

B. All welding shall conform to the requirements of the AWS-D-1-72 – Structural Welding Code. Welded frames, grates, rings and covers shall be hot-dipped galvanized (ASTM F1554 – Standard Specification for Anchor Bolts, Steel, 36, 55, and 105-ksi Yield Strength).

C. Painting of gray iron castings will not be required, except when used in conjunction with structural steel shapes.

3.3 EXISTING WORK

A. Saw cut existing paving, excavate, clean manholes, remove existing manhole frames and covers, and repair waterproofing.

3.4 ADJUSTING MANHOLE FRAMES AND COVERS

A. Locate and raise manholes to grade.

B. Use flat or tapered rubber manhole rings to achieve elevation indicated for frame and cover.

C. Do not adjust elevation more than 6 inches with rubber manhole rings.

D. Seal joints between manhole top, rubber rings, and frame with sealant.

E. Reinstall removed manhole frame and cover.

3.5 REPLACING MANHOLE FRAMES AND COVERS

A. Remove existing manhole frames and covers to enable reuse.

B. Deliver removed manhole frames and covers to Owner as maintenance materials in accordance with Section 01 70 00 - Execution and Closeout Requirements.

C. Install new frames and covers for manholes as indicated on Drawings. Adjust to match finished grade as indicated on Drawings. Seal joints between manholes and manhole frames.

3.6 PAVING RESTORATION

A. Restore bituminous paving areas in accordance with TxDOT Item 351.

END OF SECTION

ITEM NO. 802S - PROJECT SIGNS (Revised 9-12-19)

802S.1 - Description

This item shall govern furnishing, fabricating, erecting, maintaining and removing Project Signs on Capital Improvement Projects (C.I.P.) and for project identification at other construction sites, when required on the Drawings. The C.I.P. signs shall be constructed as indicated on the Drawings.

This specification is applicable for projects or work involving either inch-pound or SI units. Within the text, the inch-pound units are given preference followed by SI units shown within parentheses.

802S.2 - Materials

A. Sign Face

Sign face shall be manufactured on standard exterior waterproof plywood sheets or other suitable material approved by the Engineer or designated representative. Unless indicated otherwise on the Standard Details or Drawings, the thickness of the plywood sheet shall be a minimum of ¾ inches (19 mm).

B. Posts

Lumber posts, of the size indicated on the Standard Details or on the Drawings, shall be pressure treated with pentachlorophenol.

C. Paint

Exterior oil base paint, colors as indicated on the Standard Details or on the Drawings.

D. Decals for Capital Improvement Projects and Bond Program Projects

City seal shall be in color using a 3 color process. Electronic images are available from the City of Bastrop.

802S.3 - Installation

The signs shall be erected at a major entrance to the project for maximum public identification and exposure. At locations where construction is confined to a specific area, the installed sign size shall be 4 foot x 8 foot.

The signs shall be posted on portable wood frames or stanchions and will be located in the proximity of the work area as construction progresses. All lumber shall be painted with two coats of paint as indicated herein, in the Drawings.

In special cases the size of the sign may be changed to meet special requirements, but general proportions shall be maintained.

It shall be the responsibility of the contractor to maintain and relocate signs, if necessary during the progression of the project. Care shall be exercised to assure that placement of the signs does not interfere with or cause sight obstruction to vehicular and pedestrian traffic.

For projects located on a street with curb and gutter, signs shall be installed no closer than 2 feet (0.6 meter) from the face of curb on the street.

For projects located on a street without curb and gutter, signs shall be installed no closer than 6 feet (1.8 meters) from the edge of street pavement.

The contractor may install, at the Contractor's own expense, company signs to identify the contractor, architectural firm, etc. Signs are to be securely attached to the posts at locations indicated on the drawings and shall not be larger than 18 x 36 inches (0.45 x 0.90 meter).

802S.4 - Measurement

In the CIP contract, signs shall be measured by either lump sum or per each.

802S.5 - Payment

The work performed and the materials furnished as prescribed by this item shall be paid for by lump sum or per each price bid only. The "lump sum" bid or "per each" price bid shall include full compensation for all work performed and all materials furnished in constructing, transporting, maintaining and removing the signs as specified on the Drawings and as directed by the Engineer or designated representative.

Payment will be made under one of the following:

Pay Item No. 802S-AC.I.P.:	C.I.P.Project Signs	Lump Sum.
Pay Item No. 802S-BC.I.P.:	C.I.P. Project Sign	Per Each.
Pay Item No. 802S-ABOND:	Bond Project Signs	Lump Sum.
Pay Item No. 802S-BBOND:	Bond Project Sign	Per Each.

End

SPECIFIC CROSS REFERENCE MATERIALS	
Specification Item No. 802S, "Project Signs"	
City of Austin Standard Details	
Designation	Description
Item No. 802S-1	2.4 m × 1.2 m (8′ × 4′) C.I.P. Building Project Sign
Item No. 802S-1A	2.4 m × 1.2 m (8′ × 4′) Bond Program Building Project Sign
Item No. 802S-2	600 mm × 900 mm (24″ × 36″) C.I.P. Movable Sign Type II

Item No. 802S-2A	600 mm × 900 mm (24” × 36”) Joint C.I.P. Movable Sign Type II
Item No. 802S-2B	900 mm . 1.2 m (36” × 48”) Bond Program Project Movable Sign Type II
Item No. 804S-5	Typical CMTA/C.I.P. Sign Locations

Technical Specifications for TxDOT

The Texas Department of Transportation "Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges," 2014 Edition, is incorporated herein by reference for all intents and purposes. If a standard specified in that document conflicts with a standard included withing a bid specifications document, the standard in the bid specifications document controls. If the standard is still unclear, the Engineer will determine which standard controls and his determination shall be final.

Special Specification 3005
Scrub Seal Treatment

1. DESCRIPTION

Construct a surface treatment consisting of 1 or more applications of a single layer of asphalt emulsion that is scrubbed with a broom and covered with a single layer of aggregate.

2. MATERIALS

Furnish materials of the type and grade shown on the plans in accordance with the following:

- Polymer modified emulsion that meets the requirements of Item 300, "Asphalts, Oils, and Emulsions" Table 10 CMS-2P.
- Item 302, "Aggregates for Surface Treatments." Furnish aggregate of the type and grade shown on the plans and listed in Table 1. Ensure the aggregate gradation meets the requirements in Table 2 for the specified grade when tested in accordance with Tex-200-F, Part I. Furnish aggregates that meet the quality requirements shown in Table 3, unless otherwise shown on the plans.

  For final surfaces, unless otherwise shown on the plans, furnish aggregate with a surface aggregate classification of "B" or better. Provide aggregates from sources listed in the Department's Bituminous Rated Source Quality Catalog (BRSQC). Use material not listed or not meeting the requirements of the BRSQC only when tested by the Engineer and approved before use. Allow 30 calendar days for testing of material from such sources.

3. EQUIPMENT

3.1. **Distributor.** Furnish a distributor that will apply the emulsion uniformly at the specified rate or as directed.

3.1.1. **Calibration.** Furnish a volumetric calibration and strap stick for the distributor tank in accordance with Tex-922-K, Part I. Provide documentation of distributor calibration performed not more than 5 yr. before the date first used on the project. The Engineer may verify calibration accuracy in accordance with Tex-922-K, Part II.

3.1.2. **Computerized Distributor.** When paying for emulsion by weight, the Engineer may allow use of the computerized distributor display to verify application rates. Verify application rate accuracy at a frequency acceptable to the Engineer.

3.2. **Aggregate Spreader.** Use a continuous-feed, self-propelled spreader to apply aggregate uniformly at the specified rate or as directed.

3.3. **Rollers.** Unless otherwise shown on the plans, furnish light pneumatic tire rollers in accordance with Item 210, "Rolling."

3.4. **Scrub Broom.** Furnish a scrub broom assembly of similar design to Exhibit A or B, as approved by the engineer, and having the following characteristics:

- Rigid frame construction,
- Attached to, and pulled by, the distributor,
- Of such weight that it does not squeegee the emulsion off the roadway surface,
- Leading and trailing broom heads angled at 10 to 15 degrees off the centerline of the supporting member,
- Stiff bristles with a minimum height of five inches, and
- Hinged wing assemblies or other means of adjusting the broom width.

Provide a means of raising the broom from the road surface at desired points, and for towing the broom in elevated position when moving between shots.

3.5. Power Broom. Furnish a rotary, self-propelled broom for initial sweeping and final surface sweeping.

3.6. Emulsion Storage and Handling Equipment. When the plans or the Engineer allows storage tanks, furnish a thermometer in each tank to indicate the emulsion temperature continuously. Keep equipment clean and free of leaks. Keep emulsion free of contamination.

3.7. Aggregate Haul Trucks. Unless otherwise authorized, use trucks of uniform capacity to deliver the aggregate. Provide documentation showing measurements and calculation in cubic yards. Clearly mark the calibrated level. Truck size may be limited when shown on the plans.

3.8. Digital Measuring Instrument. Furnish a vehicle with a calibrated digital-measuring instrument accurate to ±6 ft. per mile.

4. CONSTRUCTION

4.1. General. Application season will be as shown on the plans. Emulsion and aggregate rates shown on the plans are for estimating purposes only. The Engineer will adjust the rates for the existing conditions.

4.2. Temporary Aggregate Stockpiles. The Engineer will approve the location of temporary aggregate stockpiles on the right of way before delivery. Place stockpiles in a manner that will not:

- obstruct traffic or sight distance,
- interfere with the access from abutting property, or
- interfere with roadway drainage.

Locate stockpiles a minimum of 30 ft. from roadway when possible. Sign and barricade as shown on the plans.

4.3. Aggregate Furnished by the Department. When shown on the plans, the Department will furnish aggregate to the Contractor without cost. Stockpile locations are shown on the plans.

4.4. Adverse Weather Conditions. Do not place surface treatments when, in the Engineer's opinion, general weather conditions are unsuitable. Meet the requirements for air and surface temperature shown below.

4.4.1. Standard Temperature Limitations. Apply scrub seal when air temperature is above 50°F and rising. Do not apply surface treatment when air temperature is 60°F and falling. In all cases, do not apply surface treatment when surface temperature is below 60°F.

4.4.2. Cool Weather Night Air Temperature. The Engineer reserves the right to review the National Oceanic and Atmospheric Administration (NOAA) weather forecast and determine if the nightly air temperature is suitable for placement to prevent aggregate loss.

4.4.3. Cold Weather Application. When application is allowed outside of the above temperature restrictions, the Engineer will approve the emulsion grade and the air and surface temperatures for application. Apply scrub seal at air and surface temperatures as directed.

4.5. Surface Preparation. Remove existing raised pavement markers. Repair any damage incurred by removal as directed. Remove dirt, dust, or other harmful material before sealing. Cracks in the pavement must be cleaned of debris using compressed air. When shown on the plans, remove vegetation and blade pavement edges.

4.6. Rock Land and Shot.

4.6.1. Definitions.

- A “rock land” is the area covered at the aggregate rate directed with 1 truckload of aggregate.
- A “shot” is the area covered by 1 distributor load of emulsion.

4.6.2 Setting Lengths. Calculate the lengths of both rock land and shot. Adjust shot length to be an even multiple of the rock land. Verify that the distributor has enough emulsion to complete the entire shot length. Mark shot length before applying emulsion. When directed, mark length of each rock land to verify the aggregate rate.

4.7. Emulsion Placement.

4.7.1. General. Adjust the shot width so operations do not encroach on traffic or interfere with the traffic control plan, as directed. Use paper or other approved material at the beginning and end of each shot to construct a straight transverse joint and to prevent overlapping of the emulsion. Unless otherwise approved, match longitudinal joints with the lane lines. The Engineer may require a string line if necessary to keep joints straight with no overlapping. Use sufficient pressure to flare the nozzles fully. Select an application temperature, as approved, in accordance with Item 300. Uniformly apply the emulsion at the rate directed, within 15°F of the approved temperature, and not above the maximum allowable temperature.

4.7.2. Scrubbing. Mechanically scrub the freshly applied emulsion by dragging the scrub broom behind the distributor, so that the emulsion is evenly spread over the road surface and fills existing surface cracks.

4.7.3. Limitations. Do not apply emulsion to the roadway until:

- traffic control methods and devices are in place as shown on the plans or as directed,
- the loaded aggregate spreader is in position and ready to begin,
- haul trucks are loaded with enough aggregate to cover the shot area, and
- haul trucks are in place behind the spreader box.

4.7.4. Non-uniform Application. Stop application if it is not uniform due to streaking, ridging, puddling, flowing off the roadway surface, or not filling the cracks. Verify equipment condition, operating procedures, application temperature, and material properties. Determine and correct the cause of non-uniform application. If the cause is high or low emulsion viscosity, replace emulsion with material that corrects the problem.

4.7.5. Test Strips. The Engineer may stop application and require construction of test strips at the Contractor’s expense if any of the following occurs:

- non-uniformity of application continues after corrective action;
- on 3 consecutive shots, application rate differs by more than 0.03 gal. per square yard from the rate directed; or
- any shot differs by more than 0.05 gal. per square yard from the rate directed.

The Engineer will approve the test strip location. The Engineer may require additional test strips until surface treatment application meets specification requirements.

4.8. Aggregate Placement. As soon as possible, apply aggregate uniformly at the rate directed without causing the rock to roll over.

4.9. Rolling. Start rolling operation on each shot as soon as aggregate applied. Use sufficient rollers to cover the entire mat width in 1 pass, i.e., 1 direction. Roll in a staggered pattern. Unless otherwise shown on the plans, make a minimum of 3 passes. If rollers are unable to keep up with the spreader box, stop application until rollers have caught up, or furnish additional rollers. Keep roller tires asphalt-free.

4.10. Patching. Before rolling, repair spots where coverage is incomplete. Repair can be made by hand spotting or other approved method. When necessary, apply additional emulsion to embed aggregate.

4.11. Finishing Broom. After rolling, sweep as soon as aggregate has sufficiently bonded to remove excess.

4.12. Final Acceptance. Maintain surface treatment until the Engineer accepts the work. Repair any surface failures. Before final project acceptance, remove all temporary stockpiles and restore the area to the original contour and grade.

5. MEASUREMENT

5.1. Emulsion. Unless otherwise shown on the plans, emulsion will be measured by one of the following methods:

5.1.1. Volume. Emulsion will be measured at the applied temperature by strapping the tank before and after road application and determining the net volume in gallons from the distributor's calibrated strap stick. The quantity to be measured for payment will be the number of gallons used, as directed, in the accepted surface treatment.

5.1.2. Weight. Emulsion will be measured in tons using certified scales meeting the requirements of Item 520, "Weighing and Measuring Equipment," unless otherwise approved. The transporting truck must have a seal attached to the draining device and other openings. The Engineer may require random checking on public scales at the Contractor's expense to verify weight accuracy. Upon work completion or temporary suspension, any remaining emulsion will be weighed by a certified public weigher, or measured by volume in a calibrated distributor or tank and the quantity converted to tons at the measured temperature. The quantity to be measured will be the number of tons received minus the number of tons remaining after all directed work is complete and minus the amount used for other items.

5.2. Aggregate. Aggregate will be measured by the cubic yard in the trucks as applied on the road. The Engineer may require loaded aggregate to be struck off for accurate measurement.

5.3. Loading, Hauling, and Distributing Aggregate. When the Department furnishes the aggregate, the loading, hauling, and distributing will be measured by the cubic yard in the trucks as applied on the road.

6. PAYMENT

The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit prices bid for "Emulsion," "Aggregate," and "Loading, Hauling, and Distributing Aggregate" of the types–grades specified. These prices are full compensation for surface preparation; furnishing, preparing, hauling, and placing materials; removing existing pavement markers and excess aggregate; rolling; cleaning up stockpiles; and equipment, labor, tools, and incidentals.

Exhibit A

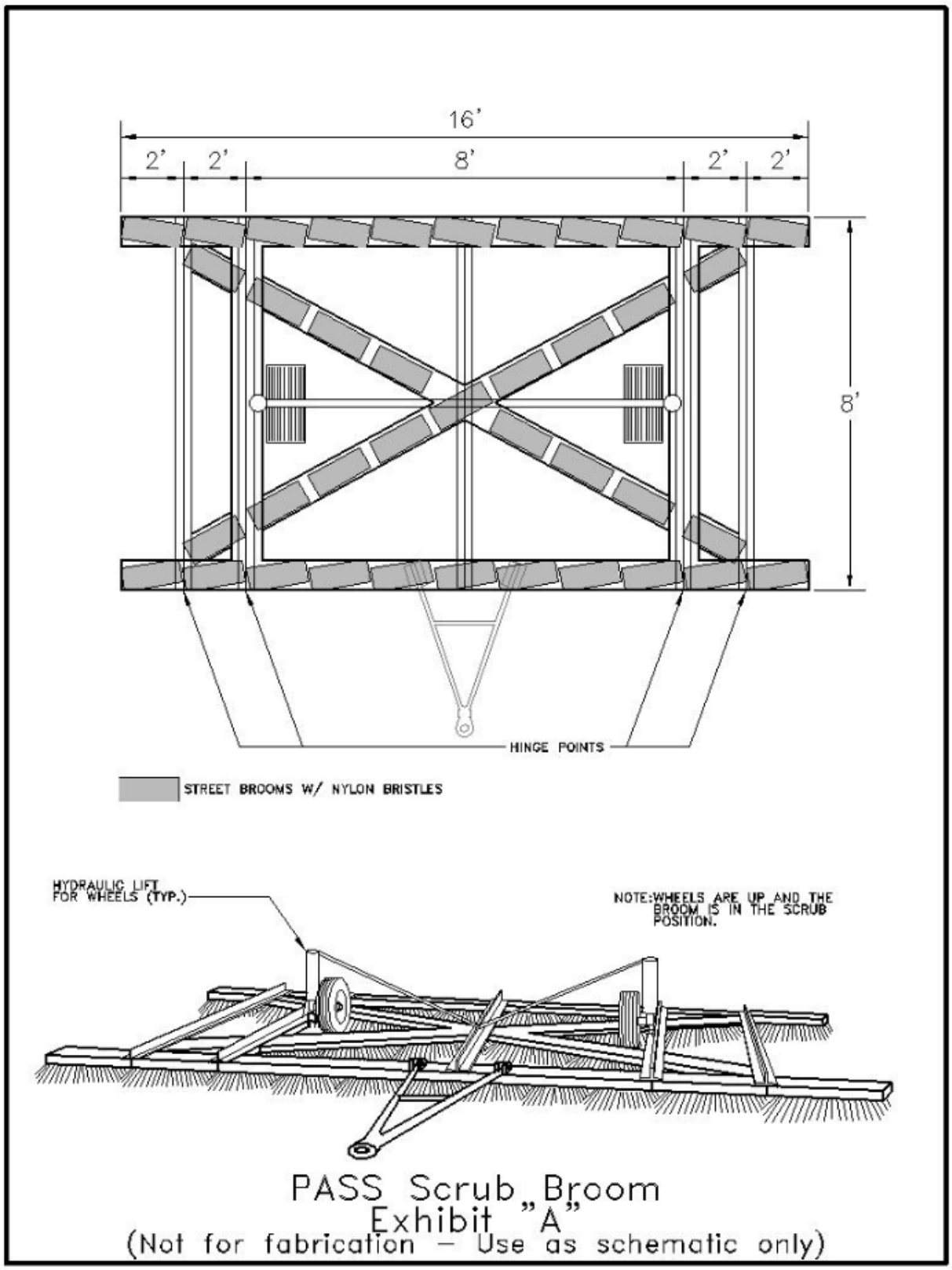
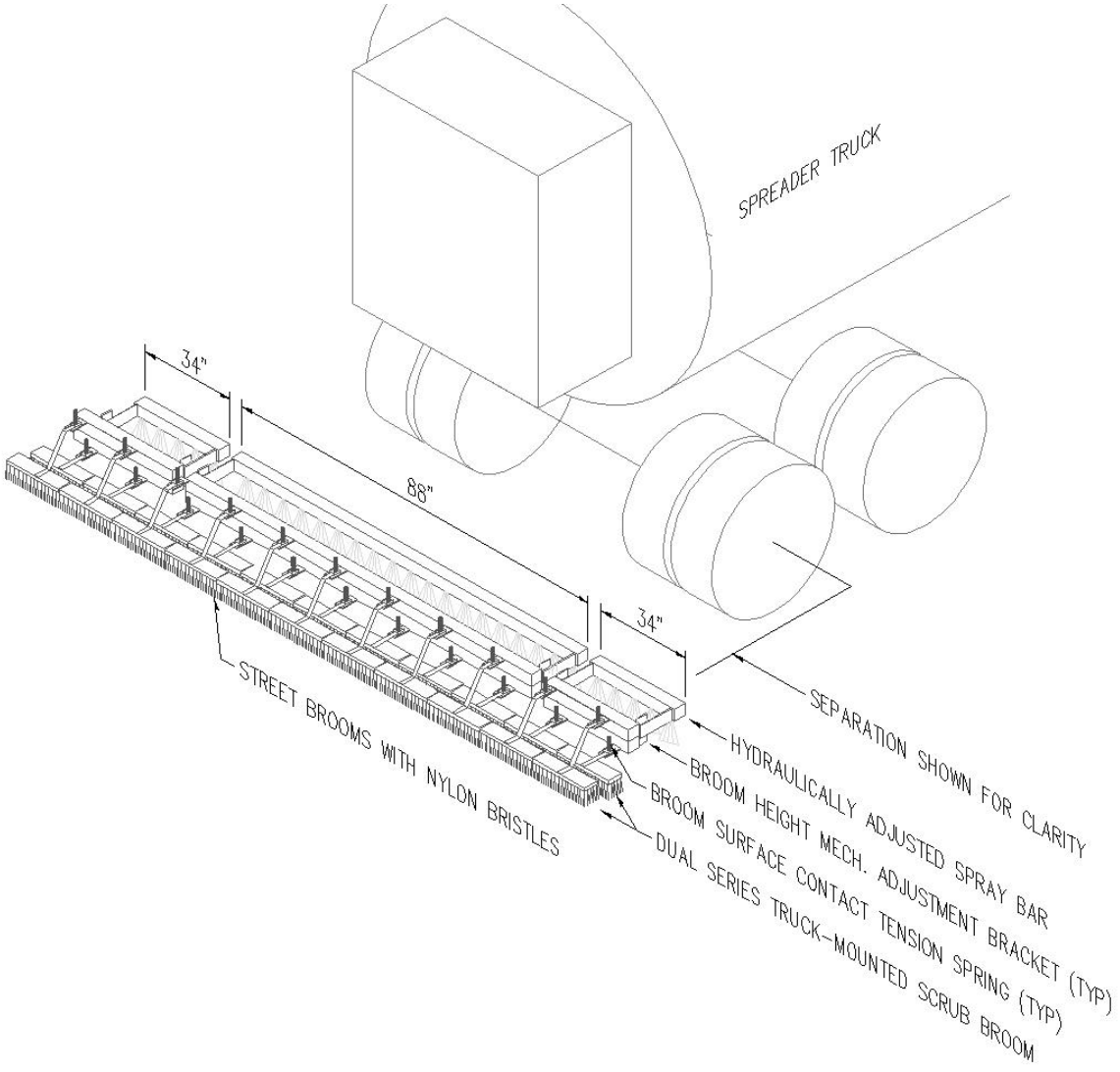

16'
2'
2'
8'
2'
2'
8'
HINGE POINTS
STREET BROOMS W/ NYLON BRISTLES
HYDRAULIC LIFT FOR WHEELS (TYP.)
NOTE:WHEELS ARE UP AND THE BROOM IS IN THE SCRUB POSITION.
PASS Scrub „Broom
Exhibit "A"
(Not for fabrication – Use as schematic only)

Exhibit B



Truck Mounted Scrub Broom

Special Specification 3028
Frictional Asphaltic Surface Preservation Treatment

1. DESCRIPTION

Apply a surface preservation treatment consisting of one or more applications of a single layer of asphaltic and aggregate material.

2. MATERIALS

Furnish materials in accordance with the following:

2.1. **Asphalt.**

Furnish an emulsified asphalt in accordance with Table 1. Provide water in accordance with Article 204.2., "Materials."

Table 1. Emulsified Asphalt

Property	Test Procedure	Min	Max
Viscosity	T 59	20	100
Particle Charge Test	T 59	Positive	
Sieve, %	T 59	0	0.1
Residue by Distillation, percent	T 59	60	-
Penetration at 77°F, 100 g, 5 sec.	T 49	40	150

Use a quantity of emulsified asphalt in the mixture, expressed as a percentage of total weight, the percentage shown on the plans, or as directed.

2.2 **Aggregate.** Furnish aggregate meeting Item 302, "Aggregates for Surface Treatments," of the grade shown in Table 2.

Table 2. Aggregates

Physical Properties[1]			
Property	Test Procedure	Min.	Max.
Water Absorption, %	T 84	-	4
Micro-Deval, %	D 7428[2]	-	20
Gradation[3]			
Sieve	Standard	Master Grading Band Limits Percent Passing	Target Tolerance
No. 8	C 136	100	
No. 16	C 136	85-100	
No. 30	C 136	75-100	± 5
No. 60	C 136	10-40	± 5
No. 100	C 136	0-10	± 5
No. 200	C 117	0-5	± 1

1. Perform physical property tests on aggregates that are received before blending into sealer.
2. Micro-Deval on aggregate larger than No. 60 sieve U.S.

2.3 **Additives.** Add clay, polymers, water, and other additives as required. Use a minimum of 4% polymer by weight. Furnish water free of industrial wastes and other objectionable matter.

or:

Other Additives. Use approved additives as recommended by the Frictional Asphaltic Surface Preservation Treatment manufacturer when necessary to adjust mix time in the field.

3. MIX DESIGN

3.1 Furnish a laboratory mix design meeting the requirements shown in Table 3:

Table 3. Laboratory Mix Design

Test	Test Procedure	Min	Max
Wet-Track Abrasion Loss, 3 day soak, g/m^2	D 3910[1]	--	80
Asphalt Content by Ignition Method, %	T 308	30	--
Dynamic Friction Test Number, 20 kph	E 1911[2]	0.90	--

1. Use the modified method to account for realistic application depth and fine emulsion mixture.
2. Establish base friction value using prepared laboratory compacted slab of approved mix as surface to be tested. The Dynamic Friction Test (DFT) number ratio should indicate that after application of the mastic seal, the surface retains required minimum percentage DFT number of the original pavement surface.

3.2 Furnish a production or field sample meeting the requirements shown in Table 4:

Table 4. Production or Field Sample

Test	Test Procedure	Min	Max
Solids Content by Evaporation, %	T 59[1]	48	--
Asphalt Content by Ignition Method, %	T 308[3]	30	--
Rotational Viscosity, 20 rpm, RV spindle, 25°C, cP	D 2196[2]	800	4000
Temperature for storage and application, °F	--	60	130

1. Dry specimens to a state where measurements taken 20 minutes apart do not change.
2. Test samples within 7 days.
3. Reduce sample size to achieve asphalt quantity. It is very important that this test be performed on a completely dry sample.

4. EQUIPMENT

4.1 Mixing Plant. Provide a stationary pugmill, weigh-batch, or continuous mixing plant as approved. Equip plants with digital proportioning and metering devices that produce a uniform mixture of asphalt, aggregate and additives in the specified proportions.

4.2 Distributor. Provide applicable equipment in accordance with Article 316.3., "Equipment." Furnish the necessary facilities and equipment for determining the temperature of the mixture, regulating the application rate, and securing uniformity at the junction of 2 distributor loads. Furnish a distributor capable of keeping the Frictional Asphaltic Surface Preservation Treatment in uniform suspension and adequately mixing the asphalt, aggregate and additives.

4.3 Asphalt Storage and Handling Equipment. When using storage tanks, furnish a thermometer in each tank to continuously indicate the asphalt temperature. Keep equipment clean and free of leaks. Keep asphalt material free of contamination. Furnish storage tanks capable of keeping the Frictional Asphaltic Surface Preservation Treatment in uniform suspension and adequately mixing the asphalt, aggregate and additives.

5. CONSTRUCTION

5.1 Adverse Weather Conditions. Do not place mixture when, in the Engineer's opinion, general weather conditions are unsuitable. Meet the requirements for air and surface temperature shown below.

5.1.1 Standard Temperature Limitations. Apply mixture when air temperature is above 50°F and rising. Do not apply mixture when air temperature is 60°F and falling. In all cases, do not apply mixture when surface temperature is below 60°F.

5.1.2. Cool Weather Night Air Temperature. The Engineer reserves the right to review the National Oceanic and Atmospheric Administration (NOAA) weather forecast and determine if the nightly air temperature is suitable for mixture placement.

5.1.3. Cold Weather Application. When mixture application is allowed outside of the above temperature restrictions, the Engineer will approve the mixture and the air and surface temperatures for application. Apply mixture at air and surface temperatures as directed.

5.2. Surface Preparation. Remove existing raised pavement markers. Repair any damage incurred by removal as directed. Remove dirt, dust, or other harmful material before applying. When shown on the plans, remove vegetation and blade pavement edges.

5.3. Application. Apply the mixture when the air temperature is at or above 60°F, or above 50°F and rising. Measure the air temperature in the shade away from artificial heat. The Engineer will determine when weather conditions are suitable for application.

Distribute material at the following rates or as directed:

- First application: 1.0 to 1.5 lbs per SY.
- Second application: 1.0 to 1.5 lbs per SY.
- Total application after the second application: 2.5 lbs per SY minimum.

5.4. Edges. Adjust the shot width so operations do not encroach on traffic or interfere with the traffic control plan, as directed. Use paper or other approved material at the beginning and end of each shot to construct a straight traverse joint. Unless otherwise approved, match longitudinal joints with the lane lines. The Engineer may require a string line if necessary to keep the edge straight. Use sufficient pressure to flare the nozzles fully.

5.5. Workmanship. Immediately take corrective action if treatment material is exhibiting evidence of poor workmanship, delayed opening to traffic, or surface irregularities, including streaks, uncoated, and blotchy areas. The Engineer may allow placement to continue for no more than one day of production while taking appropriate action. Suspend application if the problem still exists after one day until the problem is corrected to the satisfaction of the Engineer.

5.6. Opening to Traffic. Open the treated surface to traffic when directed. Furnish and uniformly distribute clean, fine sand on the surface to blot the excess when an excessive quantity of mixture is applied. Maintain ingress and egress as directed by applying sand to freshly treated areas.

6. MEASUREMENT

Frictional Asphaltic Surface Preservation Treatment will be measured by the ton or by the square yard of the composite Frictional Asphaltic Surface Preservation Treatment mixture, which includes asphalt emulsion, aggregate, and additives. At the completion of the project, any unused Frictional Asphaltic Surface Preservation Treatment will be weighed back and deducted from the accepted Frictional Asphaltic Surface Preservation Treatment quantity delivered.

7. PAYMENT

The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit bid price per ton or square yard for "Frictional Asphaltic Surface Preservation Treatment." This price is full compensation for preparing the existing surface (including removing existing raised pavement markers); furnishing, hauling, preparing, and placing materials; and equipment, labor, tools, and incidentals.

ATTACHMENTS

SPECIAL PROVISIONS

TABLE OF CONTENTS

SECTION NUMBER	DESCRIPTION
SP1	CITY PROJECT MANAGER
SP2	CONSTRUCTION PHASING/TRAFFIC CONTROL
SP3	RESIDENTIAL NOTIFICATION
SP4	SOLID WASTE COORDINATION
SP5	SCHEDULE
SP6	CLEANUP OF LOOSE ROCK
SP7	ROCK RATE

SPECIAL PROVISIONS

SP1 **CITY PROJECT MANAGER:** The City of Bastrop's official representative shall be Curtis Hancock. He may be reached at 1311 Chestnut St., Bastrop, TX 78602, 512-332-8960.

SP2 **CONSTRUCTION PHASING/TRAFFIC CONTROL:** Contractor shall provide and adhere to an approved traffic control plan based on the Texas Manual on Uniform Traffic Control Devices (TMUTCD). The contractor is solely responsible for traffic control including all signs, barricades, markings, flagmen, pilot cars, patrol officers, and/or any other traffic control devices that will be appropriate for the construction or maintenance of the roadway or other associated work. The contractor's traffic control plan shall be completed for review during the pre-construction meeting. Contractor will be required to provide and maintain detours for street segments that are closed for construction. Any closures or detour routes **MUST BE PRE-APPROVED** by the Project Manager and/or his designee. The contractor shall update the traffic control plan as required during construction. All traffic control shall comply with the TMUTCD. The contractor's plan must be approved by the City Project Manager prior to beginning work.

SP3 **RESIDENTIAL NOTIFICATION: Prior to beginning construction, the residents and business owners within the affected work zone shall be notified by the Contractor at least 72 hours in advance. Notification shall be written and hand delivered to each residence or business.** Notices are not to be placed in mailboxes. All written notices shall be approved by the City prior to distribution. Residents shall be similarly notified if access to their drives will be blocked for any period of time. The Contractor shall accommodate Special Needs that residents may have such as access for handicap, etc.

SP4 **SOLID WASTE COORDINATION:** Construction is not to impede weekly waste collection. Residential waste and brush & bulky service occur once per week. The schedules are available at the City of Bastrop website: https://www.cityofbastrop.org/upload/page/0128/docs/BastropServiceMap4.pdf

The contractor is to work with the City of Bastrop Solid Waste Division to make certain the impact to citizens is minimized. The contractor is to work with the City as need including scheduling, assisting in relocation of garbage cans, etc. Whenever city garbage collection trucks are denied vehicular access to residential curbside pickup, the contractor must collect the filled cans from each property and locate them in an area accessible to the collection truck prior to the scheduled pickup. The contractor must also return the empty cans that same day. The contractor may note on the door hanger notifications that residential waste pickup

will occur on regularly scheduled days but that pick-up will occur as early as 7:00 am during this time to facilitate construction.

SP5 **SCHEDULE:** The City of Bastrop would like this contract to be complete on or before July 31, 2020. Seal coat work shall not commence complete prior to May 1, 2020. Scrub seal work shall not commence before May 1, 2019. Crack seal work shall commence as soon as possible and be complete before March 1, 2020. There are no restrictions on 5" Flexible Pavement Repair work provided that Weather Conditions as shown in Item 340.4.6.1 are met, but Pavement Repairs should be completed on an individual street prior to commencement of Crack Seal Work on the same individual street. Normal construction hours will be conducted Monday through Friday between the hours of 8:00 am and 5:30 pm. Work occurring around schools shall be scheduled so that work does not interfere with school zone traffic during drop-off and pick-up schedule times. Work may be allowed on Saturdays with Project Manager approval. There will be no work allowed on Sundays.

SP6 **SWEEPING AND PICKUP OF LOOSE ROCK:** All streets shall be fully/completely swept and all loose rock picked up within 24 hours of Seal Coat and Scrub Seal operations. Contractor shall provide a second sweep and loose rock pickup to all treated roadways fourteen (14) days after the first sweep. Loose rock shall be picked up and discarded properly from grass, medians, curbs, gutters, driveways, adjacent roadways, intersections, etc. at the 24 hour and 14-day intervals. This will not constitute the only sweeping and pickup of loose rock. Additional sweeping and loose rock pickup may be required at additional times (i.e. punch list and/or staff or resident concerns).

SP7 **ROCK RATE:** The rock rate for Seal Coat and Scrub Seal operations is 1 CY/110 SY. This is the maximum allowable amount of rock allowed on the roadway. Contractor may, with City of Bastrop approval, adjust the rock rate lower but must still provide the maximum coverage for the surface treatment operation to prevent an abundance of loose rock.

GENERAL NOTES

1. GENERAL

1.1 All work shall be done in accordance with plans, drawings, and specifications and in the best and most workmanlike manner by qualified, careful and efficient workers, in strict conformity with the best accepted practices of each craft concerned, and at all times workmanship shall be subject to inspection and approval of the City through the Project Manager.

1.2 Right of Way – Facility and Utility Protection – The Contractor shall be responsible for adequately protecting all facilities (mailboxes, fences, trees, bushes, sidewalks, curb and gutter, driveways, etc.) not designated for removal during construction. Any damage to existing facilities incurred as a result of construction operations shall be immediately repaired by the Contractor to existing or better condition. All repairs shall be approved by the City through the Project Manager. The cost of the restoration shall be borne by the Contractor.

1.3 The Contractor shall maintain access to existing driveways at all times.

1.4 All adjoining pavement sections (including driveways) shall be protected during construction. Any damages incurred due to the Contractors operation, shall be repaired and/or replaced to match or exceed existing conditions at the Contractor's expense.

1.5 Where existing pavement (including driveways) adjoins new pavement, the existing pavement shall be sawed to a neat transverse and/or longitudinal line to permit proper joining. This work is considered subsidiary to the various bid items.

1.6 The Contractor shall use rubber-tired equipment for moving materials along or across paved surfaces and shall protect the pavement from all damage when moving equipment that is not licensed for operation on City streets.

1.7 Mixing of materials, storing of materials, storing of equipment, or repairing of equipment on top of pavement will not be permitted unless specifically authorized by the City through the Project Manager. Permission may be granted to store materials on surfaces, if in the opinion of the Project Manager, no damage or discoloration will result.

1.8 The Contractor shall provide continuous supervision of construction and a superintendent shall be on the project site at all times during working hours.

1.9 Quantities are estimated. It is the Contractor's responsibility to check quantities which will be approved by the Engineer. Quantities will be verified by Contractor before work begins. Square yards will include radius and cul-de-sacs.

1.10 The Contractor will get prior approval for all stockpile sites for construction in writing from the Project Manager's approval prior to stock piling materials.

1.11 The Contractor will furnish all labor, material and equipment to complete the work.

1.12 No excavations for flexible pavement repair shall remain open overnight. Work must be prosecuted in a manner which all excavations are fully repaired and open to traffic by the end of each working day.

2. TRAFFIC CONTROL PLAN/TRAFFIC CONTROL IMPLEMENTATION

2.1 Traffic Control Plan:
2.1.1 Basis of Measurement: Lump Sum
2.1.2 Basis of Payment: Payment for Traffic Control Plan shall be made at the lump sum bid for "Traffic Control Plan". Payment for all work prescribed under this item shall be full compensation for the Traffic Control Plan including all preparation, submittals, updates and revisions.

2.2 Traffic Control Implementation:
2.2.1 Basis of Measurement: Lump Sum
2.2.2 Basis of Payment: Includes all aspects of implementing the Plan throughout the Project.

2.3 The Contractor will be responsible for erecting and maintaining all barricades, flaggers, signs and other devices necessary to protect the public and maintain traffic flow when he is working in or adjacent to the public right-of-way.

2.4 The Contractor shall regulate all construction activities and equipment so as to cause a minimum of inconvenience to the traveling public. At points where it is necessary for trucks to stop, load, or unload, provide warning signs and flaggers to protect the traveling public.

2.5 All flagmen shall be equipped with communications devices (i.e., 2-way radios).

2.6 TCP must be developed to address the specific conditions of the planned construction work location. The roadway may not be closed to local traffic except for very short duration(s). i.e. during crack seal operations, seal coat operations, scrub seal operations, fog seal operations or final surface HMAC operations.

2.7 Roadways at intersections may not be closed to thru traffic except for short duration(s). i.e. during crack seal operations, seal coat operations, scrub seal operations, fog seal operations or final surface HMAC operations.

2.8 Traffic control shall conform to applicable requirements of the Texas Manual of Uniform Traffic Control Devices (TMUTCD)(latest edition). Adequate signs,

barricades, flag personnel, etc. shall be erected and maintained in full compliance with the TMUTCD.

2.9 TCP's may utilize TMUTCD typical applications such as TA-8 (for intersections), TA-18 or TA-20.

3. SEAL COAT

3.1 Asphalt Oils and Emulsions shown on bid tabs will be used unless otherwise approved in writing by the Engineer. Coverstone will be as shown on bid unless otherwise approved by the Engineer in writing. All aggregates are to be SAC-B.

3.2 Open Season for application of asphalt oils and emulsions is from May 1 through October 1. No seal coat surface treatment shall be placed between October 1 and May 1.

3.3 The Contractor shall furnish samples of materials to the City for testing prior to application to the roadway. The City shall, at any time during construction, perform random testing throughout the construction period.

3.4 The Contractor shall have access to a minimum of four (4) 10-yard dump trucks, or six (6) 5-yard dump trucks.

3.5 The Contractor shall have a distributor with the capability of applying 22' maximum width.

3.6 Overweight trucks will NOT be permitted to supply the chip spreader.

3.7 All excess/unused material shall be removed from all work site areas within thirty (30) days or it will become property of City of Bastrop.

3.8 The Contractor shall have a minimum of (12) "Loose Gravel" signs available for posting during construction.

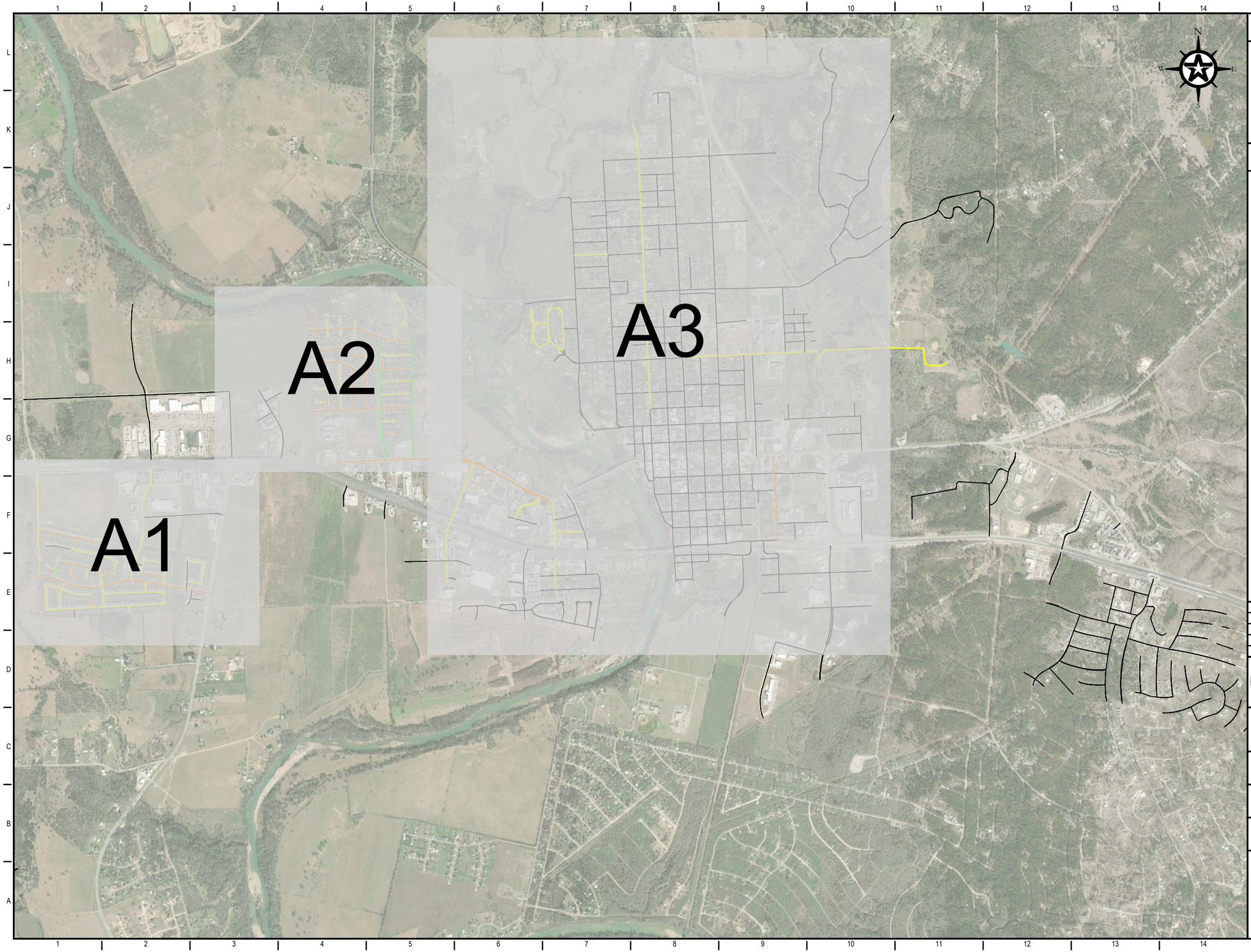
3.9 The Contractor shall set his own shots and station numbers as needed throughout each section of the project. Asphalt and aggregate rates shall be conveyed and agreed upon by Project Manager prior to shots beginning. Asphalt rates and aggregate rates shown in bid documents are to be considered average rates.

3.10 Contractor shall protect adjacent sections at beginning and ending shots with paper. Additionally, all manhole covers, valve covers, etc. shall be protected from asphalt during surface treatment operations.

3.11 Protect all existing curbs, concrete valley gutters, and other exposed concrete surfaces within the limits of the projects as much as practical from asphalt materials by any method that is acceptable to the Project Manager. Contractor shall be

required to remove any excess asphalt materials deposited on these surfaces in a manner approved by the Project Manager at the Contractor's expense.

3.12 Wind velocities in excess of 20 mph shall be considered as inclement weather and work will be suspended. Wind velocities will be determined at the nearest airport to the work area.



LEGEND

- CRACK SEAL ONLY (TxDOT 712)
- 4" FLEXIBLE PAVEMENT REPAIR ONLY (TxDOT 351)
- 4" FLEXIBLE PAVEMENT REPAIR AND CRACK SEAL (TxDOT 351 & TxDOT 712)

GENERAL NOTES

1. CRACK SEAL WORK WILL BE SUBSEQUENT TO FLEXIBLE PAVEMENT REPAIR WHEN BOTH ACTIVITIES REQUIRED ON SAME STREET.

REV.	DESCRIPTION	DATE

Walker Partners
engineers ★ surveyors
T.B.P.E. Registration No. 8053

CITY OF BASTROP

2019 MAINTENANCE PROGRAM

STREETS MAINTENANCE OVERVIEW

09/12/19
DATE

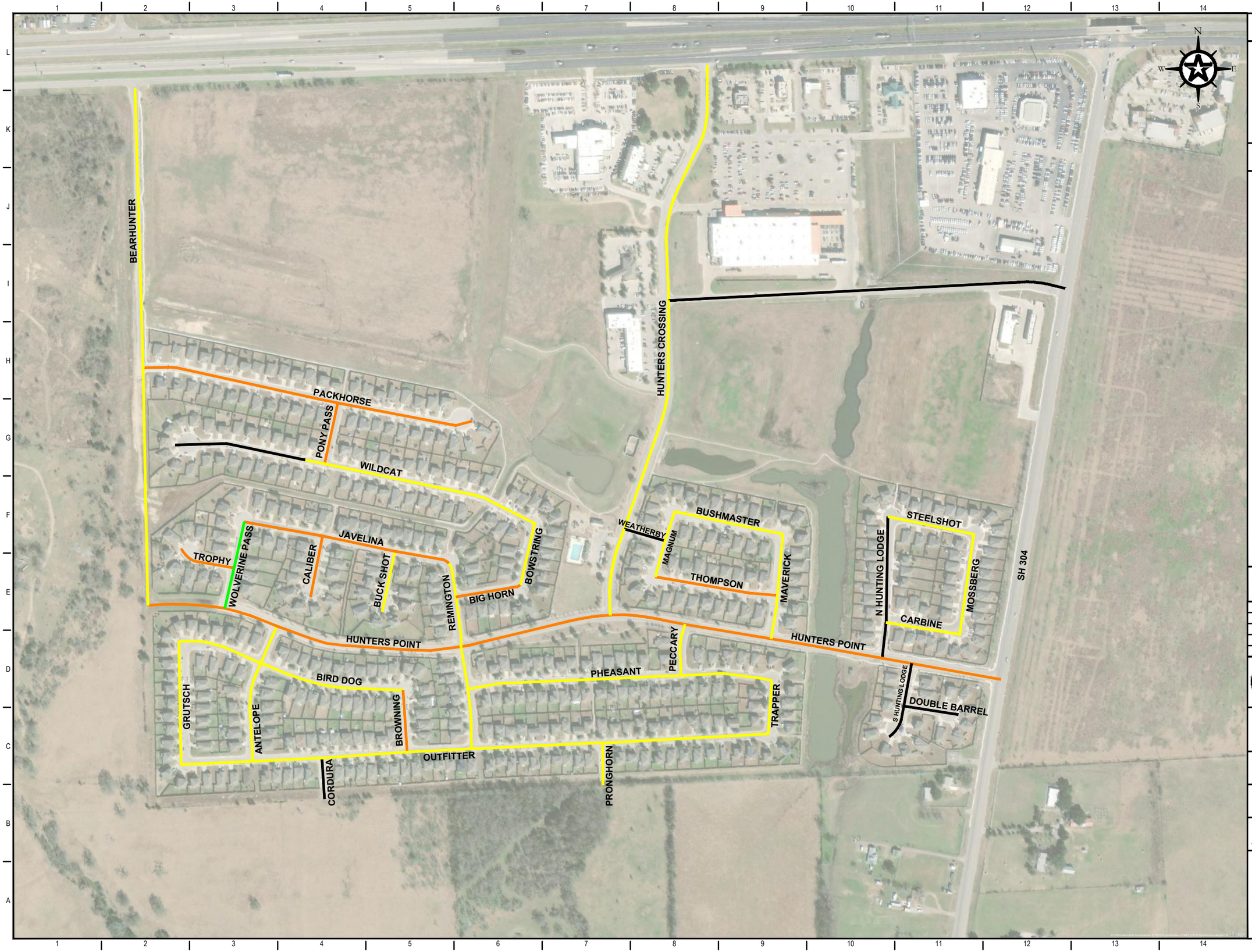
R. Alan Munger, PE
R. ALAN MUNGER

STATE OF TEXAS
R. ALAN MUNGER
65341
REGISTERED

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CHECKED	RAM
PROJECT NO.	4-01126

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LEGEND

- CRACK SEAL ONLY (TxDOT 712)
- 4" FLEXIBLE PAVEMENT REPAIR ONLY (TxDOT 351)
- 4" FLEXIBLE PAVEMENT REPAIR AND CRACK SEAL (TxDOT 351 & TxDOT 712)

GENERAL NOTES

1. CRACK SEAL WORK WILL BE SUBSEQUENT TO FLEXIBLE PAVEMENT REPAIR WHEN BOTH ACTIVITIES REQUIRED ON SAME STREET.

0 100 200 400

GRAPHIC SCALE (FEET)

REV.	DESCRIPTION	DATE

Walker Partners
engineers ★ surveyors
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CITY OF BASTROP

2019 MAINTENANCE PROGRAM

STREETS MAINTENANCE MAP A1

09/12/19
DATE

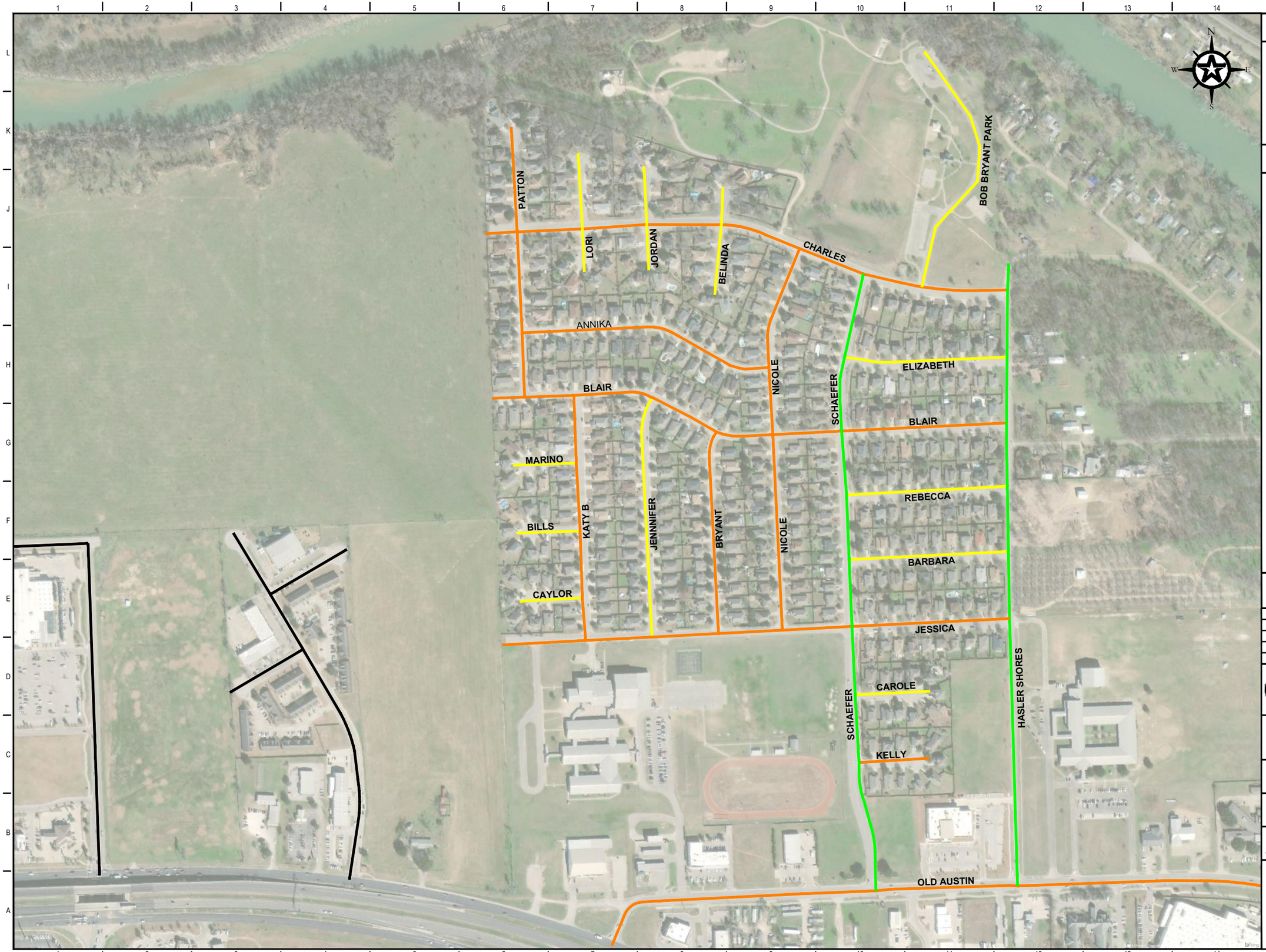
R. Alan Munger, PE
R. ALAN MUNGER

STATE OF TEXAS
R. ALAN MUNGER
65341
REGISTERED
PROFESSIONAL ENGINEER

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LEGEND

- CRACK SEAL ONLY (TxDOT 712)
- 4" FLEXIBLE PAVEMENT REPAIR ONLY (TxDOT 351)
- 4" FLEXIBLE PAVEMENT REPAIR AND CRACK SEAL (TxDOT 351 & TxDOT 712)

GENERAL NOTES

1. CRACK SEAL WORK WILL BE SUBSEQUENT TO FLEXIBLE PAVEMENT REPAIR WHEN BOTH ACTIVITIES REQUIRED ON SAME STREET.

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GRAPHIC SCALE (FEET)

REV.	DESCRIPTION	DATE

Walker Partners
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CITY OF BASTROP

2019 MAINTENANCE PROGRAM

STREETS MAINTENANCE
MAP A2

09/12/19
DATE

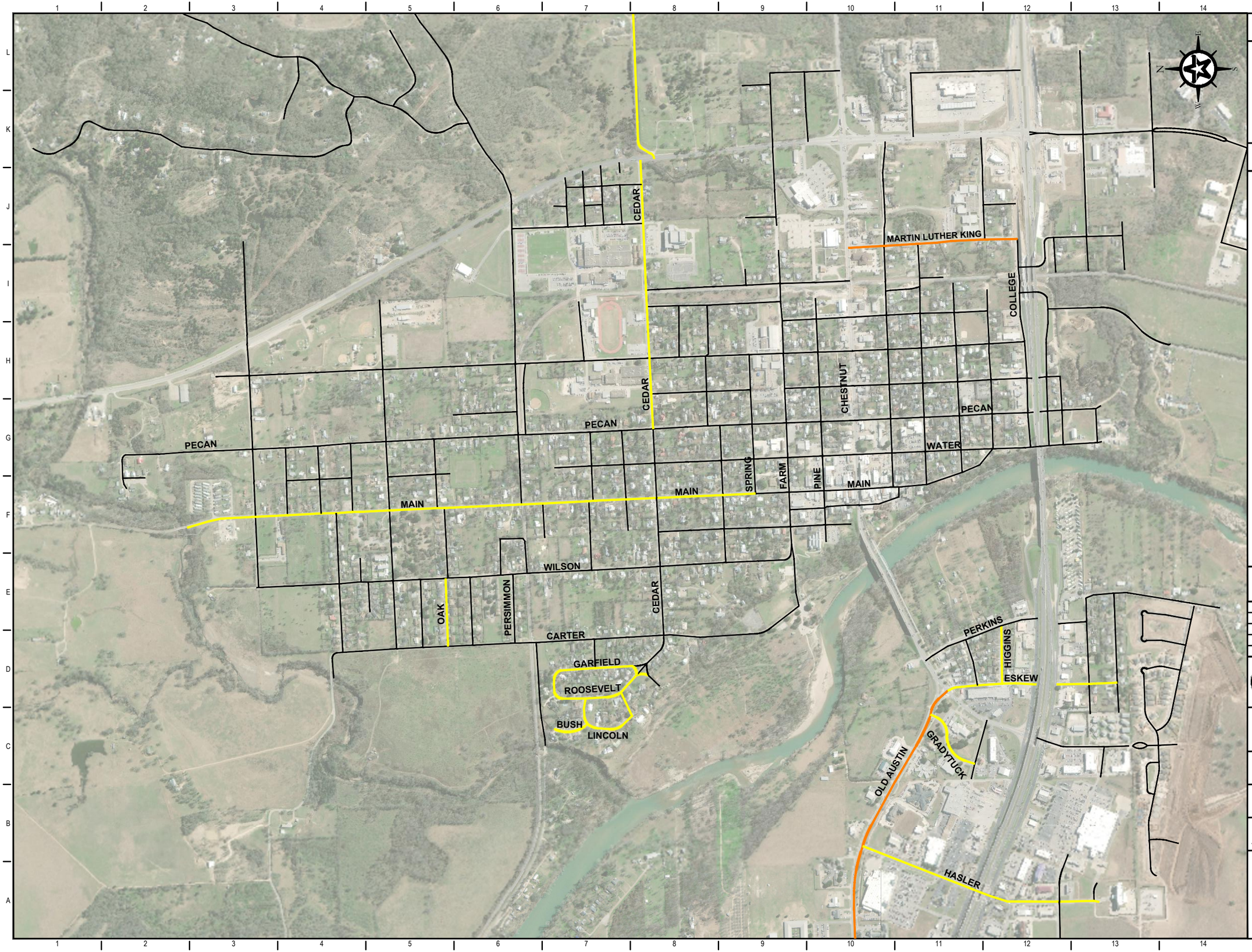
R. Alan Munger, PE
R. ALAN MUNGER

STATE OF TEXAS
R. ALAN MUNGER
65341
REGISTERED
PROFESSIONAL ENGINEER

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CHECKED	RAM
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LEGEND

- CRACK SEAL ONLY (TxDOT 712)
- 4" FLEXIBLE PAVEMENT REPAIR ONLY (TxDOT 351)
- 4" FLEXIBLE PAVEMENT REPAIR AND CRACK SEAL (TxDOT 351 & TxDOT 712)

GENERAL NOTES

1. CRACK SEAL WORK WILL BE SUBSEQUENT TO FLEXIBLE PAVEMENT REPAIR WHEN BOTH ACTIVITIES REQUIRED ON SAME STREET.

0 250 500 1000

GRAPHIC SCALE (FEET)

REV.	DESCRIPTION	DATE

Walker Partners
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T.B.P.E. Registration No. 8053

CITY OF BASTROP

2019 MAINTENANCE PROGRAM

STREETS MAINTENANCE MAP A3

09/12/19
DATE

R. Alan Munger, PE
R. ALAN MUNGER

STATE OF TEXAS
R. ALAN MUNGER
65341
REGISTERED
PROFESSIONAL ENGINEER

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PROJECT NO.	4-01126

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STREETS MAINTENANCE - CRACK SEAL AND FLEXIBLE PAVEMENT REPAIR

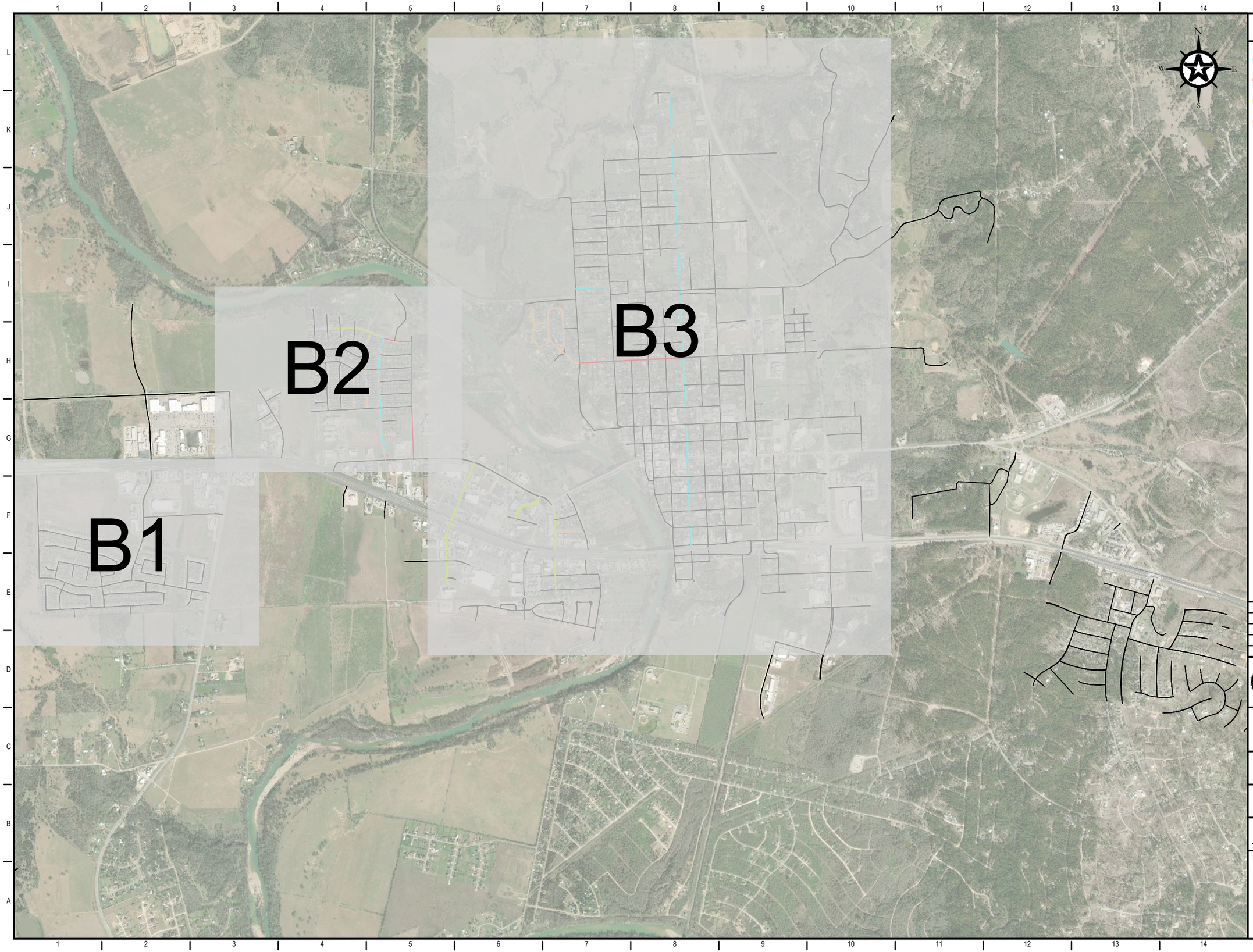
ROAD NAME	FROM	TO	LENGTH OF PAY - CRACK SEAL (L-MI)	FLEXIBLE PAVEMENT REPAIR (5 INCH DEPTH) (SY)
Map A1				
ANTELOPE	HUNTERS POINT	OUTFITTER	0.22	None
BEARHUNTER	SH 71	END	1.06	None
BIG HORN	BOWSTRING	REMINGTON	0.19	13
BIRD DOG	GRUTSCH	BROWNING	0.18	None
BOWSTRING	WILDCAT	REMINGTON	0.18	None
BROWNING	BIRD DOG	OUTFITTER	0.10	57
BUCK SHOT	END	JAVELINA	1.12	None
BUSHMASTER	MAGNUM	MAVERICK	0.20	None
CALIBER	END	JAVELINA	0.13	453
CARBINE	N HUNTING LODGE	MOSSBERG	0.13	None
CORDURA	END	OUTFITTER	None	None
DOUBLEBARREL	END	S HUNTING LODGE	None	None
GRUTSCH	BIRD DOG	OUTFITTER	0.13	None
HUNTERS CROSSING	SH 71	HUNTERS POINT	2.09	None
HUNTERS POINT	BEARHUNTER	SH 304	1.26	810
JAVELINA	WOLVERINE	REMINGTON	0.16	974
MAGNUM	BUSHMASTER	THOMPSON	0.19	None
MAVERICK	BUSHMASTER	HUNTERS POINT	0.50	None
MOSSBERG	STEELSHOT	CARBINE	0.13	None
N HUNTING LODGE	STEELSHOT	HUNTERS POINT	None	None
OUTFITTER	GRUTSCH	TRAPPER	0.83	None
PACKHORSE	BEARHUNTER	END	0.13	40
PECCARY	HUNTERS POINT	PHEASANT	0.11	None
PHEASANT	REMINGTON	TRAPPER	0.79	None
PONY PASS	PACKHORSE	WILDCAT	0.10	10
PRONGHORN	END	OUTFITTER	0.08	None
REMINGTON	JAVELINA	OUTFITTER	0.30	None
S HUNTING LODGE	HUNTERS POINT	END	None	None
STEELSHOT	N HUNTING LODGE	MOSSBERG	0.13	None
THOMPSON	MAGNUM	MAVERICK	0.31	27
TRAPPER	PHEASANT	OUTFITTER	0.19	None
TROPHY	END	WOLVERINE	0.30	353
WEATHERBY	HUNTERS CROSSING	MAGNUM	None	None
WILDCAT	END	BOWSTRING	0.40	None
WOLVERINE PASS	JAVELINA	HUNTERS POINT	None	1654
Sub Total Sheet A1			11.64	4391

STREETS MAINTENANCE - CRACK SEAL AND FLEXIBLE PAVEMENT REPAIR

ROAD NAME	FROM	TO	LENGTH OF PAY - CRACK SEAL (L-MI)	FLEXIBLE PAVEMENT REPAIR (5 INCH DEPTH) (SY)
Map A2				
ANNIKA	PATTON	NICOLE	0.59	8
BARBARA	SCHAEFFER	HASLER SHORES	0.36	NONE
BELINDA	END	END	0.07	NONE
BILLS	END	KATY B	0.02	NONE
BLAIR	END	HASLER SHORES	1.20	32
BOB BRYANT PARK	END	CHARLES	0.21	NONE
BRYANT	BLAIR	JESSICA	0.46	150
CAROLE	SCHAEFFER	END	0.15	NONE
CAYLOR	END	KATY B	0.13	NONE
CHARLES	END	HASLER SHORES	1.94	641
ELIZABETH	SCHAEFFER	HASLER SHORES	0.37	NONE
HASLER SHORES	END	OLD AUSTIN	NONE	364
JENNIFER	BLAIR	JESSICA	0.52	NONE
JESSICA	END	HASLER SHORES	1.49	224
JORDAN	END	END	0.20	NONE
KATY B	BLAIR	JESSICA	0.23	4
KELLY	SCHAEFFER	END	0.18	8
LORI	END	END	0.08	NONE
MARINO	END	KATY B	0.14	NONE
NICOLE	CHARLES	JESSICA	0.89	703
OLD AUSTIN HIGHWAY	SH 71	LP 150	4.24	648
PATTON	END	BLAIR	0.08	46
REBECCA	SCHAEFFER	HASLER SHORES	0.37	NONE
SCHAEFFER	CHARLES	OLD AUSTIN	NONE	245
Sub Total Sheet A2			13.92	3073

STREETS MAINTENANCE - CRACK SEAL AND FLEXIBLE PAVEMENT REPAIR

ROAD NAME	FROM	TO	LENGTH OF PAY - CRACK SEAL (L-MI)	FLEXIBLE PAVEMENT REPAIR (5 INCH DEPTH) (SY)
Map A3				
BUSH	END	LINCOLN	0.20	NONE
CEDAR	PECAN	RR	0.58	NONE
CEDAR	RR	SH 95	0.60	NONE
CEDAR	SH 95	HOUSTON	0.49	NONE
ESKEW	LP 150	SH 71	0.43	NONE
ESKEW	SH 71	MAYNARD	0.25	NONE
GRADYTUCK	OLD AUSTIN	HOSPITAL	0.52	NONE
HASLER	OLD AUSTIN	SH 71	1.00	NONE
HASLER	SH 71	END	0.97	NONE
HIGGINS	ESKEW	PERKINS	0.21	NONE
LINCOLN	ROOSEVELT	ROOSEVELT	0.53	NONE
MAIN	BRIDGE	RR	1.38	NONE
MAIN	RR	SPRING	1.28	NONE
MARTIN LUTHER KING	CHESTNUT	COLLEGE	0.70	444
OAK	CARTER	WILSON	0.36	NONE
ROOSEVELT - GARFIELD	CEDAR	CEDAR	0.94	NONE
Sub Total Sheet A3			10.44	444
TOTAL			36.00	7908.00



LEGEND

- SEAL COAT (TxDOT 316)
- SCRUB SEAL (TxDOT 3005)
- FOG SEAL (TxDOT 315)
- FRICTIONAL ASPHALTIC SURFACE PRESERVATION TREATMENT (TxDOT 3028)

REV.	DESCRIPTION	DATE

Walker Partners
engineers ★ surveyors
T.B.P.E. Registration No. 8053

CITY OF BASTROP

2019 MAINTENANCE PROGRAM

PREVENTATIVE MAINTENANCE OVERVIEW

09/12/19
DATE

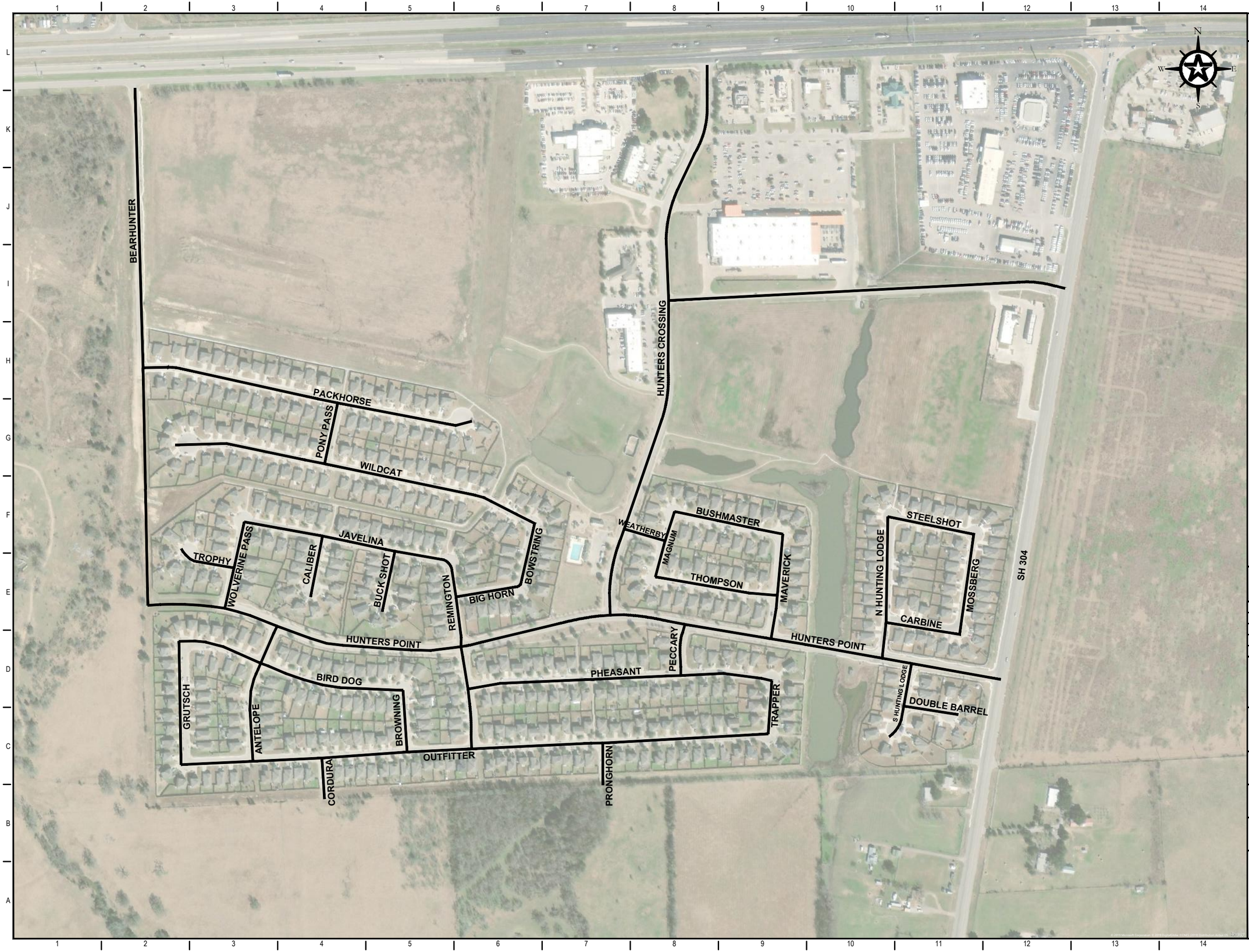
R. Alan Munger, PE
R. ALAN MUNGER

STATE OF TEXAS
R. ALAN MUNGER
65341
REGISTERED
PROFESSIONAL ENGINEER

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CHECKED	RAM
PROJECT NO.	4-01126

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LEGEND

- SEAL COAT (TxDOT 316)
- SCRUB SEAL (TxDOT 3005)
- FOG SEAL (TxDOT 315)
- FRICTIONAL ASPHALTIC SURFACE PRESERVATION TREATMENT (TxDOT 3028)

0 100 200 400

GRAPHIC SCALE (FEET)

REV.	DESCRIPTION	DATE

Walker Partners engineers ★ surveyors
T.B.P.E. Registration No. 8053

CITY OF BASTROP

2019 MAINTENANCE PROGRAM

PREVENTATIVE MAINTENANCE MAP B1

09/12/19 — DATE

R. Alan Munger, PE — R. ALAN MUNGER

STATE OF TEXAS — R. ALAN MUNGER — 65341 — REGISTERED — PROFESSIONAL ENGINEER

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PROJECT NO	4-01126

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PATTON
LORI
JORDAN
BELINDA
CHARLES
BOB BRYANT PARK
ANNIKA
NICOLE
SCHAEFER
ELIZABETH
BLAIR
BLAIR
MARINO
BILLS
CAYLOR
KATY B
JENNNIFER
BRYANT
NICOLE
REBECCA
BARBARA
JESSICA
CAROLE
KELLY
SCHAEFER
HASLER SHORES
OLD AUSTIN

LEGEND

- SEAL COAT (TxDOT 316)
- SCRUB SEAL (TxDOT 3005)
- FOG SEAL (TxDOT 315)
- FRICTIONAL ASPHALTIC SURFACE PRESERVATION TREATMENT (TxDOT 3028)

GENERAL NOTES

1. FOG SEAL (CSS-1) SHALL BE PLACED AT ALL FLEXIBLE PAVEMENT REPAIRS PRIOR TO PLACEMENT OF SCRUB SEAL.

0 100 200 400
GRAPHIC SCALE (FEET)

REV.	DESCRIPTION	DATE

Walker Partners
engineers ★ surveyors
T.B.P.E. Registration No. 8053

CITY OF BASTROP

2019 MAINTENANCE PROGRAM

PREVENTATIVE MAINTENANCE MAP B2

09/12/19
DATE

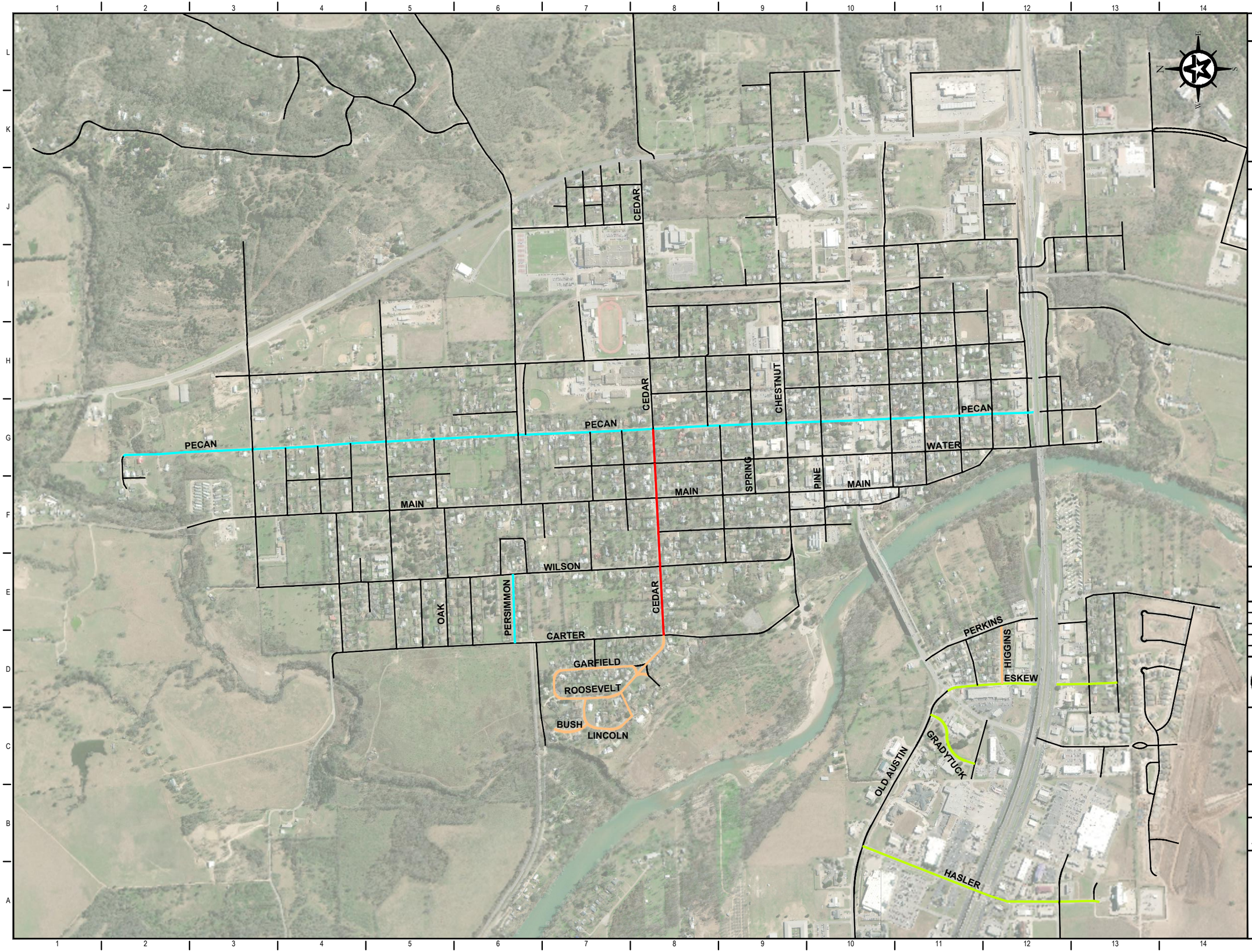
R. Alan Munger, PE
R. ALAN MUNGER

STATE OF TEXAS
R. ALAN MUNGER
65341
REGISTERED
PROFESSIONAL ENGINEER

PM	RAM
DESIGNED	RAM
DRAFTED	KPD/MPP
CHECKED	RAM
PROJECT NO.	4-01126

DRAWING NO.
B2

G:\PROJECTS\4-01126\2 ENGINEERING\2.0 CAD\4-01126-PREVENTATIVE MAINTENANCE.DWG, B2, 9/12/2019 8:41:25 AM, mpolk



LEGEND

- SEAL COAT (TxDOT 316)
- SCRUB SEAL (TxDOT 3005)
- FOG SEAL (TxDOT 315)
- FRICTIONAL ASPHALTIC SURFACE PRESERVATION TREATMENT (TxDOT 3028)

GENERAL NOTES

1. FOG SEAL (CSS-1) SHALL BE PLACED AT ALL FLEXIBLE PAVEMENT REPAIRS PRIOR TO PLACEMENT OF SCRUB SEAL.

0 250 500 1000

GRAPHIC SCALE (FEET)

REV.	DESCRIPTION	DATE

Walker Partners
engineers ★ surveyors
T.B.P.E. Registration No. 8053

CITY OF BASTROP

2019 MAINTENANCE PROGRAM

PREVENTATIVE MAINTENANCE MAP B3

09/12/19
DATE

R. Alan Munger, PE
R. ALAN MUNGER

STATE OF TEXAS
R. ALAN MUNGER
65341
REGISTERED
PROFESSIONAL ENGINEER

PM	RAM
DESIGNED	RAM
DRAFTED	KPD/MPP
CHECKED	RAM
PROJECT NO.	4-01126

DRAWING NO.
B3

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PREVENTATIVE MAINTENANCE - SEAL COAT TREATMENT (AC-20 TR with TY PB GRADE 4 TRAP ROCK)

ROAD NAME	FROM	TO	LENGTH (FT)	WIDTH (FT)	AREA (SY)
Map B1					
NONE	NONE	NONE			0
Map B2					
SCHAEFFER	CHARLES	OLD AUSTIN	2731	41.5	12592.94
Map B3					
PECAN	MESQUITE	RR	3009	24	8024
PECAN	RR	CHESTNUT	3770	27	11310
PECAN	CHESTNUT	SH 71 WBFR	1925	35	7486.111
PERSIMMON	WILSON	CARTER	744	28	2314.667
Sub Total SEAL COAT					41727.72

PREVENTATIVE MAINTENANCE - SCRUB SEAL TREATMENT (CMS-2P with TY B GR 4 TRAP ROCK AGGR)

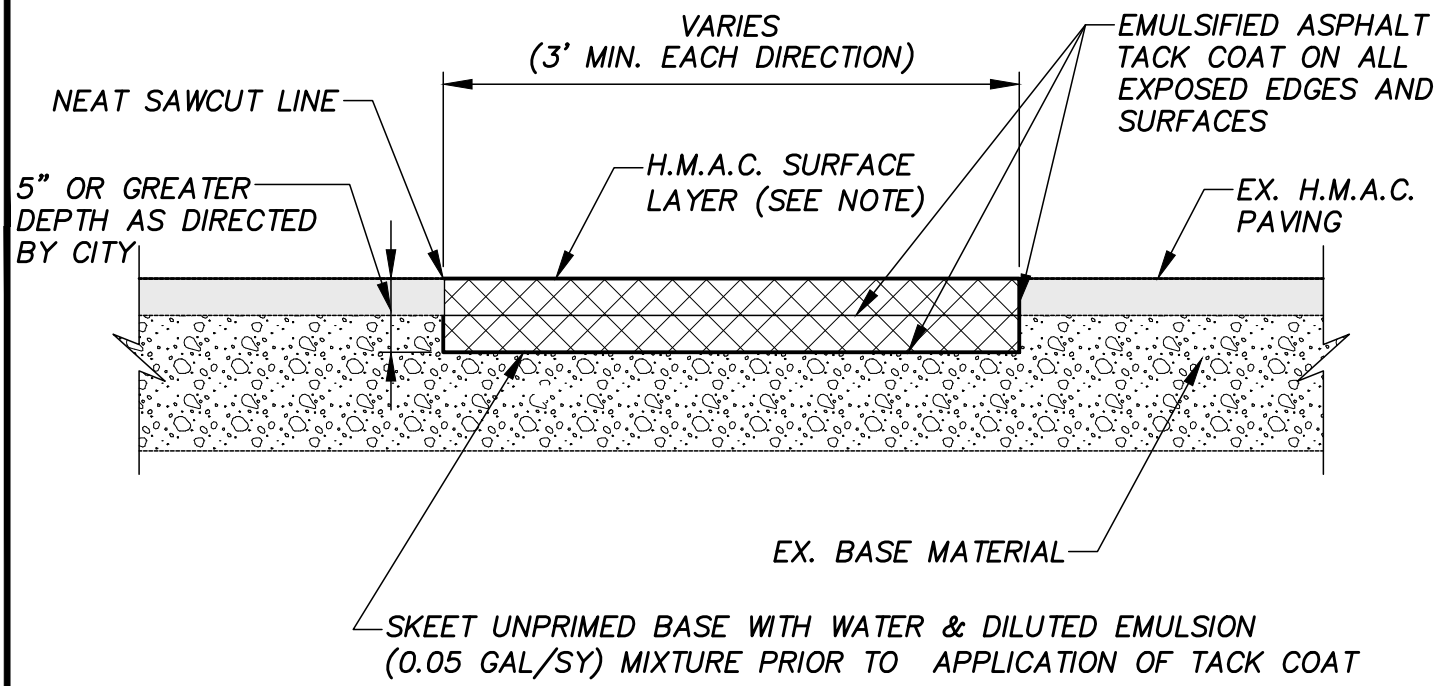
ROAD NAME	FROM	TO	LENGTH (FT)	WIDTH (FT)	AREA (SY)
Map B1					
NONE	NONE	NONE	0	0	0
Map B2					
CHARLES	SCHAEFFER	HASLER SHORES	670	47	3498.889
HASLER SHORES	CHARLES	OLD AUSTIN	2656	23	6787.556
Map B3					
CEDAR	CARTER	PECAN	2347	28	7301.778
Sub Total SCRUB SEAL					17588.22

PREVENTATIVE MAINTENANCE - FRICTIONAL ASPHALTIC SURFACE PRESERVATION TREATMENT

ROAD NAME	FROM	TO	LENGTH (FT)	WIDTH (FT)	AREA (SY)
Map B1					
NONE	NONE	NONE	0	0	0
Map B2					
BRYANT	BLAIR	JESSICA	868	28	2700.444
KELLY	SCHAEFFER	END	220	27	1185
NICOLE	CHARLES	JESSICA	1695	28	5273.333
Map B3					
BUSH	END	LINCOLN	317	28	1264.222
CEDAR	GARFIELD	CARTER	371	28	1154.222
HIGGINS	ESKEW	PERKINS	631	28	1963.111
LINCOLN	ROOSEVELT	ROOSEVELT	1158	28	3602.667
ROOSEVELT - GARFIELD	CEDAR	CEDAR	2480	28	7715.556
Sub Total (FASPT)					24858.56

PREVENTATIVE MAINTENANCE - FOG SEAL (CMS-1PF)

ROAD NAME	FROM	TO	LENGTH (FT)	WIDTH (FT)	AREA (SY)
Map B1					
NONE	NONE	NONE	0	0	0
Map B2					
CHARLES	END	SCHAEFFER	1714	47	8950.889
Map B3					
ESKEW	LP 150	SH 71	925	28	2877.778
ESKEW	SH 71	MAYNARD	664	19	1401.778
GRADYTUCK	OLD AUSTIN	HOSPITAL	794	34	2999.556
HASLER	OLD AUSTIN	SH 71	1112	36	5482
HASLER	SH 71	END	1223	36	4892
Sub Total (FOG SEAL CMS-1PF)					26604



NOTE

1. REPLACEMENT H.M.A.C. SURFACE LAYER SHALL BE OF TYPE AND THICKNESS BASED ON DEPTH OF REPAIR.

   - REPAIRS OF 5" DEPTH OR LESS MAY CONSIST OF A SINGLE COMPACTED LIFT OF TYPE B ASPHALT (TxDOT ITEM 340).

   - REPAIRS OF GREATER THAN 5" DEPTH SHALL CONSIST OF TWO COMPACTED LIFTS. SURFACE COURSE MAY CONSIST OF 2" MIN. DEPTH OF TYPE D OR TYPE C ASPHALT (TxDOT ITEM 340).



R. Alan Munger, PE

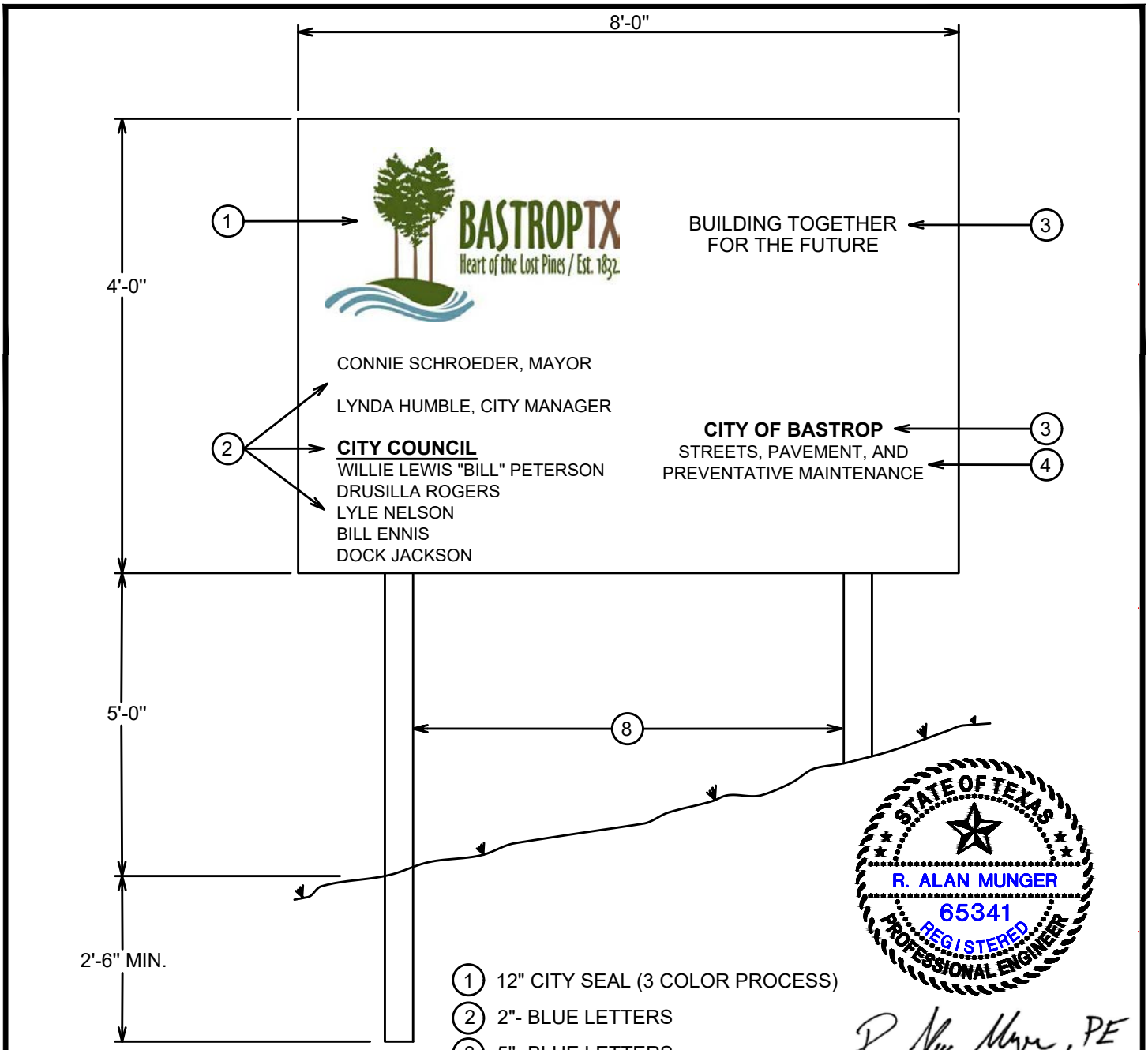
FLEXIBLE PAVEMENT REPAIR DETAIL

SCALE: N.T.S.

Walker Partners
engineers ★ surveyors
T.B.P.E. Registration No. 8053

CLIENT NAME: CITY OF BASTROP
PROJECT NAME: STREETS MAINTENANCE
PROJECT NUMBER: 4-01126
DATE: 09/12/19
REVISION: NA

C001



R. Alan Munger, PE

NOTES:
1. ALL MATERIALS SHALL BE FURNISHED BY THE CONTRACTOR.
2. IF SIGN IS USED IN PHASED CONSTRUCTION, POSTS SHALL BE MOUNTED ON SKIDS. SEE STANDARD 804S-5, SHEET 5 OF 13.
3. SIGN MUST BE IN COLOR.

1. 12" CITY SEAL (3 COLOR PROCESS)
2. 2"- BLUE LETTERS
3. 5"- BLUE LETTERS
4. 3"- BLUE LETTERS
5. WHITE BACKGROUND ON PLYWOOD, NON-REFLECTIVE. PAINT REQUIREMENTS FOR BACKGROUND AND POST, BLUE TONED WHITE 93-21667 CROSS ALLEN OR EQUAL.
6. 4"X4" CLASS 6 WOOD POST PAINTED WHITE

8'X4' C.I.P. BUILDING PROJECT SIGN

SCALE: N.T.S.

Walker Partners
engineers ★ surveyors
T.B.P.E. Registration No. 8053

CLIENT NAME: CITY OF BASTROP
PROJECT NAME: STREETS MAINTENANCE
PROJECT NUMBER: 4-01126
DATE: 09/12/19
REVISION: NA

C002

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9G

TITLE:
Consider action to approve the first reading of Ordinance No. 2019-75 of the City Council of the City of Bastrop, Texas amending the Bastrop Building Block Code (B3) as adopted by Ordinance No. 2019-51, Chapter 2, titled "Zoning Procedures", Article 2.4, titled "Administration," Sections 2.4.002(b) and 2.4.003(b); allowing Zoning Board of Adjustment members to be alternates to the Planning and Zoning Commission, attached as Exhibit A; providing for findings of fact; enactment; repealer; severability; and providing an effective date, proper notice and meeting and move to include on the December 10, 2019 Consent agenda for a second reading.

STAFF REPRESENTATIVE:
Tracy Waldron, Chief Financial Officer

BACKGROUND/HISTORY:
The City Council, at a meeting held on November 12, 2019, discussed proposed changes to the Boards & Commissions Ordinance. One of the changes council included in the motion was to add the language to the Zoning Board of Adjustment (ZBA) code that allowed those members to be alternates to the Planning and Zoning Commission.

Due to the passing of H.B. 3167 that places a "shot clock" on certain development submittals, the Planning and Zoning Commission will need to be able to meet with regular consistence. With additional alternates available to this board, the ability to get a quorum for regular meetings is increased. Because the ZBA code was not in the original Boards and Commissions Ordinance, we are bring forth this ordinance to include the councils requested language to the code.

POLICY EXPLANATION:
The City Charter states the act of amending or repealing an existing ordinance shall be done by City Council through approval of an ordinance.

FUNDING SOURCE:
N/A

RECOMMENDATION:
Consider action to approve the first reading of Ordinance No. 2019-75 of the City Council of the City of Bastrop, Texas amending the Bastrop Building Block Code (B3) as adopted by Ordinance No. 2019-51, Chapter 2, titled "Zoning Procedures", Article 2.4, titled "Administration," Sections 2.4.002(b) and 2.4.003(b); allowing Zoning Board of Adjustment members to be alternates to the Planning and Zoning Commission, attached as Exhibit A; providing for findings of fact; enactment; repealer; severability; and providing an effective date, proper notice and meeting and move to include on the December 10, 2019 Consent agenda for a second reading.

ATTACHMENTS:
- Ordinance 2019-75

ORDINANCE NO. 2019-75

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE BASTROP BUILDING BLOCK CODE (B3) AS ADOPTED BY ORDINANCE NO. 2019-51, CHAPTER 2, TITLED "ZONING PROCEDURES," ARTICLE 2.4, TITLED "ADMINISTRATION," SECTIONS 2.4.002(b) AND 2.4.003(b); ALLOWING ZONING BOARD OF ADJUSTMENT MEMBERS TO BE ALTERNATES FOR THE PLANNING AND ZONING COMMISSION, ATTACHED AS EXHIBIT A; PROVIDING FOR FINDINGS OF FACT, ENACTMENT, REPEALER, SEVERABILITY, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Bastrop, Texas (the "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 Local Government Code; and

WHEREAS, the City is authorized by Texas Local Government Code § 51.001 to adopt or amend any ordinance is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and

WHEREAS, Article III, Section 3.01 of the Bastrop City Charter gives the City Council the authority to provide for boards and commissions, and to appoint the members of all such boards and commissions; and

WHEREAS, the City is authorized by Texas Local Government Code §211.007 to appoint a zoning commission; and

WHEREAS, the passage of H.B. 3167 requires Planning and Zoning Commission to meet regularly to comply with this new legislation; and

WHEREAS, the Planning and Zoning Commission has had to cancel meetings in the past due to lack of a quorum of their members; and

WHEREAS, the City Council has determined that allowing Zoning Board of Adjustment members to serve as alternates to the Planning and Zoning Commission will improve this issue.

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

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. ENACTMENT

Chapter 2, Article 2.4, Sections 2.4.002(b) and 2.4.003(b) of the Bastrop Building Block (B3) Code, as adopted into the City's Code of Ordinances by Ordinance No. 2019-51, of the City of Bastrop are amended to read as described and attached here to as Exhibit "A."

SECTION 3. REPEALER

In the case of any conflict between the other provisions of this Ordinance and any existing Ordinance of the City, the provisions of this Ordinance will control.

SECTION 4. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstances 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. ENFORCEMENT

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 6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

SECTION 7. PROPER NOTICE AND MEETING

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

READ & APPROVED on First Reading on the 26th day of November 2019.

READ & ADOPTED on the Second Reading on the 10th day of December 2019.

APPROVED:

by: _____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A

City of Bastrop, TX

BASTROP BUILDING BLOCK (B3), CODE OF ORDINANCES

Chapter 2 – ZONING PROCEDURES

ARTICLE 2.4- ADMINISTRATION

Sec. 2.4.002 – Planning & Zoning Commission

(b) Created Membership, Officers and Alternates:

(1) There is hereby created, in accordance with Subchapter 211.007 of the Texas Local Government Code and the City's Charter, a Planning & Zoning Commission that shall consist of 9 citizens who reside in the City Limits. Members shall be appointed by the Mayor and confirmed by City Council for a term of 3 years. Terms of 1/3 of the Planning & Zoning Commission shall expire each year upon September 30th, or until a successor is appointed. Vacancies and unexpired terms of members shall be filled by the appointment of the Mayor and confirmed by City Council. These appointments shall be for the remainder of the term.

(2) Members may be removed from office at any time by a majority vote of the City Council for any reason. All members serve without compensation.

(3) Attendance requirements for the Planning & Zoning Commission members are set forth in the Code of Ordinances, Section 1.02.002(b), et seq.

(4) The City staff shall keep minutes of all meetings held by the Planning & Zoning Commission and full record of all recommendations to be made by the Planning & Zoning

Commission to the City Council. Minutes shall constitute a report and record of all Planning & Zoning Commission meetings, including hearings.

(5) A Chair and Vice-chairman shall be elected by the Planning & Zoning Commission from its membership, each to hold office for 1 year or until replaced by a majority vote of the Planning & Zoning Commission.

(6) ~~Alternates may be appointed by the Council when it's deemed necessary, and occurs in the same manner as the appointment of members.~~ Members of the Zoning Board of Adjustment (ZBA) serve as alternates to the Planning and Zoning Commission.

(~~6~~7) Additional alternates may be appointed by the Council when it's deemed necessary and occurs in the same manner as the appointment of members.

Sec. 2.4.003 – Zoning Board of Adjustment (ZBA)

(b) Membership; Terms of Office:

(1) The ZBA shall consist of 5 regular members and 2 alternate members who shall be appointed by the Mayor and confirmed by the City Council, in accordance with state law.

(2) Members of the ZBA shall regularly attend meetings and public hearings of the ZBA and shall serve without compensation. Attendance requirements for the ZBA members are set forth in the Bastrop Code of Ordinances, Section 1.02.002(b).

(3) ~~Members may be removed by majority vote of the members of the City Council, for cause on a written charge after a public hearing. ZBA members may be appointed to succeed themselves.~~ Members of the ZBA can serve as alternates to the Planning and Zoning Commission.

(~~3~~4) Members may be removed by majority vote of the members of the City Council, for cause on a written charge after a public hearing. ZBA members may be appointed to succeed themselves.

(~~4~~5) Any vacancy of a regular member shall be filled by an alternate member only for the unexpired term of the member whose term becomes vacant.

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9H

TITLE:
Consider action to approve Resolution No. R-2019-122 of the City Council of the City of Bastrop, Texas authorizing a License to Encroach with TDS Solutions, LLC to erect a sign for Stem & Stone Restaurant in a public utility easement, as attached as Exhibit A; authorizing the City Manager to execute necessary documents; providing for a repealing clause; and establishing an effective date.

STAFF REPRESENTATIVE:
Trey Job, Assistant City Manager of Development Services

BACKGROUND/HISTORY:
Stem & Stone is a new restaurant in Bastrop. The owners are excited to offer a casual dining experience with great food and service. Now that Stem & Stone has been operating for a short time, the owners have determined a location for their new sign.

However, the proposed sign location conflicts with a ten-foot (10') Public Utility Easement. City staff has reviewed the proposed sign location and has determined City infrastructure will not be impacted by the license to encroach. The owner's agent has also received signatures from the remaining utilities with the exception of the non-responsive Time Warner Cable.

POLICY EXPLANATION:
Historically, a License to Encroach Agreement has been reviewed and approved by Council.

FUNDING SOURCE:
N/A

RECOMMENDATION:
Consider action to approve Resolution No. R-2019-122 of the City Council of the City of Bastrop, Texas authorizing a License to Encroach with TDS Solutions, LLC to erect a sign for Stem & Stone Restaurant in a public utility easement, as attached as Exhibit A; authorizing the City Manager to execute necessary documents; providing for a repealing clause; and establishing an effective date.

ATTACHMENTS:
- Resolution
- Encroachment Agreement
- Application – 1507 Chestnut Street (Stem & Stone)

RESOLUTION NO. R-2019-122

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AUTHORIZING A LICENSE TO ENCROACH AGREEMENT WITH TDS SOLUTIONS, LLC TO ERECT A SIGN FOR STEM & STONE RESTAURANT IN A PUBLIC UTILITY EASEMENT, AS ATTACHED AS EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Bastrop City Council understands the benefit of having viable, on-going commercial enterprises operating in Downtown; and

WHEREAS, the City of Bastrop City Council understands particularly within the downtown area that sales tax revenue provides a direct, financial benefit to City; and

WHEREAS, the City of Bastrop understands such commercial activities attract visitors and shoppers to the downtown area, thereby increasing commerce overall; 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. The City Manager is hereby authorized to execute a License to Encroach Agreement between the City of Bastrop and TDS Solutions LLC to erect a sign for Stem & Stone Restaurant in a public utility easement (attached as Exhibit A) as well as all other necessary documents.

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, Texas this 10th day of September 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

LICENSE TO ENCROACH AGREEMENT

This is a license agreement for the use of a Public Utility Easement P.U.E. along Chestnut Street also known as 1507 Chestnut Street for the installation of a monument sign between the City of Bastrop, acting by and through its City Manager (hereinafter "City") and TDS Solutions LLC, acting by and through its president Miguel Cardoza (hereinafter "Licensee"). Either may herein be referred to individually as "Party"; collectively, City and Licensee will be referred to as the "Parties."

RECITALS

The Parties acknowledge and agree on the following:

1. City shall maintain the use of the public utility easement of certain real property as shown on Exhibit A ("the Property").
2. The Property is located immediately in front of a building in which Licensee conducts commercial activities.
3. It is in the best interests of City and the public to have viable, on-going commercial enterprises operated in its downtown, not only because of sales tax revenue that provides a direct, financial benefit to City, but also because such commercial activities attract visitors and shoppers to the downtown area, thereby increasing commerce overall.
4. The benefits to be derived by City and the public from this Agreement far outweigh the negligible negative impact this Agreement will have on the public's use of City's public utility easement in which the monument sign is located.
5. This Agreement is supported by full and adequate consideration.

TERMS OF THE AGREEMENT

In consideration of the recitals and mutual covenants and agreements contained in this Agreement, the Parties agree to the following terms:

ARTICLE 1

PREMISES AND PRIVILEGES

For and in consideration of the terms, conditions and covenants of this Agreement to be performed by Licensee, all of which Licensee accepts, City authorizes and permits Licensee to have the non-exclusive use of the Public Utility Easement for the installation of a monument sign. The herein described privileges are non-transferable and shall not convey with the sale of the property for the term of the agreement described in Article 2. Licensee accepts the condition of the Property as is, where is, in its condition as of the effective date of this Agreement with no expectation that City will incur any expense in connection with the Property, including expenses for the repair of the Property necessitated by any damage that might occur to the Property under the use and scope of this Agreement by Licensee for commercial enterprises.

ARTICLE 2

TERM

The term of this Agreement shall be for a period of one (1) year, beginning on the effective date of this Agreement. Unless and until the Agreement is terminated, this Agreement will renew itself automatically on each anniversary of the Agreement for an additional one (1) year term.

ARTICLE 3

OBLIGATIONS OF LICENSEE

In addition to any other obligations imposed by this Agreement, Licensee accepts and will perform the following obligations:

1. Licensee shall not deny access to utilities granted permission by law.
2. Licensee shall neither construct nor permit any buildings or structures located on the Property without the written approval of the City of Bastrop.
3. Licensee shall maintain the Property and keep it clear of trash and other debris.
4. Licensee shall not use the Property for storage.
5. Licensee agrees to remove all other obstructions out of the Right of Way.
6. Licensee agrees all future work within the right of way will require a request in writing by Licensee answered with written approval by the City Manager.
7. Licensee acknowledges that City may desire to install, repair, remove, or otherwise improve utility services within the public utility easement. In this event, Licensee shall remove any signage on the Property for such amount of time as is necessary for the City to perform such repairs, or improvements. The City also retains the right to access the property for all other rights incidental to and necessary in connection with any utility lines or facilities which may be located on or under the Property. The City will perform all ordinary maintenance related to the Property, and it shall be noted that the following improvements are located within the City's P.U.E. of the Property:
    - Monument sign

ARTICLE 4

NOT A CONVEYANCE OF REAL PROPERTY INTEREST

The Parties agree and acknowledge that this Agreement is not a conveyance or transfer of any tenancy, leasehold or ownership interest of any kind in the Property or the public utility easement.

ARTICLE 5

NO LIABILITY FOR CITY

The Parties agree that the City shall have no liability for any losses or damages, neither direct nor consequential, resulting from the loss of any things on the Property, real or personal, whether by theft, vandalism, negligence, act of God, or other event or occurrence.

ARTICLE 6

NO ASSIGNMENT

Licensee shall not assign this Agreement without the prior written consent of the City.

ARTICLE 7

TERMINATION

This Agreement shall terminate upon the occurrence of any of the following:

1. Either the City or the Licensee may terminate this Agreement without cause by submitting 30 (thirty) days written notice of such to the other Party.
2. Licensee defaults in the performance of its obligations under this Agreement, if such default continues for a period of ten (10) days after written notice to Licensee by the City of the default.

Upon termination of this Agreement, Licensee shall remove all things placed within the Right of Way by Licensee or its agents, servants or employees. Licensee shall restore the right of way as nearly as practical to its condition prior to the initial execution of this Agreement.

The failure of the City to declare this Agreement in default shall not operate to bar or waive the right of the City to terminate this Agreement because of any subsequent violation of the Agreement.

ARTICLE 8

MISCELLANEOUS GENERAL PROVISIONS

1. Attorney's Fees. In any action brought for the enforcement of the obligations in this Agreement, the prevailing party shall be entitled to recover interest and reasonable attorney's fees.
2. Misrepresentation. All terms and conditions with respect to this Agreement are expressly contained in this document. Licensee agrees that no representative or agent of the City has made any representation or promise with respect to this Agreement not expressly contained in the Agreement.
3. Paragraph Headings. The paragraph headings are for convenience and reference and are not intended to define or limit the scope of any provision of this Agreement.
4. Notices. Notices that are sent pursuant to any provision of this Agreement, at a minimum, shall be sent to the following:

5. Choice of Law and Venue. This Agreement is made and entered into by the Parties in the City of Bastrop, Bastrop County, Texas. This Agreement shall be construed in accordance with the laws of the State of Texas and the venue of any suits arising from this Agreement shall be Bastrop County, Texas.
6. Entire Agreement Amendment: This Agreement including any exhibits constitutes the full and entire understanding and agreement between the Parties and supersedes any prior or contemporaneous written or oral agreements between the Parties. This Agreement may not be amended except by a written instrument agreed to and signed by both Parties.
7. Rights and Remedies Cumulative: The rights and remedies provided by this Agreement are cumulative; and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. The rights and remedies provided in this Agreement are given in addition to any other rights the Parties may have by law, statute, ordinance, or otherwise.
8. Agreement Approval: Each Party represents and warrants that all necessary approvals for this Agreement have been obtained, and the persons whose signatures appear below have the authority necessary to execute this Agreement on behalf of the Parties indicated.
9. Originals: This Agreement may be executed in multiple or duplicate originals. A duplicate original or copy of this Agreement is as fully enforceable as an Original, whether the document is a "hard copy" or an electronic copy. This Agreement may be signed and a .pdf copy of the document transmitted electronically which shall then constitute an original signature on the document.
10. Effective Date: This Agreement shall become effective and enforceable upon the date on which both Parties signatures are collected and so attested.

SIGNATURE PAGE TO FOLLOW.

AGREED:

City of Bastrop, Texas

By: _____ Date Signed: _____
Lynda Humble, City Manager

ATTEST:

_____
Ann Franklin, City Secretary for Bastrop, Texas

AGREED:

By: _____ Date Signed: _____

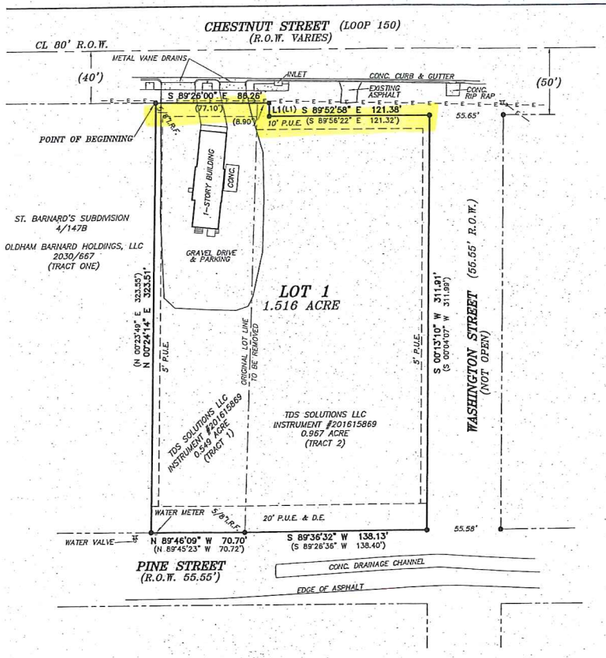
Title: Miguel Cardoza, President

ATTEST:

By: _____ Date Signed: _____

CHESTNUT SUBDIVISION
FINAL MINOR PLAT

6/96-B



LINE TABLE

LINE	BEARING	DISTANCE
L1	S 00°35'14" E	9.83'
(L1)	S 00°03'28" E	9.82'

STATE OF TEXAS }{
COUNTY OF BASTROP }{

KNOW ALL MEN BY THESE PRESENTS:

THAT, TDS SOLUTIONS LLC, ACTING BY AND THROUGH ITS PRESIDENT, MIGUEL CARDOZA, BEING THE OWNER OF 1.516 ACRES ACRE OUT OF BUILDING BLOCK 73, EAST OF MAIN STREET, CITY OF BASTOP, ACCORDING TO THE MAP OR PLAT RECORDED IN PLAT CABINET 1, PAGE 23A, PLAT RECORDS OF BASTROP COUNTY, TEXAS AND AS CONVEYED TO ME BY DEED RECORDED IN INSTRUMENT NO. 201615869 OF THE OFFICIAL PUBLIC RECORDS OF SAID COUNTY DO HEREBY SUBDIVIDE SAID LAND WITH THE PLAT SHOWN HEREON IN ACCORDANCE WITH, CHAPTER 212.016.9 OF THE TEXAS LOCAL GOVERNMENT CODE AND THE PLAT SHOWN HEREON TO BE KNOWN AS:

CHESTNUT SUBDIVISION

SUBJECT TO EASEMENTS AND RESTRICTIONS HERETOFORE GRANTED AND NOT RELEASED AND DO HEREBY DEDICATE ANY STREETS AND/OR EASEMENTS SHOWN HEREON TO THE PUBLIC.

WITNESS MY HAND THIS THE 6TH DAY OF APRIL, 2018, A.D.

MIGUEL CARDOZA, PRESIDENT
TDS SOLUTIONS LLC
2809 LONGHORN BOULEVARD
AUSTIN, TEXAS 78758

STATE OF TEXAS }{
COUNTY OF BASTROP }{

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED MIGUEL CARDOZA, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 6TH DAY OF APRIL 2018, A.D.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

JAMES E. GARON 11-08-2020
PRINTED NAME OF NOTARY / EXPIRES

JAMES E. GARON
Notary Public, State of Texas
Notary ID# 1068535-0
My Commission Expires
NOVEMBER 8, 2020

STATE OF TEXAS }{
COUNTY OF BASTROP }{

KNOW ALL MEN BY THERE PRESENTS:

THAT WE, PROSPERITY BANK, A LIEN HOLDER OF THAT CERTAIN TRACT OF LAND SHOWN HEREON, DO HEREBY JOIN, APPROVE, AND CONSENT TO ALL DEDICATIONS AND PLAT NOTE REQUIREMENTS SHOWN HEREON. WE DO HEREBY APPROVE OF THE RECORDATION OF THIS SUBDIVISION PLAT AND DEDICATE TO THE PUBLIC USE FOREVER ANY EASEMENTS AND ROADS THAT ARE SHOWN HEREON. THIS SUBDIVISION IS TO BE KNOWN AS:

CHESTNUT SUBDIVISION

WITNESS MY HAND THIS THE 11th DAY OF April, 2018, A.D.

JOANN HARKINS
SENIOR VICE-PRESIDENT
PROSPERITY BANK
499 HIGHWAY 71 WEST
BASTROP, TEXAS 78602

STATE OF TEXAS }{
COUNTY OF BASTROP }{

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED JOANN HARKINS, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 11th DAY OF April 2018, A.D.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Hara Carmack 4/17/18
PRINTED NAME OF NOTARY / EXPIRES

HARA CARMACK
Notary Public, State of Texas
My Commission Expires
APRIL 17, 2019

STATE OF TEXAS }{
COUNTY OF BASTROP }{

I, JAMES E. GARON, DO HEREBY CERTIFY THAT I PREPARED THIS PLAT FROM AN ACTUAL AND ACCURATE ON-THE-GROUND SURVEY OF THE LAND, AND THAT THE CORNER MONUMENTS SHOWN WERE PROPERLY PLACED, UNDER MY PERSONAL SUPERVISION, IN ACCORDANCE WITH THE SUBDIVISION REGULATIONS OF BASTROP COUNTY, TEXAS.

6-10-2017

JAMES E. GARON
REGISTERED PROFESSIONAL LAND SURVEYOR
REG. NO. 4303
P.O. BOX 1917
BASTROP, TEXAS 78602
PH. 512-303-4185 FAX 512-321-2107
JAMESEGARON.COM

STATE OF TEXAS
JAMES E. GARON
4303
REGISTERED
LAND SURVEYOR

ADMINISTRATIVELY APPROVED AND ACCEPTED BY THE CITY OF BASTROP THIS 11th DAY OF April, 2018.

APPROVED:
JAMIE B. SCHROEDER, MAYOR

ATTEST:
CITY SECRETARY

DAVID R. GATTIS, INTERIM PLANNING DIRECTOR

PLAT NOTES:

1. All subdivision permits shall conform to the City of Bastrop Code of Ordinances, construction standards and generally accepted engineering practices.
2. Water service is provided by the City of Bastrop.
3. Wastewater service is provided by the City of Bastrop.
4. Electric Service is provided by the Bastrop Power and Light.
5. Gas Service is provided by CenterPoint Energy.
6. Developer shall be solely responsible for all relocation and modifications to existing utilities.
7.) Property owner shall provide for access to all easements as may be necessary and shall not prohibit access by governmental authorities and shall not prohibit access by the City of Bastrop representatives.
8. Building setbacks not shown shall be in accordance with City of Bastrop Subdivision and Zoning Ordinances. The subdivision is currently zoned Civic/Cultural Arts (Form Based Code)
9. Construction Plans and Specifications for all subdivision improvements shall be reviewed and accepted by the City of Bastrop prior to any construction within the subdivision.
10. Erosion and sedimentation controls constructed in accordance with the Subdivision Ordinance of the City of Bastrop are required for all construction on each lot, including single family and duplex construction.
11. The owner of this subdivision, and his or her successors and assigns, assumes sole responsibility for plans for construction of subdivision improvements which comply with applicable codes and requirements of the City of Bastrop. The owner understands and acknowledges that plat vacation or re-platting may be required, at the owner's sole expence, if plans to construct this subdivision do not comply with such codes and requirements.
12. By approving this plat, the City of Bastrop assumes no obligation to construct any infrastructure in connection with this subdivision. Any subdivision infrastructure required for the development of the lots in this subdivision is the sole responsibility of the developer and/or the owners of the lots. Failure to construct any required infrastructure to City standards may be just cause for the City to deny applications for certain development permits including building permits, site plan approvals and/or certificates of occupancy.
the installation and ongoing maintenance of overhead and underground electric facilities.
13. Prior to construction of any improvements on lots in this subdivision, building permits will be obtained from the City of Bastrop.
14. All utilities are to be underground.
15. No lot in this subdivision shall be occupied until connected to the approved water distribution and wastewater collection facilities.
16. Utility tap and impact fees shall be based on Ordinance 2017-13.
17. Wastewater and Water systems shall conform to TCEQ (Texas Commission on Environmental Quality).
18. No portion of this tract is within a flood hazard area as shown on the Flood Insurance Rate Map Panel # 48021C0360E, Community # 480022 for The City of Bastrop, effective January 19, 2006 and is in zone "X".
19. FLOOD WARNING The degree of flood protection required by the City of Bastrop Flood Damage Prevention Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or naturalcauses. Acceptance of this plat by the City Council does not imply that land outside of the areas of special flood hazard areas will be free from flooding or flood damages. Nor shall acceptance of this plat create liability on the port of the City of Bastrop or any official or employee thereof for any flood damages that result from the reliance on the information contained within this plat or any administration decision lawfully made hereunder.
20. All easements of record as indicated on the most recent title run dated July 17, 2012, conducted by Bastrop Abstract Company for the property are shown on this Plat.



0 50 100 150
SCALE: 1"= 50'

LEGEND

●	1/2" REBAR FOUND (UNLESS NOTED)
○	1/2" REBAR SET W/CAP STAMPED J.E. GARON RPLS 4303
■	CONCRETE R.O.W. MONUMENT FOUND
◑	POWER POLE
—E—	OVERHEAD ELECTRIC LINE
——→	DOWN GUY
FH	FIRE HYDRANT
P.U.E.	PUBLIC UTILITY EASEMENT
D.E.	DRAINAGE EASEMENT
(R.C.)	RESTRICTIVE COVENANTS
(BRG.—DIST.)	RECORD CALL

PLAT NOTES CONTINUED:

21. Temporary and permanent easements to be provided, as required at the City's sole discretion for off-site water, wastewater and drainage improvements.
22. The electric utility has the right to prune and/or remove trees, shrubbery vegetation and other obstructions to the extent necessary to keep the easements clear. The owner/developer of this subdivision/lot shall provide the City of Bastrop electric utility department with any easement and/or access required, in addition to those indicated, for the installation and ongoing maintenance of overhead and underground electric facilities.
23. The owner shall be responsible for installation of temporary erosion control, revegetation and tree protection for electric utility work required to provide electric service to the project.
24. Prior to construction of any improvments on Lots in this subdivision, building permits will be obtained from the City of Bastrop.
25. Sidewalks shall be constructed in accordance with the Subdivision Ordinance of the City of Bastrop.
26. It is the responsibility of each builder to design and construct a suitable grading and drainage scheme which will convey surface water, without ponding in the lot or under the structure, from his structure to the drainage system constructed by the subdivision developer.
27. Public utility and drainage easements where shown and/or described hereon are intended to indicate an easement for construction, operation, and maintenance of public utilities and drainage ways including, but not limited to, sanitary sewers, force mains, water lines, telephone signal conduits. electric conductors, drainage pipes, and natural gas lines.

LEGAL DESCRIPTION:

BEING 1.516 ACRES OF LAND LYING IN AND SITUATED OUT OF BUILDING BLOCK 73, EAST OF MAIN STREET, CITY OF BASTROP IN BASTROP COUNTY, TEXAS AS SHOWN BY MAP OR PLAT OF RECORD IN CABINET 1, PAGE 23A, PLAT RECORDS; BASTROP COUNTY, TEXAS AND BEING ALL OF THAT CERTAIN TRACT 1 AND TRACT 2 OF LAND CONVEYED TO TDS SOLUTIONS LLC BY DEED RECORDED IN INSTRUMENT NO. 201615869, OFFICIAL RECORDS, BASTROP COUNTY, TEXAS; SAID 1.516 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a 5/8" iron rod found on the southerly right-of-way line of Chestnut Street (Loop 150) for the northwest corner hereof and said Tract 1, the northeast corner of that certain Lot 1, St. Barnard's Subdivision, recorded in Plat Cabinet No. 4, page 147B, of the Plat Records of Bastrop County, Texas;

THENCE with the southerly right-of-way line of said Chestnut Street for the northerly line hereof and the northerly lines of said tracts 1 and 2 the following three (3) calls:

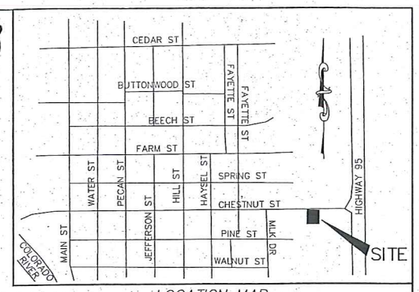
1) S 89°26'00" E a distance of 86.26 feet to a concrete right-of-way monument found for angle point,
2) S 00°35'14" E a distance of 9.83 feet to a 1/2" iron rod found for angle point,
3) S 89°52'58" E a distance of 121.38 feet to a 1/2" iron rod found at the southwest intersection of said Chestnut Street and Washington Street (not open) for the northeast corner hereof and said tract 2;

THENCE S 00°13'10" W a distance of 311.91 feet to a 1/2" iron rod found at the northwest intersection of said Washington Street and Pine Street for the southeast corner hereof and said tract 2;

THENCE S 89°36'32" W a distance of 138.13 feet to a 5/8? iron rod found at the southwest corner of said tract 2, the southeast corner of said tract 1 for and angle point in the southerly line hereof;

THENCE N 89°46'09" W a distance of 70.70 feet to a 1/2" iron rod found for the southwest corner hereof and said tract 1, the southeast corner of said Lot 1, St. Barnard's Subdivision.

THENCE N 00°24'14" E a distance of 323.51 feet to the POINT OF BEGINNING, containing 1.516 acres of land.



LOCATION MAP
N.T.S.

OWNERS: TDS SOLUTIONS LLC, MIGUEL CARDOZA, PRESIDENT
ADDRESS: 2809 LONGHORN BOULEVARD, AUSTIN, TEXAS 78758

ACREAGE: 1.516 ACRES
SURVEY: BUILDING BLOCK 73; CITY OF BASTROP
NUMBER OF LOTS: 1
PROPOSED USE: COMMERCIAL
CURRENT ZONING: CMIC/CULTURAL ARTS (FORM BASED CODE)
DATE: JUNE 10, 2017
SURVEYOR: JAMES E. GARON
PHONE: 512-303-4185 FAX: 512-321-2107

RECEIVED
OCT 25 2019
By

STATE OF TEXAS }{
COUNTY OF BASTROP }{

I, ROSE PIETSCH, COUNTY CLERK OF BASTROP COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING AND ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE 11th DAY OF April, 2018, A.D., AT 3:00 O'CLOCK P. M. IN THE PLAT RECORDS OF BASTROP COUNTY, TEXAS IN PLAT CABINET 1C, PAGE 96-B

FILED FOR RECORD ON THE 11th DAY OF April, 2018, A.D.

DEPUTY

ROSE PIETSCH
COUNTY CLERK
BASTROP COUNTY, TEXAS

COUNTY CLERK OF BASTROP COUNTY, TEXAS

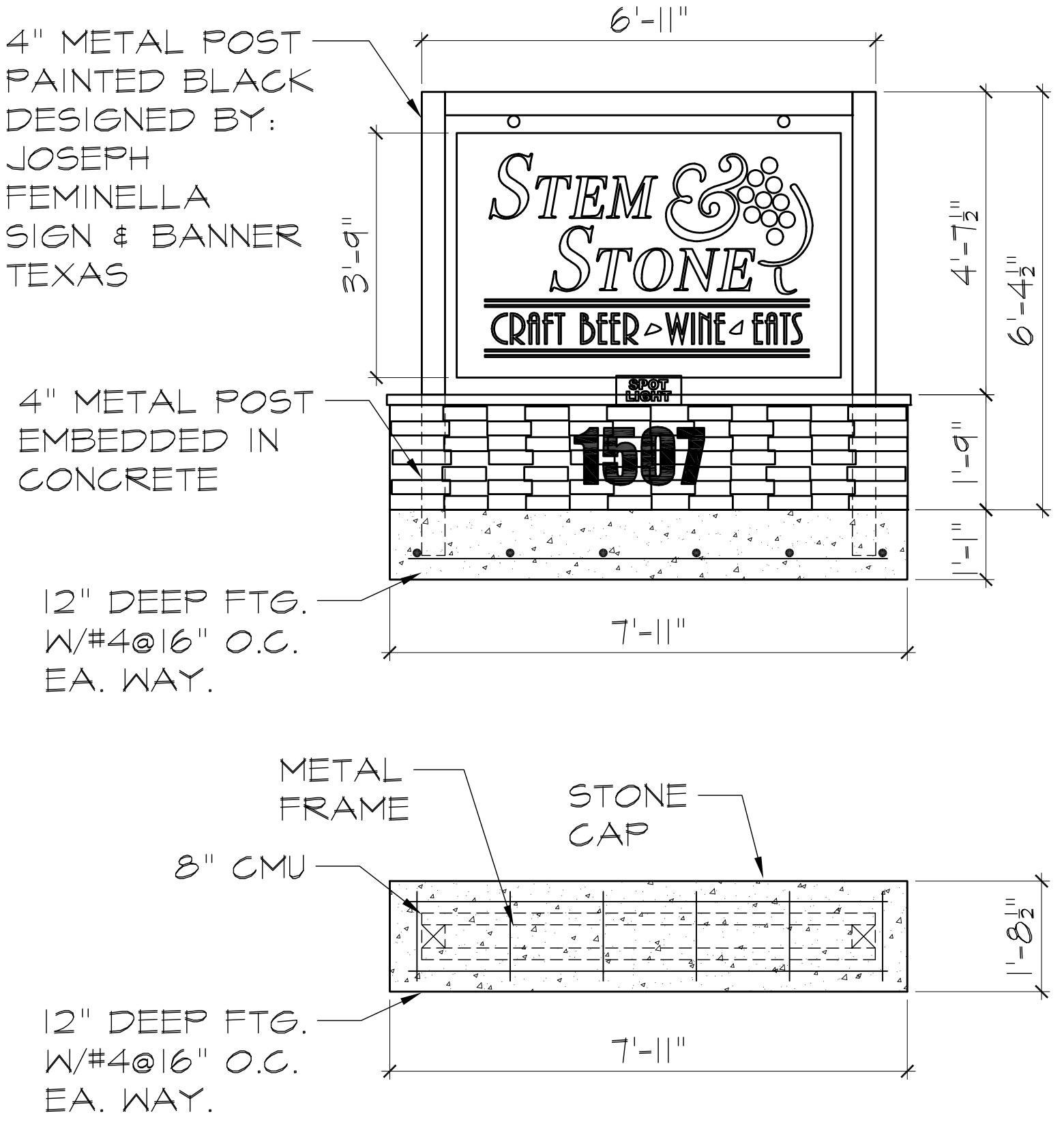
FILED
April 11, 2018
3:00 PM
ROSE PIETSCH
COUNTY CLERK
BASTROP COUNTY, TEXAS

CHESTNUT SUBDIVISION
FINAL MINOR PLAT
PREPARED: JUNE 10, 2017

FILE: Server\Co\Bastrop\City of Bastrop\Building Blocks EMS\B B 73 EMS\25417.dwg

JAMES E. GARON & ASSOC.
PROFESSIONAL LAND SURVEYORS
Firm Reg. #10058400
P.O. Box 1917
Bastrop, Texas 78602
(512) 303-4185
jgaron@austin.rr.com
www.jamesegaron.com

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Use of this survey for any purposes other than this transaction is prohibited



1 FTG./ELEVATION

SCALE: 1/2" = 1'-0"

CHESTNUT STREET

(LOOP 150)

(R.O.W. VARIES)

EXIST. DRIVE APPROACH TO BE REMOVED & REPLACED WITH CURB & GUTTER

EXIST. DRIVE APPROACH TO BE REMOVED & REPLACED WITH CURB & GUTTER

EX. METAL VANE DRAINS

PHASE II PROP. WATER CONNECTION

PHASE II PROP. SEWER CONNECTION

EXISTING ASPHALT T.B.R. & REPLACE WITH CURB & GUTTER

PHASE II PROP. WATE CONNECTION

INLET

R15.0'

R15.0'

PROP. SIDEWA

S 89°26'00" E 86.26'

6' SIDEWALK

5/8" I.R.F.

new monument sign location

L1 (L1)

S 89°52'58" E 121.38

REV 1

9.84'

16.76'

10' B.L. (MINIMUM)

FIRE LANE

FIRE LANE

PHASE II BUILDING 1 841 SF

NEW BUILDING 2,828 SF

EX. 1-STORY BUILDING

R15.0'

FIRE LANE

371

372

373

374

370

369

Scott E. Batz
Turquoise Moon LLC
11-5-19

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9I

TITLE:
Consider action to approve Resolution No. R-2019-115 of the City Council of the City of Bastrop, Texas awarding a task order to Halff Associates, Inc. for engineering design services related to the Gills Branch Drainage Flood Mitigation Project. in the amount of Five hundred fifteen thousand Ninety dollars and zero cents ($515,090.00) as attached in Exhibit A; Authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

STAFF REPRESENTATIVE:
Trey Job, Assistant City Manager of Development Services

BACKGROUND/HISTORY:

The City Council of Bastrop, Texas is committed to improving drainage citywide after several devastating flood events. To that end, the City of Bastrop participated in the Bastrop County Flood Protection Planning study to analyze Gills Branch. The Gills Branch watershed study was conducted by Halff Associates, Inc. (Halff) which included hydrologic and 1-dimensional (1D) hydraulic analysis. The hydraulic analysis of Gills Branch extended from Highway 95 at the upper end to its confluence at the Colorado River.

As a result of the detailed watershed analysis of Gills Branch, it was determined that a significant amount of creek flow leaves the western channel bank and flows in a westward direction through the streets and neighborhood towards the railroad during the 1% annual chance exceedance (ACE) (100-year storm event). During the 2015 Memorial Day flood event, the City experienced this westward overflow that overtopped the railroad and continued to the Colorado River. The 1D hydraulic model indicates the overflow but does not indicate the complex drainage flow through the streets and neighborhood. So, in 2018, the City contracted with Halff to develop a 2-dimensional (2D) model to better understand the Gills Branch overflow and determine flow mitigation solutions in a watershed in an all-inclusive fashion that included channel and roadway crossing improvements.

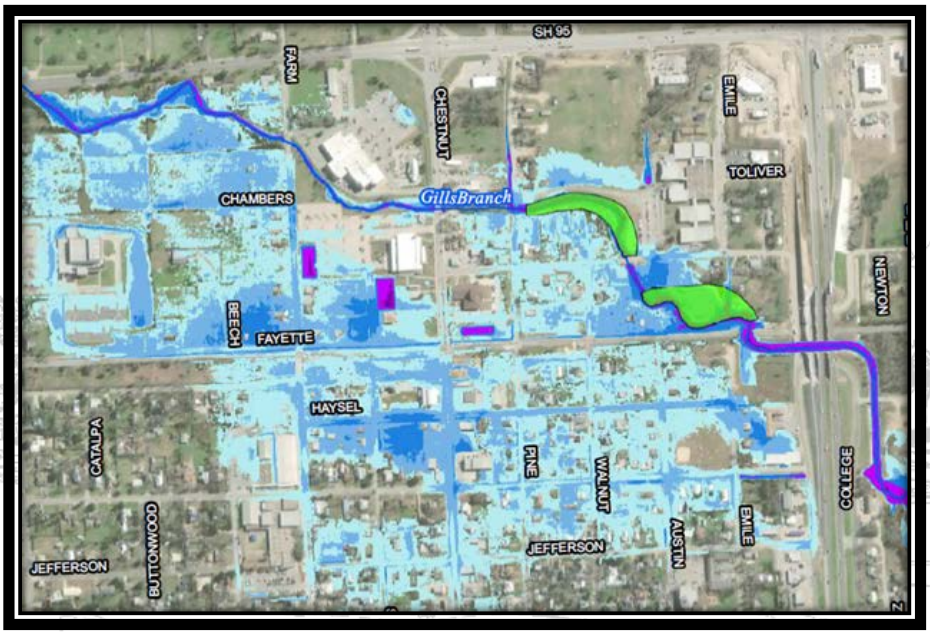
City Council was presented the results of the Gills Branch 2D analysis in March of 2018, and it was determined construction of the improvements were projected to cost approximately four million four hundred thousand dollars and zero cents ($4,400,000.00). The Project was broken down into three phases.

During the FY 2020 budget process, a tax note in the amount of $465,000 was issued for drainage projects. It was proposed that a Drainage Master Plan would be completed along with preliminary engineering begin on the Gills Branch Drainage Mitigation Project. At the November 12, 2019, Council reached consensus to allocate all funding to the Gills Branch Drainage Mitigation Project

and asked Mr. Paul Morales to see what progress could be made within this allocation, given the significant impact Gills Branch has on the community. Below are the three phases to be designed.

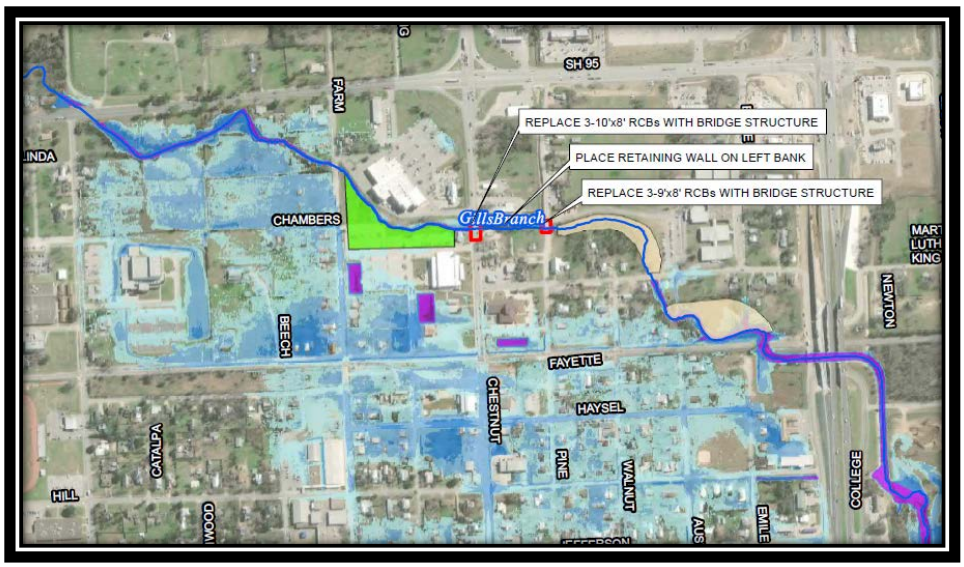
Phase 1 Improvements

The proposed improvements for Phase 1 consisted of channel improvements between Pine St. and the railroad bridge just upstream of Highway 71. The channel improvements consist of grass-lined benched sections on both banks of the channel between Pine St. and MLK Dr. and grass-lined benched section on the left bank of the channel between MLK Dr. and the railroad bridge. Channel improvements were not placed immediately downstream of MLK Dr. due to the presence of historical homes within the area. These improvements were placed to convey the increased discharge from the future phased improvements upstream of Pine St. The cost of the Phase 1 improvements is approximately $975,000. The Phase 1 improvements and ponding extents are shown below.



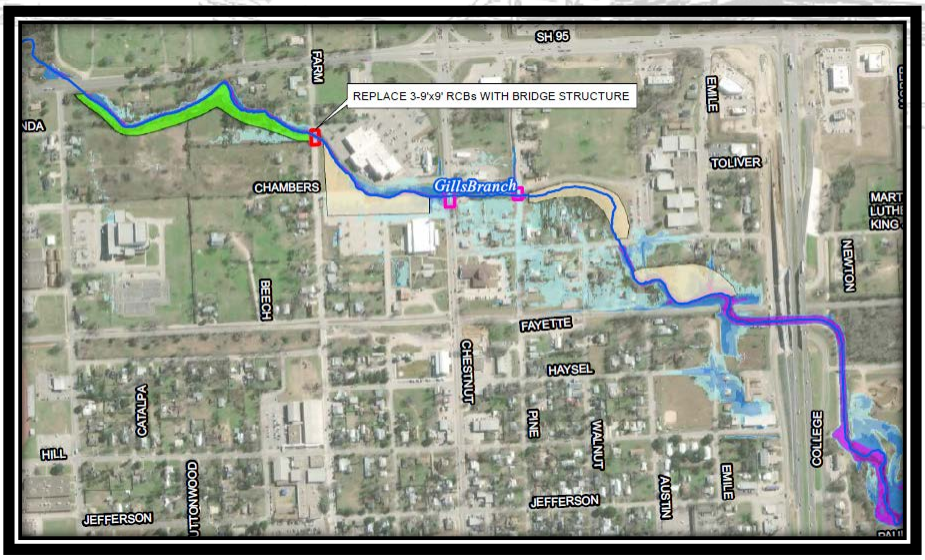
Phase 2 Improvements

The proposed improvements for Phase 2 consisted of channel improvements between Farm St. and Pine St. as well as culvert replacements for both Chestnut St. and Pine St. The channel improvements are comprised of a grass-lined benched channel sections on the right bank of the channel between Farm St and Chestnut St. Between Chestnut St. and Pine St. the channel will consist of benched sections and retaining walls due to the limited right-of-way. As seen below.



Phase 3 Improvements

The proposed improvements for Phase 3 consisted of channel improvements between TX-95 and Farm St with a culvert replacement at Farm St. The channel improvements consist of grass-lined benched sections on the right bank of the channel between TX-95 and Farm St. The existing 3-9'x9' RCBs culvert structure was replaced with a single bridge span improvement to increase conveyance downstream in the channel. This phase of improvements in conjunction with the previous phased improvements reduce the inundation within the City. The cost of the Phase 3 improvements is approximately $1.04 million. The Phase 3 improvements and ponding extents are shown below.



The Proposal before you tonight will provide a final design for all three phases. Once the design is complete the City of Bastrop will have a shovel ready project.

POLICY EXPLANATION:

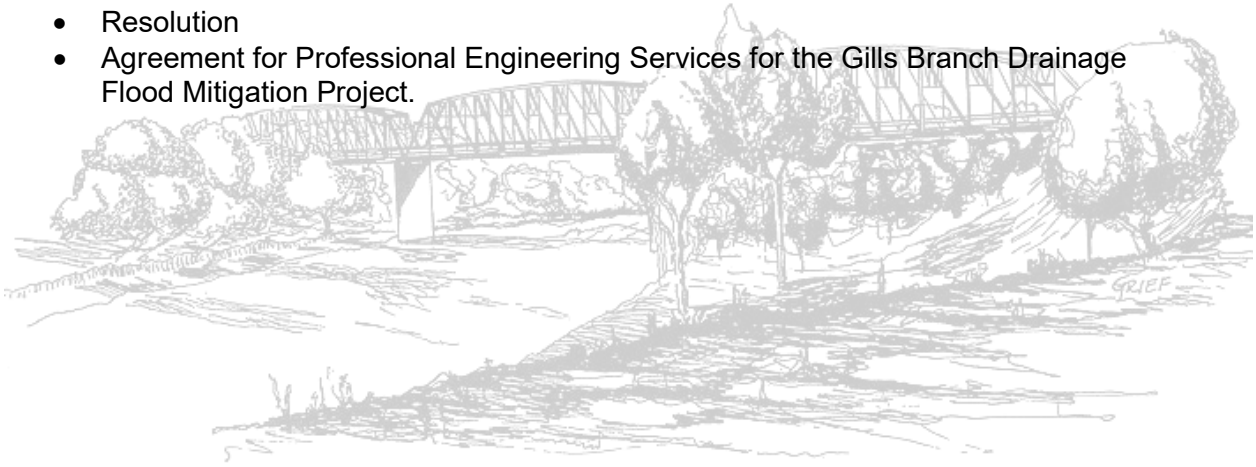
City Council has taken the position that drainage is a priority. Evidence of this statement can be found in the actions taken over the previous year. The City Council issued a temporary

moratorium, that required drainage to be reviewed upfront and often. Council later supported that action by passing a new Stormwater Drainage Design Manual and lifting the moratorium.

FUNDING SOURCE:
Project funding, provided Tax Note Issuance can be found on page 292 of the FY 2019-20 budget book in the amount of approximately $465,000 less issuance costs, which leaves $441,000. The remaining $74,090 will be covered with fund balance over reserve requirements or carried over and funded in FY 2021 since this is an eleven (11) month project.

RECOMMENDATION:
Consider action to approve Resolution No. R-2019-115 of the City Council of the City of Bastrop, Texas awarding a task order to Halff Associates, Inc. for engineering design services related to the Gills Branch Drainage Flood Mitigation Project. in the amount of Five hundred fifteen thousand Ninety dollars and zero cents ($515,090.00) 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
- Agreement for Professional Engineering Services for the Gills Branch Drainage Flood Mitigation Project.



RESOLUTION NO. R-2019-115

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AWARDING A TASK ORDER TO HALFF ASSOCIATES, INC. FOR ENGINEERING DESIGN SERVICES RELATED TO THE GILLS BRANCH DRAINAGE FLOOD MITIGATION PROJECT. IN THE AMOUNT OF FIVE HUNDRED FIFTEEN THOUSAND NINETY DOLLARS AND ZERO CENTS ($515,090.00) AS ATTACHED IN EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The City Council of the City of Bastrop, Texas 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 of the City of Bastrop, Texas is committed to improving drainage around the City following several overwhelming flood events; and

WHEREAS, The City of Bastrop, Texas contracted with Halff Associates in 2018 to develop a 2-dimensional (2D) model to better understand overflow in Gills Branch and determine flow mitigation solutions; and

WHEREAS, The City of Bastrop, Texas participated in the Bastrop County Flood Protection Planning grant in 2017; and

WHEREAS, The City Council of the City of Bastrop, Texas believes it is necessary to develop an accurate and current understanding of the drainage infrastructure.

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 Professional Engineering Services with Halff Associates, Inc., in the amount of Five hundred fifteen thousand Ninety dollars and zero cents ($515,090.00)

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: 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 26th day of November, 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES ON A DEFINED SCOPE OF SERVICES BASIS

This Agreement for Professional Engineering Services, hereinafter called "Agreement," is entered into by the **City of Bastrop** a **municipal corporation** of the State of **Texas**, hereinafter referred to as "Client", duly authorized to act by the **City Council** of said Client, and **HALFF ASSOCIATES, INC.**, a Texas corporation, acting through a duly authorized officer, herein called "Engineer," relative to Engineer providing professional engineering services to the Client. Client and Engineer when mentioned collectively shall be referred to as the "Parties".

W I T N E S S E T H:

For the mutual promises and benefits herein described, the Client and Engineer agree as follows:

I. Term of Agreement. This Agreement shall become effective on the date of its execution by both Parties, and shall continue in effect thereafter until terminated as provided herein.

II. Services to be Performed by Engineer. Engineer shall provide to the Client basic engineering services as described in the scope of services attachment and fully incorporated herein as "**Exhibit A"** which services may include, but will not be limited to, those services normally rendered by an engineer to a municipal corporation. Engineer shall perform its obligations under this agreement as an independent contractor and not as an agent or fiduciary of any other party.

III. Compensation - Client agrees to pay monthly invoices or their undisputed portions within 30 days of receipt. Payment later than 30 days shall include interest at 1 percent (1%) per month or lesser maximum enforceable interest rate, from the date the Client received the invoice until the date Engineer receives payment. Such interest is due and payable when the overdue payment is made.

It is understood and agreed by the Parties that Engineer's receipt of payment(s) from Client is not contingent upon Client's receipt of payment, funding, reimbursement or any other remuneration from others.

Time-related charges will be billed as specified in this Agreement. Unless stated otherwise in this Agreement, direct expenses, subcontracted services and direct costs will be billed at actual cost plus a service charge of 10 percent. Mileage will be billed at current IRS rates.

IV. Client's Obligations. The Client agrees that it will (i) designate a specific person to act as the Client's representative, (ii) provide Engineer with any previous studies, reports, data, budget constraints, special Client requirements, or other pertinent information known to the Client, when necessitated by a project, (iii) Client agrees to provide site access, and to provide those services described in the attached Scope of Services assist Engineer in obtaining access to property necessary for performance of Engineer's work for the Client, (iv) make prompt payments in response to Engineer's statements and (v) respond in a timely fashion to requests from Engineer. Engineer is entitled to rely upon and use, without independent verification and without liability, all information and services provided by the Client or the Client's representatives.

V. Termination of Work - Either the Client or the Engineer may terminate this Agreement at any time with or without cause upon giving the other Party ten (10) calendar days' prior written notice. Client agrees that termination of Engineer for Client's convenience shall only be utilized in good faith, and shall not be utilized if either the purpose or the result of such termination is the performance of all or part of Engineer's services under this Agreement by Client or by another service provider. Following Engineer's receipt of such termination notice the Client shall, within ten (10) calendar days of Client's receipt of Engineer's final invoice, pay the Engineer for all services rendered and all costs incurred up to the date of Engineer's receipt of such notice of termination.

VI. Ownership of Documents - Upon Engineer's completion of services and receipt of payment in full, Engineer shall grant to Client a non-exclusive license to possess the final drawings and instruments produced in connection with Engineer's performance of the work under this Agreement, if any. Said drawings and instruments may be copied, duplicated, reproduced and used by Client for the purpose of constructing, operating and maintaining the improvements. Client agrees that such documents are not intended or represented to be suitable for reuse by Client or others for purposes outside the Scope of Services of this Agreement. Notwithstanding the foregoing, Client understands and agrees that any and all computer programs, GIS applications, proprietary data or processes, and certain other items related to the services performable under this Agreement are and shall remain the sole and exclusive property of Engineer and may not be used or reused, in any form, by Client without the express written authorization of Engineer. Client agrees that any reuse by Client, or by those who obtain said information from or through Client, without written verification or adaptation by Engineer, will be at Client's sole risk and without liability or legal exposure to Engineer or to Engineer's employees, agents, representatives, officers, directors, affiliates, shareholders, owners, members, managers, attorneys, subsidiary entities, advisors, subconsultants or independent contractors or associates. Engineer may reuse all drawings, reports, data and other information developed in performing the services described by this Agreement in Engineer's other activities.

_____/_____
Client Initial / Date

VII. Notices. Any notices to be given hereunder by either party to the other may be affected either by personal delivery, in writing, or by registered or certified mail.

VII. Sole Parties and Entire Agreement. This Agreement shall not create any rights or benefits to anyone except the Client and Engineer, and contains the entire agreement between the parties. Oral modifications to this Agreement shall have no force or effect.

IX. Insurance. Engineer shall, at its own expense, purchase, maintain and keep in force throughout the duration of this Agreement and for a period of four (4) years thereafter, professional liability insurance. The limits of liability shall be $1,000,000 per claim and in the aggregate. Engineer shall submit to the Client a certificate of insurance prior to commencing any work for the Client.

X. Prompt Performance by Engineer. All services provided by Engineer hereunder shall be performed in accordance with the degree of care and skill ordinarily exercised under similar circumstances by competent members of the engineering profession in the State of Texas applicable to such engineering services contemplated by this Agreement.

XI. Client Objection to Personnel. If at any time after entering into this Agreement, the Client has any reasonable objection to any of Engineer's personnel, or any personnel, professionals and/or consultants retained by Engineer, Engineer shall promptly propose substitutes to whom the Client has no reasonable objection, and Engineer's compensation shall be equitably adjusted to reflect any difference in Engineer's costs occasioned by such substitution.

XII. Assignment and Delegation. Neither the Client nor Engineer may assign their rights or delegate their duties without the written consent of the other party. This Agreement is binding on the Client and Engineer to the fullest extent permitted by law. Nothing herein is to be construed as creating any personal liability on the part of any Client officer, employee or agent.

XIII. Jurisdiction and Venue - This Agreement shall be administered under the substantive laws of the State of **Texas** (and not its conflicts of law principles) which shall be used to govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation, its validity, interpretation, construction, performance and enforcement. Exclusive venue shall lie in any court of competent jurisdiction in ***Bastrop County*** **County, Texas.**

XIV. Integration, Merger and Severability – This Agreement and the Scope of Services, including fee and schedule are fully incorporated herein and represent the entire understanding of Client and Engineer. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered except in writing signed by both Parties. This Agreement constitutes, represents and is intended by the Parties to be the complete and final statement and expression of all of the terms and arrangements between the Parties to this Agreement with respect to the matters provided for in this Agreement. This Agreement supersedes any and all prior or contemporaneous agreements, understandings, negotiations, and discussions between the Parties and all such matters are merged into this Agreement. Should any one or more of the provisions contained in this Agreement be determined by a court of competent jurisdiction or by legislative pronouncement to be void, invalid, illegal, or unenforceable in any respect, such voiding, invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be considered as if the entirety of such void, invalid, illegal, or unenforceable provision had never been contained in this Agreement.

XV. Exclusivity of Remedies – The Parties acknowledge and agree that the remedies set forth in this Agreement, including those set forth in Article XIX. Agreed Remedies are and shall remain the Parties' sole and exclusive remedy with respect to any claim arising from, or out of, or related to, the subject matter of this Agreement. The Parties agree that Engineer is to have no liability or responsibility whatsoever to Client for any claim(s) or loss(es) of any nature, except as set forth in this Agreement. No Party shall be able to avoid the limitations expressly set forth in this Agreement by electing to pursue some other remedy.

XVI. Timeliness of Performance - Engineer shall perform its professional services with due and reasonable diligence consistent with sound professional practices.

XVII. Dispute Resolution. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to schedule a series of no less than two meetings of senior personnel of Client and Engineer in which the disagreement or conflict will be discussed. The first of such meetings will be scheduled as soon as possible following identification of such disagreement or conflict and the second meeting must occur within thirty (30) days following the initial meeting. Subsequent meetings, if any may be scheduled upon mutual agreement of the parties. The parties agree that these two meetings are conditions precedent to the institution of legal proceedings unless such meetings will adversely affect the rights of one or more of the parties as such rights relate to statutes of limitation or repose.

XVIII. Signatories. The Client and Engineer mutually warrant and represent that the representation of each who is executing this Agreement on behalf of the Client or Engineer, respectively, has full authority to execute this Agreement and bind the entity so represented.

_____/_____
Client Initial / Date

XIX. PROJECT ENHANCEMENT - IF DUE TO ANY ALLEGED OR ACTUAL BREACH OF CONTRACT, NEGLIGENCE, ERROR, OR DEFICIENCY IN THE SERVICES OF ENGINEER OR ANY OF ITS CONSULTANTS, ANY ITEM, COMPONENT, OR CONDITION OF THE SERVICES IS INACCURATE OR OMITTED FROM ANY OF THE DESIGN DOCUMENTS PRODUCED THROUGH ENGINEER'S SERVICES, ENGINEER'S AND ITS CONSULTANT'S LIABILITY, IF ANY, SHALL BE LIMITED TO THE DIFFERENCE BETWEEN: I) THE COST OF ADDING, CORRECTING OR REPLACING THE ITEM AT THE TIME THE ERROR IS DISCOVERED, AND II) THE COST HAD THE ITEM OR COMPONENT BEEN INCLUDED OR CORRECT IN THE DESIGN DOCUMENTS PROVIDED PRIOR TO THE TIME CONSTRUCTION BEGAN. HOWEVER, IF THE CORRECTION TO THE DESIGN PROVIDES ADDED VALUE, UPGRADE, OR ENHANCEMENT TO THE PROJECT OF CLIENT/OWNER, THE AMOUNT OF DAMAGES, IF ANY, SHALL BE ADJUSTED DOWN BASED ON SUCH ADDED VALUE, UPGRADE, OR ENHANCEMENT OF THE PROJECT. CLIENT/OWNER SHALL BE RESPONSIBLE FOR ANY COST OR EXPENSE ASSOCIATED WITH THE CORRECTION THAT PROVIDES ADDED VALUE, UPGRADE, OR ENHANCEMENT OF THE PROJECT. IN NO EVENT AND REGARDLESS OF THE LEGAL THEORY OR FACTUAL BASIS OF ANY CLAIM, SHALL ENGINEER'S OR ITS CONSULTANT'S LIABILITY INCLUDE ANY COST OR EXPENSE THAT PROVIDES ADDED VALUE, UPGRADE, OR ENHANCEMENT OF THE PROJECT. IN ADDITION, IF ANY SUCH ITEM, COMPONENT, OR CONDITION HAS AN IDENTIFIABLE USEFUL LIKE THAT IS LESS THAN THE BUILDING ITSELF, THE DAMAGES OF THE CLIENT/OWNER SHALL BE REDUCED TO THE EXTENT THAT THE USEFUL LIFE OF THE COMPONENT WILL BE EXTENDED BY THE REPLACEMENT THEREOF.

XX. AGREED REMEDIES

A. IT IS THE INTENT OF THE PARTIES TO THIS AGREEMENT THAT ENGINEER'S SERVICES UNDER THIS AGREEMENT SHALL NOT SUBJECT ENGINEER'S INDIVIDUAL EMPLOYEES, OFFICERS OR DIRECTORS TO ANY PERSONAL LEGAL EXPOSURE FOR CLAIMS AND RISKS ASSOCIATED WITH THE SERVICES PERFORMED OR PERFORMABLE UNDER THIS AGREEMENT. FOR PROJECTS/SERVICES PERFORMED IN FLORIDA OR PURSUANT TO FLORIDA LAW, FLORIDA STATUTE 558.0035 STATES THAT, AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.

B. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH THE CLIENT AND THE ENGINEER, AND ACKNOWLEDGING THAT THE ALLOCATION OF RISKS AND LIMITATIONS OF REMEDIES ARE BUSINESS UNDERSTANDINGS BETWEEN THE PARTIES AND THESE RISKS AND REMEDIES SHALL APPLY TO ALL POSSIBLE LEGAL THEORIES OF RECOVERY. CLIENT FURTHER AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT OR ANY REFERENCE TO INSURANCE OR THE EXISTENCE OF APPLICABLE INSURANCE COVERAGE, THAT THE TOTAL LIABILITY, IN THE AGGREGATE, OF THE ENGINEER AND ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS TO THE CLIENT OR TO ANYONE CLAIMING BY, THROUGH OR UNDER THE CLIENT, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO, THE SERVICES UNDER THIS AGREEMENT FROM ANY CAUSE OR CAUSES OF THE ENGINEER OR THE ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS, SHALL NOT EXCEED THE ENGINEER'S FEE FOR THE SERVICES PERFORMED UNDER THIS AGREEMENT OR $50,000, WHICHEVER IS GREATER. INCREASED LIMITS MAY BE NEGOTIATED FOR ADDITIONAL FEE.

C. NOTWITHSTANDING ANY OTHER PROVISION OF THE AGREEMENT, ENGINEER SHALL HAVE NO LIABILITY TO THE CLIENT FOR CONTINGENT, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, REVENUE OR PROFIT; OPERATING COSTS AND FACILITY DOWNTIME; OR OTHER SIMILAR BUSINESS INTERRUPTION LOSSES, HOWEVER, THE SAME MAY BE CAUSED.

D. CLIENT MAY NOT ASSERT ANY CLAIM AGAINST ENGINEER AFTER THE SHORTER OF (1) 3 YEARS FROM SUBSTANTIAL COMPLETION OF SERVICES GIVING RISE TO THE CLAIM, OR (2) THE STATUTE OF LIMITATION PROVIDED BY LAW.

E. IT IS UNDERSTOOD AND AGREED BY BOTH PARTIES TO THIS AGREEMENT THAT THE FIRST TEN DOLLARS ($10.00) OF REMUNERATION PAID TO ENGINEER UNDER THIS AGREEMENT SHALL BE IN CONSIDERATION FOR INDEMNITY/INDEMNIFICATION PROVIDED FOR IN THIS AGREEMENT.

XXI. WAIVER - Any failure by Engineer to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and Engineer may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

[SIGNATURE PAGE TO FOLLOW]

_____/_____
Client Initial / Date

IN WITNESS WHEREOF, the parties, having read and understood this Agreement, have executed such in duplicate copies, each of which shall have full dignity and force as an original, on the _____ day of _____, 20___.

HALFF ASSOCIATES, INC.

By: Michael A Maya
Signature

Michael A. Maya
Printed Name

Sr. Vice President
Title

10/2/2019
Date

CLIENT: CITY OF BASTROP, TEXAS

By: _____
Signature

_____
Printed Name

_____
Title

_____
Date

_____/_____
Client Initial / Date

ATTACHMENT A

PROPOSED STATEMENT OF WORK

City of Bastrop
Gills Branch Flood Mitigation Improvements
Design Documents

Revised 11/21/19

PROJECT DESCRIPTION:

The City of Bastrop participated in the Bastrop County Flood Protection Planning study to analyze Gills Branch. The Gills Branch watershed study was conducted by Halff Associates, Inc. (Halff) which included hydrologic and 1-dimensional (1D) hydraulic analysis. The hydraulic analysis of Gills Branch extended from Highway 95 at the upper end to its confluence at the Colorado River. As a result of the detailed watershed analysis of Gills Branch, it was determined that a significant amount of creek flow leaves the western channel bank and flows in a westward direction through the streets and neighborhood towards the railroad during the 1% annual chance exceedance (ACE) (100-year storm event). During the 2015 Memorial Day flood event, the City experienced this westward overflow that overtopped the railroad and continued towards the Colorado River. The 1D hydraulic model indicates the overflow but does not indicated the complex drainage flow through the streets and neighborhood. In 2018, the City contract with Halff to develop a 2-dimensional (2D) model to better understand the Gills Branch overflow and determine flood mitigation solutions in a watershed holistic fashion that included channel and roadway crossing improvements.

The following scope of work outlines the task efforts to prepare engineering design documents for the preferred flood mitigation solution from the previous work effort. This design phase will include design plans, specifications, probable construction cost estimate, ground survey, subsurface utility engineering, hydrology and hydraulic analysis refinement, environmental permitting, attendance of public workshops, and preparation of and Engineering Design Report.

The following is a list of general project assumptions used in preparing this scope of work.

- Property acquisitions, survey exhibits, or negotiations are not considered in this scope.
- Boundary survey does not include research efforts normally performed by a title company or separate deliverables, including the preparation of separate boundary or title survey maps, legal descriptions or accompanying exhibits.
- Assume that public right-of-way between Chestnut St. and Pine St. will be used and a retaining wall will not be needed. If a retaining wall design is required, additional services will be requested at that time.
- FEMA Conditional Letter of Map Revision or Letter of Map Revision preparation and coordination is not included in this scope.
- Environmental permitting is anticipating this project will fall under a 404 Nationwide Permit. If a 404 Individual Permit is required, additional services will be requested at that time.

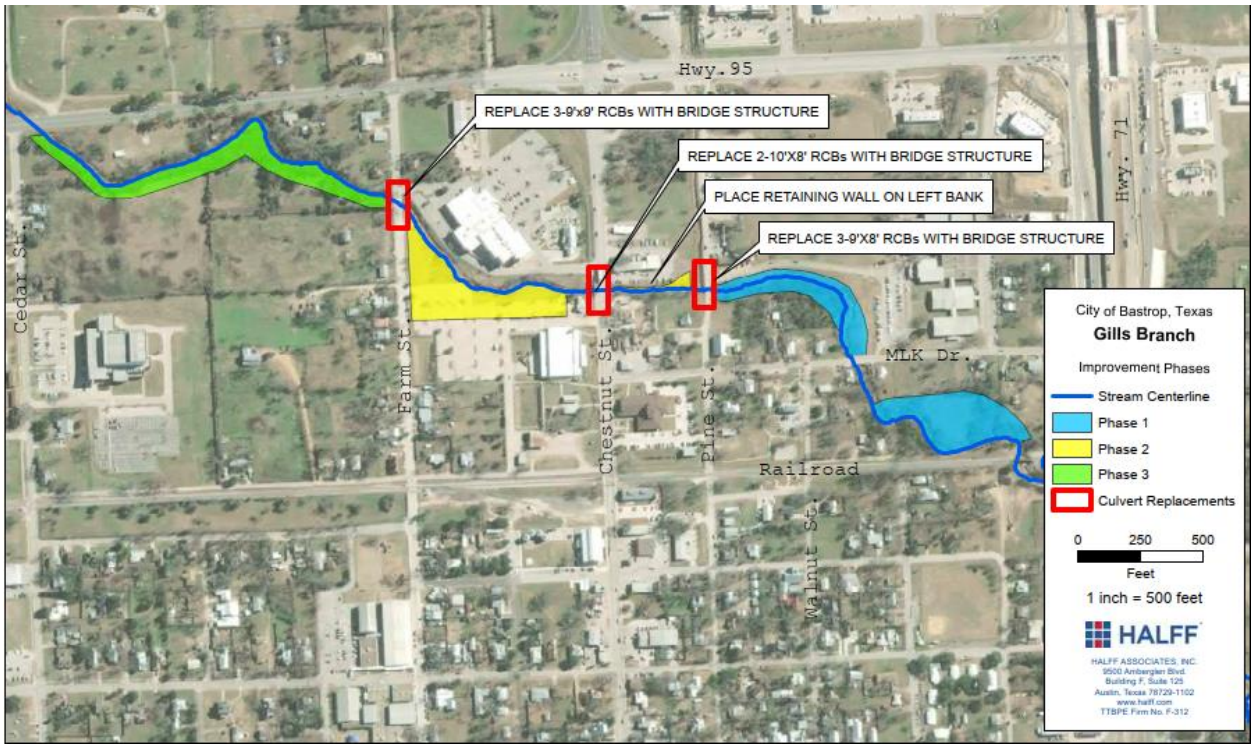
- Scope does not include threatened and endangered species presence/absence surveys. Should this be required by the agencies, additional services will be requested at that time.
- Scope does not include preparation of a Permittee Responsible Mitigation Plan. Should the proposed channel improvements require compensatory mitigation and USACE approved bank credits are unavailable, additional services will be requested at that time.
- If any permitting submittal requires any permitting and/or filing fees, Halff will invoice the necessary fees as a pass-through charge.
- Landscaping and irrigation plan sheets are not included in this scope but could be included if the City chooses to do so.
- Bidding and construction administration phase services are not included in this scope.

PROJECT OBJECTIVES:

1. Prepare engineering design plans, specifications, probable construction cost estimate, and engineering design report for channel and road crossing improvements to mitigate flooding along Gills Branch.

2. Refine hydraulic modeling analysis to ensure project design does not cause adverse impacts to adjacent properties.

PROJECT AREA:



SCOPE OF WORK:

Task 1: Project Management

This task consists of planning the project, executing the plan and making necessary adjustments or changes when needed, as well as closing out the project when work has been successfully completed. The project manager shall be the single point of contact for all correspondences.

- Project kickoff meeting to define project, resources, submittal procedures, schedules, deliverables, and goals
- Attendance/presentation of one (1) City Council or other public meeting to answer questions regarding design
- Monthly progress reporting and invoicing for project

Task 2: Data Collection

The purpose of this task is to acquire field data required to prepare design documents of the proposed channel and road crossing improvements.

Task 2a – Site Visit:

Conduct up to four (4) field reconnaissance site visits to acquire design information and to discuss the project with the design team.

Task 2b – SUE Investigation:

Halff will perform subsurface utility engineering (SUE) in accordance with *ASCE 38-02 Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data*. Subsurface utility engineering (SUE) investigation will include Quality Level C/D (utility records research) utilizing available utility records provided by others, survey visible utilities, and field visit and Quality Level A (test holes) to identify potential utility conflict elevations.

- Quality Level D: Information derived from existing utility records or oral recollections
- Quality Level C: Information obtained by surveying and plotting visible aboveground features and by using professional judgment in correlating this information to Quality Level D information
- Quality Level B: Not part of this scope of services
- Quality Level A: Up to four (4) test holes will be performed on various utilities at locations specified by Halff's design engineer
- Conduct field visit to identify visible utilities, request utility records, and compile utility information into a CAD base file
- Prepare SUE QL-C/D CAD base file and signed and sealed 8.5x11 Quality Level A test hole data forms

Task 2c – Design Survey:

Halff will conduct design level survey of the anticipated proposed project area along Gills Branch. This survey effort includes the following.

- Obtain Right-of-entry (ROE) from landowners to allow survey crews to conduct ground survey of their property. Halff will send out ROE letters (approved by the Client) prior to accessing private properties.

- Perform a boundary verification survey of the property lines within the survey limits, which Halff will utilize in preparation of surveying and/or engineering deliverables for the project. This proposal does not include research efforts normally performed by a title company and does not include separate deliverables, including the preparation of separate boundary or title survey maps, legal descriptions or accompanying exhibits.
    - Obtain subdivision plats and vesting deeds for the properties within the proposed corridor in order to create an abstract map showing record deed lines
    - Survey will be performed in substantial accordance with TSPS Category 1-B, Condition II requirements
    - Halff will rely on a title commitment the City will provide regarding the existence of any recorded easements, restrictions, and other matters of record affecting the subject property
    - Property corners of the subject tracts will be recovered and flagged. Any property corners that have been destroyed or disturbed will be calculated at their proper location
- All field survey data submitted to the TPWD shall be based on the North American Datum of 1983 (NAD83) horizontal coordinate system in the State Plane Central Texas Zone 3 (FIPS 4203). All vertical coordinates and surveyed elevations shall be based on the North American Vertical Datum of 1988 (NAVD88). All field survey data shall be measured in US survey feet.
- Perform topographic field survey sufficient for 1-ft. contour intervals, locate all visible improvements, above ground utilities and features (power poles, valves, etc.), storm drain and wastewater line rim and flowline elevations, edge of pavement and concrete structures, etc.
- Perform survey of road crossings at MLK Dr., Pine St., Chestnut St., Farm St. and Hwy. 95.
- Locate and tag existing 8-inch caliper trees and greater showing critical root zone (tree circles).
- Extract and prepare triangulated irregular network into DTM and prepare 1-foot contours.

<u>Task 2d – Environmental Permitting:</u>

Under Section 404 of the Clean Water Act (Section 404), the United States Army Corps of Engineers (USACE) regulates the discharge of dredge or fill material into waters of the United States (WOTUS). Gills Branch is a tributary to the Colorado River and would likely be considered a WOTUS, as would wetlands adjacent to Gills Branch. The following scope is provided to identify and delineate the limits of potential WOTUS within the vicinity of the proposed channel improvements and provide documentation to support a *Nationwide Permit 43 – Stormwater Management Facilities* (NWP 43) application with the USACE Fort Worth District. Because the proposed channel improvements will include greater than 5,000 cubic yards of ground disturbing activities, coordination with the Texas Historical Commission (THC) pursuant to the Antiquities Code of Texas will be required. The following scope of work is also intended to provide documentation and a preliminary determination of effect to the agencies necessary to facilitate informal Section 7(a) consultation between the USACE and USFWS, under the assumption that the proposed project would not result in adverse effects to the Houston Toad or other federally-listed threatened or endangered species. If it is determined during that process that the project would necessitate formal consultation/development of a biological opinion/issuance of an incidental take permit, additional scope and fee will likely be required.

- *Background Review*: Halff will review available background data relevant to making a preliminary jurisdictional opinion for aquatic resources occurring within the project area. Available resources may include, but are not limited to, recent and historic aerial photos, topographic maps, USFWS National Wetland Inventory Maps, soils surveys, floodplain maps, Lidar elevation models, and land use/landcover data. Halff will also obtain official species

information from United States Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) https://ecos.fws.gov/ipac/. The investigation shall also include a search request from the Texas Natural Diversity Database (TXNDD). Finally, Halff will conduct research consisting of a desktop review of the THC Archeological Sites Atlas for previously recorded archeological sites and historic properties, and previous archeological surveys within the project vicinity. Desktop research will also include a review of USDA soil survey maps, USGS geologic maps, topographic maps and aerial photography to assess the potential for deeply buried and undisturbed archeological deposits.

- *Field Investigation*: Halff will perform an on-the-ground delineation within the proposed project area to identify the limits of WOTUS, including wetlands, as defined in the USACE "Wetland Delineation Manual – Technical Report Y-87-1" and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Great Plains Region (Version 2.0)". Limits of potential WOTUS will be mapped utilizing a GPS unit capable of sub-meter accuracy and flagged to allow for survey crews to tie elevations. Halff proposes to utilize observations made during the delineation assessment, along with available background data (e.g. vegetation data, landcover data, soils maps, etc.) to assess the project area for the presence of suitable/preferred habitat for federally-listed threatened and endangered species.
- *Design Review, Impact Calculations, and Permitting Assessment*: Halff will coordinate with the design engineer to evaluate preliminary plans and calculate impacts to WOTUS associated with the proposed channel improvements. Recommendations for avoidance and minimization of impacts to aquatic resources may be recommended to facilitate Section 404 permitting to reduce or eliminate the need for compensatory mitigation.
- *USACE Pre-Application Meeting*: Consultant proposes to request a pre-application meeting with the USACE Fort Worth District.
- *Informal USFWS Consultation*: Consultant proposes to prepare documentation (i.e. letters, reports, figures, etc.), attend meetings, and conduct teleconferences to facilitate interagency coordination between the USACE and USFWS under Section 7(a) of the ESA and pursuant to a potential federal action (i.e. NWP authorization/verification) by the USACE.
- *Reporting*: Consultant shall prepare draft and final reports documenting the results of the Background Review and Field Investigation.
- *Pre-Construction Notification Document*: Consultant shall prepare and submit a pre-construction notification to the USACE for written verification that the project may proceed under NWP 43.
- *USACE Coordination:* Consultant shall facilitate processing of the NWP 43 application with the USACE Fort Worth District which may include a single additional site visit with the USACE; minor revisions to the pre-construction notification document; Teleconferences with the USACE; and Teleconferences to facilitate interagency review and coordination.

Task 2e – Geotechnical Investigation:

Raba Kistner, Inc., working as a subconsultant to Halff, will conduct geotechnical investigations including boring holes and laboratory testing to provide recommendations for slope stability, bridge foundation, retaining wall stability, and scour potential for the proposed project area along Gills Branch provided in a Geotechnical Report. Raba Kistner,Inc. proposal is attached in this scope.

Task 2f – Design Workshops:

Two (2) design workshops will be conducted during the 30% and 75% design tasks to discuss and gain approval and direction for the flood mitigation design from City staff for preparation of preliminary design plans.

- Conduct two (2) design workshops to discuss design constraints and parameters with City staff
- Prepare up to four (4) illustrative concept renderings to visually illustrate engineered improvements and potential trail and park opportunities
- Attend one (1) design workshop to discuss potential resilience flood mitigation and open space opportunities
- This effort does not include preparation of cost estimates for potential trail and park opportunities

Task 3: Hydraulic Model Refinement

Refine two dimensional (2D) hydraulic analysis utilizing the model developed as part of the flood mitigation analysis. This refined model will be used to verify the proposed project does not impact adjacent properties.

- Utilize the Gills Branch preferred channel and roadway improvements determined during the previous analysis phase analyzed for fully developed watershed conditions
- Update the 2D hydraulic model with updated ground survey and proposed design elements
- Evaluate frequency design storm for 2-, 5-, 10-, 25-, 50-, and 100-year storm events utilizing NOAA Atlas 14 rainfall data

Task 4: 30% Engineering Design Documents

Engineering design documents will be developed for the preferred channel and roadway improvements design concept prepared by Halff in March 2019. The City also requested recommendations to stabilize eroding channel banks south of Hwy. 71 which are not included in the March 2019 design concept. Halff will focus on erosion areas that threaten existing infrastructure which may include the transition from concrete channel to natural channel near Gutierrez St. and Jefferson St., channel bend near Lovers Ln., and the channel bend near the wastewater treatment plant. LiDAR terrain will be used for the channel reach south of Highway 71 for the preliminary engineering design.

Halff will design single span bridge structures at Farm Street, Chestnut Street, and Pine Street over Gills Branch to replace the existing box culvert structures. Bridge spans will vary between 60 feet and 80 feet and each bridge will accommodate a single lane of traffic in each direction. The bridges at Chestnut and Pine Streets will have a straight alignment whereas the bridge at Farm Street will be skewed. The bridge structures will not require any special aesthetic features or ornamental railing and utilities may need to be suspended from the structures. The Structural Design will be in accordance with the Americal Association of State Highway and Transportation Officials (AASHTO) LRFD Bridge Design Specification, Seventh Edition with current interim revisions and TxDOT Bridge Design Manual. Bridge superstructure construction is anticipated to be prestresses concrete I-Beams.

Halff will deliver specifications, probable construction cost estimate, and 11”x17” design sheets of the channel and roadway improvements that may include the following:

- Cover Sheet
- Dimensional Control
- Site Access Plan
- Tree Protection/Removal Plan

- Demolition Plan
- Channel Plan and Profile
- Bridge Plan and Profile

Task 5: 75% Engineering Design Documents

Upon the City's formal approval of the 30% design submittal, Halff will proceed with preparing final design documents including specifications, probable construction cost estimate, and 11"x17" design sheets of the channel and roadway improvements that may include the following:

- Cover Sheet
- General Notes
- Dimensional Control
- Erosion & Sedimentation Control Plan
- Site Access Plan
- Tree Protection/Removal Plan
- Demolition Plan
- Channel Plan and Profile
- Channel Cross Sections
- Bridge Plan and Profile
- Typical Bridge Sections
- Beam Layout
- Traffic Control Plan
- Standard Details

Task 6: 100% Engineering Design Documents

Upon the City's formal approval of the 75% design submittal, Halff will proceed with preparing final design documents including specifications, probable construction cost estimate, and 11"x17" design sheets of the channel and roadway improvements that may include the following:

- Cover Sheet
- General Notes
- Dimensional Control
- Erosion & Sedimentation Plan
- SWPP Plan
- Site Access Plan
- Tree Protection/Removal Plan
- Demolition Plan
- Channel Plan and Profile
- Channel Cross Sections
- Bridge Plan and Profile
- Typical Bridge Sections
- Beam Layout
- Traffic Control Plan
- Standard Details

Task 7: Engineering Design Report

Prepare an Engineering Design Report to fully discuss the design constraints and parameters for the proposed flood mitigation project. The report will discuss data acquisition, geotechnical report, subsurface engineering reports, environmental permitting, hydrologic and hydraulic analysis refinement results, design constraints and parameters, opportunities for trail and park, probable construction schedule, and probable cost estimate.

- Submit Engineering Design Report documenting methods and assumptions of the design for the 30%, 75%, and 100% design tasks
- Include engineering design plans for the 30%, 75%, and 100% design tasks

FEE ESTIMATE:

The fees for Task 1 through 7, established above, shall be considered **lump sum** fees unless otherwise noted. Our services will be invoiced monthly based on the percentage of work completed. Costs incurred will be carefully monitored during the progress of this project and the fees will not be exceeded without prior approval from the City.

City of Bastrop - Gills Branch Flood Mitigation Design		
		Total
TASK 1: PROJECT MANAGEMENT	**$**	**13,575.00**
TASK 2: DATA COLLECTION	**$**	**245,435.00**
Task 2a - Field Visits	*$*	*5,300.00*
Task 2b - SUE Investigation	*$*	*20,010.00*
Task 2c - Design/Boundary Survey	*$*	*93,065.00*
Task 2d - Environmental Permitting	*$*	*62,460.00*
Task 2e - Geotechnical Investigation	*$*	*39,100.00*
Task 2f - Design Workshops	*$*	*25,500.00*
TASK 3: HYDRAULIC MODEL REFINEMENT	**$**	**8,100.00**
TASK 4: 30% PLANS, SPECIFICATIONS, & ESTIMATE	**$**	**50,100.00**
TASK 5: 75% PLANS, SPECIFICATIONS, & ESTIMATE	**$**	**127,025.00**
TASK 6: 100% PLANS, SPECIFICATIONS, & ESTIMATE	**$**	**54,075.00**
TASK 7: DESIGN ENGINEERING REPORT	**$**	**16,780.00**
TOTAL	**$**	**515,090.00**

ANTICIPATED SCHEDULE:

Halff can commence work on this project within two (2) weeks after notice-to-proceed is received from the City of Bastrop. Halff anticipates completion of all effort and submittal of deliverables within eleven (11) months of the notice to proceed. An anticipated design schedule is attached.

STAFF REPORT

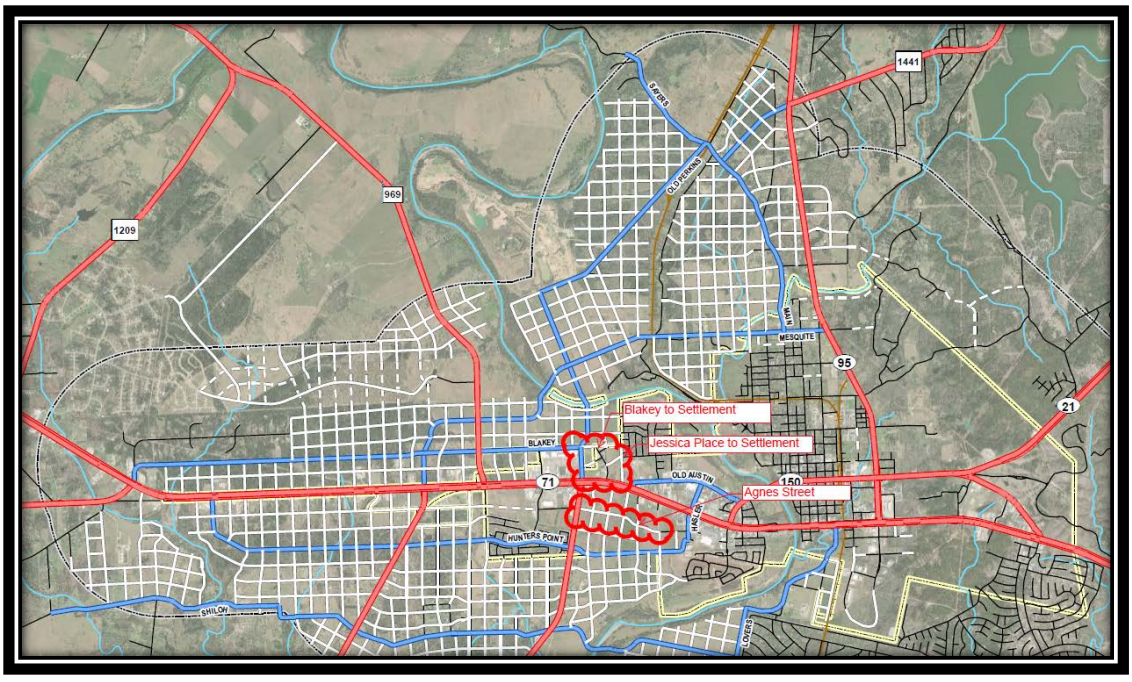
MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9J

TITLE:
Consider action to approve Resolution No. R-2019-128 of the City Council of the City of Bastrop, Texas supporting the extension of Jessica Place to Blakey Lane for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects; authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

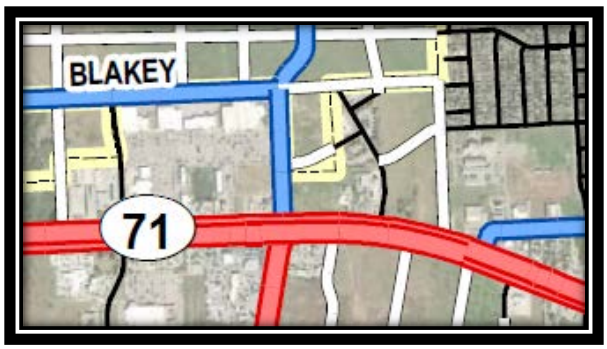
STAFF REPRESENTATIVE:
Tony Buonodono, City Engineer
Trey Job, Assistant City Manager of Development Services
Lynda Humble, City Manager

BACKGROUND/HISTORY:
The City of Bastrop, Bastrop County and TxDOT gathered for a meeting in early November to discuss submitting projects for the Capital Area Metropolitan Regional Planning Organization (CAMPO) Regional Transportation plan. As a result of the meeting, three (3) projects were deemed priorities to the City of Bastrop, which are:

1. **Extension of Blakey Lane to Jessica Place, (Agenda Item 9J),**
2. Repairing the Old Iron Bridge (Agenda Item 9O),
3. Extension of Agnes Street (Agenda Item 9V).







In addition to the identifying City priorities, TxDOT has requested that the City co-sponsor two (2) state roads, where a portion of the roadway is in the City of Bastrop. Those two (2) state roads are State Highway 95 and Farm-to-Market 969. Resolutions supporting these projects as co-sponsors are included on the November 26th agenda as Item 9K and 9L, respectively.

Bastrop County has requested a letter of support for one of their projects (Item 9M), which also includes a segment in the City of Bastrop. This project perimeters are:

- Construction of a new bridge across the Colorado River connecting SH 304/Shiloh Rd. to S.H.71 through Tahitian Village connecting with Margie's Way with an additional segment within the City of Bastrop at Lover's Lane connecting to SH 71.

POLICY EXPLANATION:
This resolution, if passed, continues the policy previously set by City Council to assist other local governmental entities with projects that are mutually beneficial.

FUNDING SOURCE:
Funding for these projects has not been identified. Although no specific funding sources for these projects have been secured at this time, going forward the City of Bastrop will work with our state, federal, local and regional partners to finance these much needed improvements to our transportation system.

RECOMMENDATION:
Consider action to approve Resolution No. R-2019-128 of the City Council of the City of Bastrop, Texas supporting the extension of Jessica Place to Blakey Lane for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects; authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

ATTACHMENTS:
- Resolution

RESOLUTION NO. R-2019-128

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS SUPPORTING THE EXTENSION OF JESSICA PLACE TO BLAKEY LANE FOR INCLUSION IN CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION (CAMPO) REGIONAL TRANSPORTATION PLAN 2045 CALL FOR PROJECTS; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council understands that participation in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects can result in future funding and a chance to participate in regional transportation; and

WHEREAS, the City of Bastrop has identified certain streets shown in the City of Bastrop Master Transportation Plan Map located within the City of Bastrop, Texas; and

WHEREAS, the City Council understands transportation projects to be important as it pertains to life safety of its citizens and the traveling public during times of disaster; and

WHEREAS, the City Council understands the projects to be important to quality of life of its citizens; and

WHEREAS, the City Council understands that well planned transportation projects provide an economic benefit to the City of Bastrop; and

WHEREAS, the City Council of the City of Bastrop wishes to be a good regional partner to neighboring governmental entities.

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

Section 1. The City of Bastrop City Council hereby supports the submission of the projects to CAMPO for inclusion into 2045 the regional transportation plan.

Section 2. The City Manager is authorized to execute a letter submitting the Blakey Lane extension to Jessica Place as a priority project along with all necessary documents needed to meet all program criteria.

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 26th day of November, 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9K

TITLE:
Consider action to approve Resolution No. R-2019-125 of the City Council of the City of Bastrop, Texas supporting the submission of State Highway 95 in the city limits of Bastrop for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects as a co-sponsor with Texas Department of Transportation (TxDOT); authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

STAFF REPRESENTATIVE:
Tony Buonodono, City Engineer
Trey Job, Assistant City Manager of Development Services
Lynda Humble, City Manager

BACKGROUND/HISTORY:
The City of Bastrop, Bastrop County and TxDOT gathered for a meeting in early November to discuss submitting projects for the Capital Area Metropolitan Regional Planning Organization (CAMPO) Regional Transportation plan. As a result of the meeting, three (3) projects were deemed priorities to the City of Bastrop, which are:

1. Extension of Blakey Lane to Jessica Place, (Agenda Item 9J),
2. Repairing the Old Iron Bridge (Agenda Item 9O),
3. Extension of Agnes Street Agenda Item 9V).

In addition to the identifying City priorities, TxDOT has requested that the City co-sponsor two (2) state roads, where a portion of the roadway is in the City of Bastrop. Those two (2) state roads are State Highway 95 and Farm-to-Market 969. Resolutions supporting these projects as co-sponsors are included on the November 26th agenda as Item 9K and 9L, respectively.

Bastrop County has requested a letter of support for one of their projects (Item 9M), which also includes a segment in the City of Bastrop. This project perimeters are:

- Construction of a new bridge across the Colorado River connecting SH 304/Shiloh Rd. to S.H.71 through Tahitian Village connecting with Margie's Way with an additional segment within the City of Bastrop at Lover's Lane connecting to SH 71.

POLICY EXPLANATION:
This resolution, if passed, continues the policy previously set by City Council to assist other local governmental entities with projects that are mutually beneficial.

FUNDING SOURCE:
Funding for these projects has not been identified. Although no specific funding sources for these projects have been secured at this time, going forward the City of Bastrop will work with our state, federal, local and regional partners to finance these much needed improvements to our transportation system.

RECOMMENDATION:
Consider action to approve Resolution No. R-2019-125 of the City Council of the City of Bastrop, Texas supporting the submission of State Highway 95 in the city limits of Bastrop for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects as a co-sponsor with Texas Department of Transportation (TxDOT); authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

ATTACHMENTS:
- Resolution

RESOLUTION NO. R-2019-125

A RESOLUTION OF THE CITY OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS SUPPORTING THE SUBMISSION OF STATE HIGHWAY 95 IN THE CITY LIMITS OF BASTROP FOR INCLUSION IN CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION (CAMPO) REGIONAL TRANSPORTATION PLAN 2045 CALL FOR PROJECTS AS A CO-SPONSOR WITH TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT); AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council understands that participation in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects can result in future funding and a chance to participate in regional transportation; and

WHEREAS, the City of Bastrop has identified certain streets shown in the City of Bastrop Master Transportation Plan Map located within the City of Bastrop, Texas; and

WHEREAS, the City Council understands transportation projects to be important as it pertains to life safety of its citizens and the traveling public during times of disaster; and

WHEREAS, the City Council understands the projects to be important to quality of life of its citizens; and

WHEREAS, the City Council understands that well planned transportation projects provide an economic benefit to the City of Bastrop; and

WHEREAS, the City Council of the City of Bastrop wishes to be a good regional partner to neighboring governmental entities.

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

Section 1. The City of Bastrop City Council hereby supports the submission of the projects to CAMPO for inclusion into 2045 the regional transportation plan.

Section 2. The City Manager is authorized to execute all necessary documents needed to meet all program criteria as a co-sponsor with TxDOT for the submission of SH 95 within the city limits.

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 26th day of November, 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9L

TITLE:
Consider action to approve Resolution No. R-2019-126 of the City Council of the City of Bastrop, Texas supporting the submission of Farm-to-Market Road 969 in the city limits of Bastrop for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects as a co-sponsor with Texas Department of Transportation (TxDOT); authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

STAFF REPRESENTATIVE:
Tony Buonodono, City Engineer
Trey Job, Assistant City Manager of Development Services
Lynda Humble, City Manager

BACKGROUND/HISTORY:
The City of Bastrop, Bastrop County and TxDOT gathered for a meeting in early November to discuss submitting projects for the Capital Area Metropolitan Regional Planning Organization (CAMPO) Regional Transportation plan. As a result of the meeting, three (3) projects were deemed priorities to the City of Bastrop, which are:

1. Extension of Blakey Lane to Jessica Place, (Agenda Item 9J),
2. Repairing the Old Iron Bridge (Agenda Item 9O),
3. Extension of Agnes Street Agenda Item 9AA).

In addition to the identifying City priorities, TxDOT has requested that the City co-sponsor two (2) state roads, where a portion of the roadway is in the City of Bastrop. Those two (2) state roads are State Highway 95 and Farm-to-Market 969. Resolutions supporting these projects as co-sponsors are included on the November 26th agenda as Item 9K and 9L, respectively.

Bastrop County has requested a letter of support for one of their projects (Item 9M), which also includes a segment in the City of Bastrop. This project perimeters are:

- Construction of a new bridge across the Colorado River connecting SH 304/Shiloh Rd. to S.H.71 through Tahitian Village connecting with Margie's Way with an additional segment within the City of Bastrop at Lover's Lane connecting to SH 71.

POLICY EXPLANATION:
This resolution, if passed, continues the policy previously set by City Council to assist other local governmental entities with projects that are mutually beneficial.

FUNDING SOURCE:
Funding for these projects has not been identified. Although no specific funding sources for these projects have been secured at this time, going forward the City of Bastrop will work with our state, federal, local and regional partners to finance these much needed improvements to our transportation system.

RECOMMENDATION:
Consider action to approve Resolution No. R-2019-126 of the City Council of the City of Bastrop, Texas supporting the submission of Farm-to-Market Road 969 in the city limits of Bastrop for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects as a co-sponsor with Texas Department of Transportation (TxDOT); authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

ATTACHMENTS:
- Resolution

RESOLUTION NO. R-2019-126

A RESOLUTION OF THE CITY OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS SUPPORTING THE SUBMISSION OF FARM-TO-MARKET ROAD 969 IN THE CITY LIMITS OF BASTROP FOR INCLUSION IN CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION (CAMPO) REGIONAL TRANSPORTATION PLAN 2045 CALL FOR PROJECTS AS A CO-SPONSOR WITH TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT); AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council understands that participation in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects can result in future funding and a chance to participate in regional transportation; and

WHEREAS, the City of Bastrop has identified certain streets shown in the City of Bastrop Master Transportation Plan Map located within the City of Bastrop, Texas; and

WHEREAS, the City Council understands transportation projects to be important as it pertains to life safety of its citizens and the traveling public during times of disaster; and

WHEREAS, the City Council understands the projects to be important to quality of life of its citizens; and

WHEREAS, the City Council understands that well planned transportation projects provide an economic benefit to the City of Bastrop; and

WHEREAS, the City Council of the City of Bastrop wishes to be a good regional partner to neighboring governmental entities.

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

Section 1. The City of Bastrop City Council hereby supports the submission of the projects to CAMPO for inclusion into 2045 the regional transportation plan.

Section 2. The City Manager is authorized to execute all necessary documents needed to meet all program criteria as a co-sponsor with TxDOT for the submission of FM 969 within the city limits.

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 26th day of November, 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9M

TITLE:
Consider action to approve Resolution No. R-2019-130 of the City Council of the City of Bastrop, Texas supporting Bastrop County's submission of a new bridge across the Colorado River connecting SH 304/Shiloh Rd. to S.H.71 through Tahitian Village connecting with Margie's Way with an additional segment within the City of Bastrop at Lover's Lane connecting to SH 71 for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects; authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

STAFF REPRESENTATIVE:
Tony Buonodono, City Engineer
Trey Job, Assistant City Manager of Development Services
Lynda Humble, City Manager

BACKGROUND/HISTORY:
The City of Bastrop, Bastrop County and TxDOT gathered for a meeting in early November to discuss submitting projects for the Capital Area Metropolitan Regional Planning Organization (CAMPO) Regional Transportation plan. As a result of the meeting, three (3) projects were deemed priorities to the City of Bastrop, which are:

1. Extension of Blakey Lane to Jessica Place, (Agenda Item 9J),
2. Repairing the Old Iron Bridge (Agenda Item 9O),
3. Extension of Agnes Street Agenda Item 9AA).

In addition to the identifying City priorities, TxDOT has requested that the City co-sponsor two (2) state roads, where a portion of the roadway is in the City of Bastrop. Those two (2) state roads are State Highway 95 and Farm-to-Market 969. Resolutions supporting these projects as co-sponsors are included on the November 26th agenda as Item 9K and 9L, respectively.

Bastrop County has requested a letter of support for one of their projects (Item 9M), which also includes a segment in the City of Bastrop. This project perimeters are:

- Construction of a new bridge across the Colorado River connecting SH 304/Shiloh Rd. to S.H.71 through Tahitian Village connecting with Margie's Way with an additional segment within the City of Bastrop at Lover's Lane connecting to SH 71.

POLICY EXPLANATION:
This resolution, if passed, continues the policy previously set by City Council to assist other local governmental entities with projects that are mutually beneficial.

FUNDING SOURCE:
Funding for these projects has not been identified. Although no specific funding sources for these projects have been secured at this time, going forward the City of Bastrop will work with our state, federal, local and regional partners to finance these much needed improvements to our transportation system.

RECOMMENDATION:
Consider action to approve Resolution No. R-2019-130 of the City Council of the City of Bastrop, Texas supporting Bastrop County's submission of a new bridge across the Colorado River connecting SH 304/Shiloh Rd. to S.H.71 through Tahitian Village connecting with Margie's Way with an additional segment within the City of Bastrop at Lover's Lane connecting to SH 71 for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects; authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

ATTACHMENTS:
- Resolution

RESOLUTION NO. R-2019-126

A RESOLUTION OF THE CITY OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS SUPPORTING BASTROP COUNTY'S SUBMISSION OF A NEW BRIDGE ACROSS THE COLORADO RIVER CONNECTING SH 304/SHILOH RD. TO S.H.71 THROUGH TAHITIAN VILLAGE CONNECTING WITH MARGIE'S WAY WITH AN ADDITIONAL SEGMENT WITHIN THE CITY OF BASTROP AT LOVER'S LANE CONNECTING TO SH 71 FOR INCLUSION IN CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION (CAMPO) REGIONAL TRANSPORTATION PLAN 2045 CALL FOR PROJECTS; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council understands that participation in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects can result in future funding and a chance to participate in regional transportation; and

WHEREAS, the City of Bastrop has identified certain streets shown in the City of Bastrop Master Transportation Plan Map located within the City of Bastrop, Texas; and

WHEREAS, the City Council understands transportation projects to be important as it pertains to life safety of its citizens and the traveling public during times of disaster; and

WHEREAS, the City Council understands the projects to be important to quality of life of its citizens; and

WHEREAS, the City Council understands that well planned transportation projects provide an economic benefit to the City of Bastrop; and

WHEREAS, the City Council of the City of Bastrop wishes to be a good regional partner to neighboring governmental entities.

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

Section 1. The City of Bastrop City Council hereby supports the submission of the projects to CAMPO for inclusion into 2045 the regional transportation plan.

Section 2. The City Manager is authorized to execute all necessary documents needed to support Bastrop County's submission for a new bridge across the Colorado River connecting SH 304/Shiloh Rd. to S.H.71 through Tahitian Village connecting with Margie's Way with an additional segment within the City of Bastrop at Lover's Lane connecting to SH 71.

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 26th day of November, 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM:** 9N

TITLE:
Conduct public hearing and consider action to deny the first reading of Ordinance No. 2019-74 of the City Council of the City of Bastrop, Texas, rezoning 0.760 acres of Farm Lot 5, West of Main Street, located at 1910 Main Street and 2.467 acres of Farm Lot 5 West of Main Street, to located to the west of 1910 Main Street from P-3 Neighborhood, to P-4 Mix, within the city limits of Bastrop, Texas; as shown in Exhibit A; including a severability clause; and establishing an effective date.

STAFF REPRESENTATIVE:
Jennifer C. Bills, AICP, LEED AP, Assistant Planning Director

ITEM DETAILS:

Site Address:	1910 Main Street, Property ID #s 29031 & 47880 (Exhibit A)
Total Acreage:	3.227 acres
Legal Description:	3.227 acres of Farm Lot 5, West of Main Street
Property Owner:	Charles Wilkins
Existing Use:	Residential
Existing Zoning:	P-3 Neighborhood (Previously Single-Family 7) (Attachment 3)
Requested Zoning:	P-4 Mix
Future Land Use:	Neighborhood Residential (Attachment 4)

BACKGROUND/HISTORY:
The property owner has requested to be zoned to P-4 Mix to allow them to run an urban farm. According to the property owner, the site has a long history of running a flower farm. The site is comprised of two tracts; 1910 Main Street has frontage onto the street and is single-family house. To the west of this property is a land-locked, 2.467 acre tract that is the remainder of Farm Lot 5. This piece does not have any street access, which is required for subdivision or development. Given that further subdivision will be very difficult without the ability to provide a new public street, P-4 Mix would allow the tract to be developed together.

As an accessory use to the property at 1910 Main Street, an urban farm would be an appropriate use. P-4 Mix will allow commercial uses within a house-form structure, as well as single-family and multi-family uses on both parcels, however additional development process (subdivision, site development plans) would be required in order to provide access and build on the 2.467 acres.

PUBLIC COMMENTS:
Property owner notifications were sent to 37 adjacent property owners on November 5, 2019 (Attachment 2). At the time of this report, five responses in favor, two opposed, one with no objection, and one that provided comment with no direction have been received. (Attachment 5)

POLICY EXPLANATION:
Texas Local Government Code

Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. (a) The governing body of a municipality wishing to exercise the

authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

Notice was published in the Bastrop Advertiser and notice was sent to property owners within 200 feet of the property boundary.

(b) In addition to the notice required by Subsection (a), a general-law municipality that does not have a zoning commission shall give notice of a proposed change in a zoning classification to each property owner who would be entitled to notice under Section 211.007(c) if the municipality had a zoning commission. That notice must be given in the same manner as required for notice to property owners under Section 211.007(c). The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given.

N/A. Bastrop is not a general-law municipality.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

Notice of the meeting was posted at least 72 hours in advance.

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots or land covered by the proposed change; or

(2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

(e) In computing the percentage of land area under Subsection (d), the area of streets and alleys shall be included.

At the time of this report, no protest has been received.

(f) The governing body by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the municipality's zoning commission that a proposed change to a regulation or boundary be denied.

If the Planning & Zoning Commission recommends denial of the zoning request, the City Council must have a minimum vote of 4 out of 5 members to approve the zoning request.

Compliance with 2036 Comprehensive Plan:

- Future Land Use Plan –Neighborhood Residential: The Neighborhood Residential character area is for single-family residential subdivision development, associated amenities such as parks, trails, open spaces, and public uses such as schools, fire stations, and more. Although individual developments may exhibit common features including home size, lot size, setbacks,

impervious surface coverage, etc., the character area supports variations of these spatial and aesthetics characteristics, subject to appropriate transitions in form, scale, and density between blocks or adjacent developments. In some instances, transitions between developments and adjacent character areas may include higher density housing types or neighborhood oriented commercial uses of limited scale.

The Neighborhood Residential land use supports limit commercial uses that are compatible with the neighborhood. Given the size of the property, and the fact that providing full street accesses for further subdivision would be difficult, allowing P-4 Mix with single-family, multi-family and house-form commercial would allow the parcels to develop without further subdivision.

PLANNING & ZONING COMMISSION RECOMMENDATION:
At the November 21, 2019 meeting, the Planning & Zoning Commission motion to approve failed by a vote of three to four.

If the Planning & Zoning Commission recommends denial of the zoning request, the City Council must have a minimum vote of 4 out of 5 members to approve the zoning request.

RECOMMENDATION:
Conduct public hearing and consider action to deny the first reading of Ordinance No. 2019-74 of the City Council of the City of Bastrop, Texas, rezoning 0.760 acres of Farm Lot 5, West of Main Street, located at 1910 Main Street and 2.467 acres of Farm Lot 5 West of Main Street, to located to the west of 1910 Main Street from P-3 Neighborhood, to P-4 Mix, within the city limits of Bastrop, Texas; as shown in Exhibit A; including a severability clause; and establishing an effective date.

ATTACHMENTS:
- Ordinance
- Exhibit A: Location Map
- Attachment 1: Applicant Request
- Attachment 2: Surrounding Property Owners Notification
- Attachment 3: Zoning Map
- Attachment 4: Future Land Use Map
- Attachment 5: Property Owner Responses
- PowerPoint Presentation

ORDINANCE 2019-74

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, REZONING 0.760 ACRES OF FARM LOT 5, WEST OF MAIN STREET, LOCATED AT 1910 MAIN STREET AND 2.467 ACRES OF FARM LOT 5 WEST OF MAIN STREET, TO THE WEST OF 1910 MAIN STREET FROM P-3 NEIGHBORHOOD, TO P-4 MIX, WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AS SHOWN IN EXHIBIT A; INCLUDING A SEVERABLILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Charles Wilkins (hereinafter referred to as "Property Owner") submitted a request to 0.760 acres of Farm Lot 5, West of Main Street and 2.467 acres of Farm Lot 5 West of Main Street, within the City limits of Bastrop, Texas, hereinafter referred to as "the Property"; and

WHEREAS, a location map is attached hereto as Exhibit "A" (the "Property); and

WHEREAS, the Property is currently zoned as P-3 Neighborhood; and

WHEREAS, the Property Owner is requesting to be rezoned to P-4 Mix; and

WHEREAS, the Future Land Use Designation for this Property is The Neighborhood Residential character area is for single-family residential subdivision development, associated amenities such as parks, trails, open spaces, and public uses such as schools, fire stations, and in some instances, transitions between developments and adjacent character areas may include higher density housing types or neighborhood oriented commercial uses of limited scale; and

WHEREAS, pursuant to Texas Local Government Code Section 211, notice of the rezoning was given to all property owners located within two hundred (200) feet of the Property, and the Planning and Zoning Commission of the City of Bastrop held a public hearing on the rezoning request on November 21, 2019; and

WHEREAS, after notice and hearing, the Planning and Zoning Commission motion to approve failed by a vote of three to four; and

WHEREAS, the City Council of the City of Bastrop held a public hearing on November 26, 2019 to consider the Property Owner's request; and

WHEREAS, after consideration of public input received at the hearing, the information provided by the Applicants, and all other information presented, City Council finds that it is in the public interest to approve the rezoning.

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

Section 1: The Property, situated on 0.760 acres of Farm Lot 5, West of Main Street, located at 1910 Main Street and 2.467 acres of Farm Lot 5 West of Main Street, to the west of 1910 Main Street, in the city limits of Bastrop, Texas as more particularly shown on attachment Exhibit A is rezoned to P-4 Mix.

Section 2: 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 ACKNOWLEDGED on First Reading on the 26th day of November 2019.

READ and APPROVED on the Second Reading on the 10th day of December 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A
Location Map



1910 Main
Rezone Request

BASTROPTX
Heart of the Lost Pines
Est. 1832

0 40 80 160
Feet

1 inch = 125 feet

N

Date: 11/13/2019

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

dotloop signature verification: dtlp.us/PxG6-0Wis-XzFU
DocuSign Envelope ID: DE4A5D01-93F2-45AF-B5D9-A33AEF03E6F6

BUILDING BASTROP

BASTROPTX
Heart of the Lost Pines / Est. 1832

Individual Property Owner Place Type Change Request

Proposed Place Type Zoning (from the notice): P-3 Neighborhood

Requested Place Type Zoning: P-4 Mixed Use

Reason for Requested Place Type / Why I would like to change my zoning:

The property has a long history of running a flower farm. We would like to continue this tradition, but run an urban farm. Our goal would be to grow a variety of vegetables that we would sell to the public - at farmers markets and to restaurants. We are low maintenance and would like to keep the property as a green space, along with inviting schools and other groups to come learn and walk the gardens.

Property Owner Name: Charles Wilkins

Property Address/Parcel ID: 1910 Main St (R29031) and 1911 Wilson St (R47880) Bastrop, TX 78602

Property Owner's Signature: Charles R Wilkins, Trustee of The CE Wilkins Separate Property Living Trust dated Dec 18

dotloop verified
10/04/19 11:33 AM EDT
XS2F-MGLP-QFRK-YVHX

David Barrow

DocuSigned by:
3CF58357FB8345D...

Sonya Cote

DocuSigned by:
Sonya Cote
E95CE2A262FA4B2...

Staff Use Only

Reviewed By:

Staff Comments:

Staff Recommendation: ☐ Approve ☐ Deny

PLANNING & DEVELOPMENT
1311 Chestnut Street – PO Box 427 – Bastrop, Texas 78602 – 512.332.8840
www.cityofbastrop.org

RECEIVED
By AL at 4:21 pm, Oct 08, 2019

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing 0.760 acres of Farm Lot 5, West of Main Street, located at 1910 Main Street and 2.467 acres of Farm Lot 5 West of Main Street, to the west of 1910 Main Street, from the existing Form-Based Code – Neighborhood District (which is being rezoned to P-3 Neighborhood with the B³ Code rezoning) to P-4 Mix, within the City Limits of Bastrop, Texas.

Property Address:	1910 Main Street
Property ID/Parcel Number:	29031 & 47880
Current Zoning:	Form-Based Code - Neighborhood
Proposed B³ Code Zoning (Place Type):	P-3 Neighborhood
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: _____

Property Address: _____

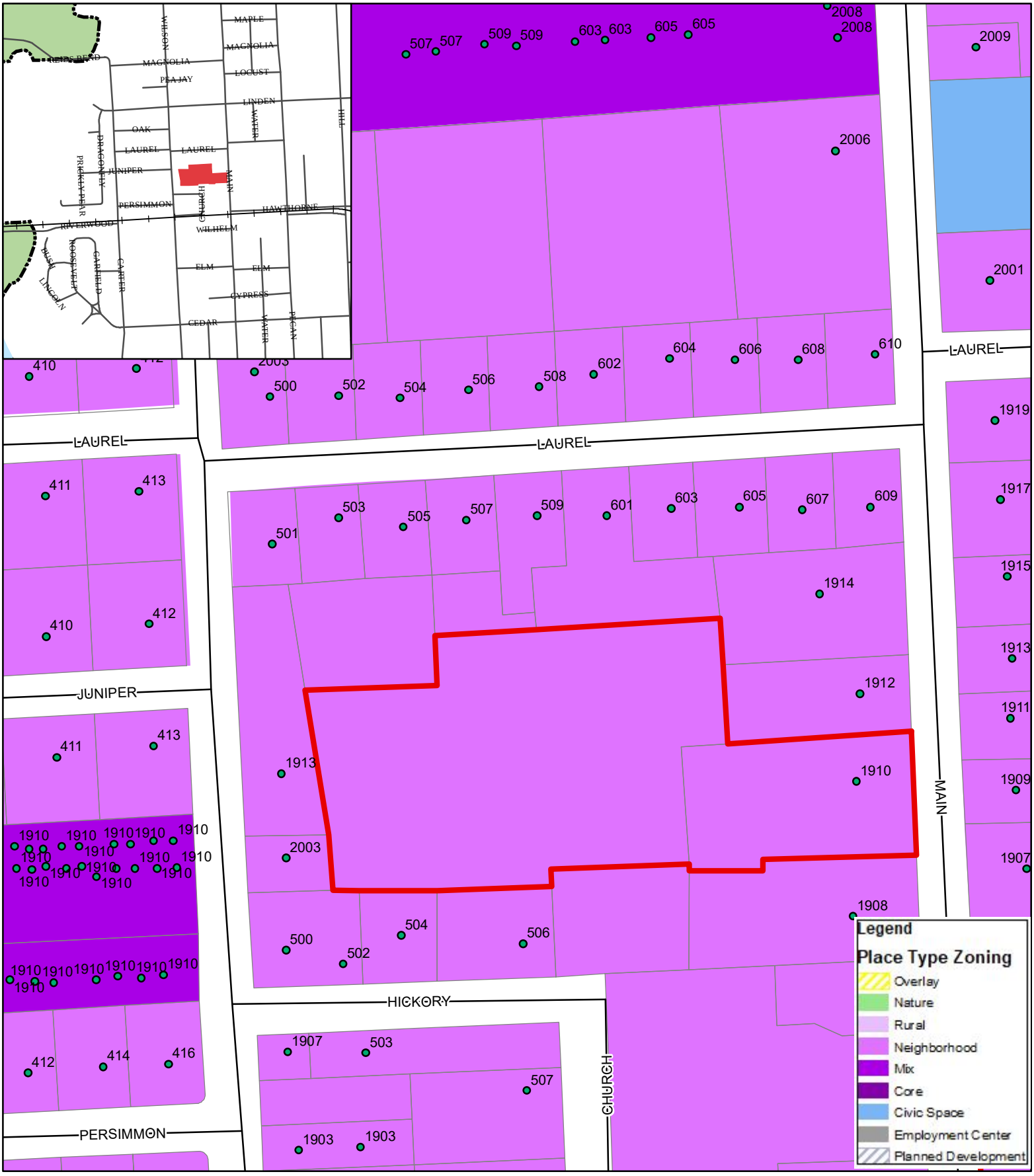
Mailing Address (if different than property address): _____

Phone (optional): _____ Email (optional): _____

Property Owner's Signature: _____

Additional Comments (Optional): _____

Re: Place Type Change 29031 & 47880_0.760 acres of Farm Lot 5, West of Main Street and 2.467 acres of Farm Lot 5 West of Main Street_1910 Main Street



BASTROPTX
Heart of the Lost Pines
Est. 1832

1 inch = 139.95 feet

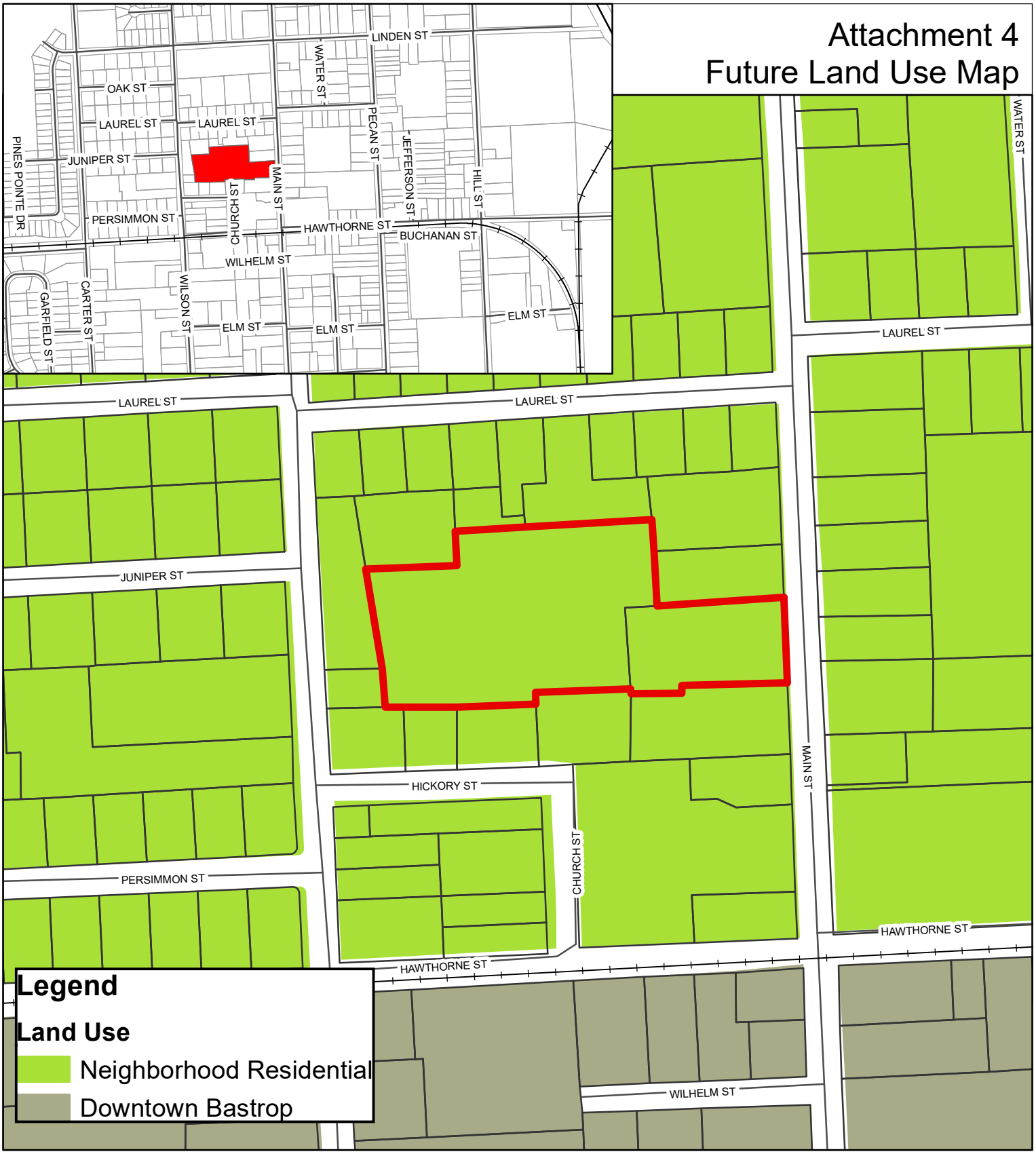
Location Map
Zoning Change
1910 Main St

Date: 11/1/2019

N

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

Attachment 4
Future Land Use Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 70 140 280
Feet

1 inch = 208 feet

1910 Main Street
Rezone Request

Date: 11/13/2019

N

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

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing 0.760 acres of Farm Lot 5, West of Main Street, located at 1910 Main Street and 2.467 acres of Farm Lot 5 West of Main Street, to the west of 1910 Main Street, from the existing Form-Based Code – Neighborhood District (which is being rezoned to P-3 Neighborhood with the B³ Code rezoning) to P-4 Mix, within the City Limits of Bastrop, Texas.

Property Address:	1910 Main Street
Property ID/Parcel Number:	29031 & 47880
Current Zoning:	Form-Based Code - Neighborhood
Proposed B³ Code Zoning (Place Type):	P-3 Neighborhood
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☑ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: Steve B. : Kerry L. Fossler

Property Address: 1903 Main st. Bastrop, TX 78602

Mailing Address (if different than property address): _____

Phone (optional): 713.882.7218 Email (optional): Kerry111@gmail.com

Property Owner's Signature: _____

Additional Comments (Optional): _____

Re: Place Type Change 29031 & 47880_0.760 acres of Farm Lot 5, West of Main Street and 2.467 acres of Farm Lot 5 West of Main Street_1910 Main Street

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
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Property Address:	1910 Main Street
Property ID/Parcel Number:	29031 & 47880
Current Zoning:	Form-Based Code - Neighborhood
Proposed B³ Code Zoning (Place Type):	P-3 Neighborhood
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

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You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☑ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: Steve B. & Kerry L. Fossler

Property Address: ~~1910~~ 1909 Main St. Bastrop, TX 78602

Mailing Address (if different than property address): 1903 Main St. Bastrop, TX 78602

Phone (optional): 713.882.7218 Email (optional): Kerry111@gmail.com

Property Owner's Signature:

Additional Comments (Optional):

Re: Place Type Change 29031 & 47880_0.760 acres of Farm Lot 5, West of Main Street and 2.467 acres of Farm Lot 5 West of Main Street_1910 Main Street

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☑ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: Brittney Benton

Property Address: 1905 main Street

Mailing Address (if different than property address): _____

Phone (optional): 512.786.2531 Email (optional): alchemysapothecary@gmail.com

Property Owner's Signature: Britty Benton

Additional Comments (Optional): _____

Re: Place Type Change 29031 & 47880_0.760 acres of Farm Lot 5, West of Main Street and 2.467 acres of Farm Lot 5 West of Main Street_1910 Main Street

RECEIVED
NOV 15 2019

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- [X] I am in favor of the change.
- [ ] I am opposed to the change.
- [ ] I have no objection to the change.

RECEIVED
NOV 18 2019
By

Property Owner Name: Byron C Rentfro

Property Address: 1908 main St, BASTROP TX 78602

Mailing Address (if different than property address): _____

Phone (optional): 512-321-2045 Email (optional): bcrentfro@yahoo.com

Property Owner's Signature: Byron C. Rentfro

Additional Comments (Optional): _____

Re: Place Type Change 29031 & 47880_0.760 acres of Farm Lot 5, West of Main Street and 2.467 acres of Farm Lot 5 West of Main Street_1910 Main Street

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

☐ I am in favor of the change.

☒ I am opposed to the change.

☐ I have no objection to the change.

RECEIVED
NOV 13 2019
By

Property Owner Name: Mildred Wamken

Property Address: 610 Laurel Lane

Mailing Address (if different than property address): ~~B~~ 1307 Jefferson Street Bastrop

Phone (optional): _____ Email (optional): _____

Property Owner's Signature: Mildred Wamken

Additional Comments (Optional): _____

Re: Place Type Change 29031 & 47880_0.760 acres of Farm Lot 5, West of Main Street and 2.467 acres of Farm Lot 5 West of Main Street_1910 Main Street

PLANNING & DEVELOPMENT

1311 Chestnut Street – PO Box 427 – Bastrop, Texas 78602 – 512.332.8840
www.cityofbastrop.org

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☒ I am opposed to the change.
- ☐ I have no objection to the change.

RECEIVED
NOV 15 2019
By

Property Owner Name: Marilyn Cox

Property Address: 509 Laurel St

Mailing Address (if different than property address): _____

Phone (optional): 512 627 5531 Email (optional): mcox509@gmail.com

Property Owner's Signature: Marilyn Cox

Additional Comments (Optional): I would like to see the land stay the same. Trees and grass are much more beautiful than

Re: Place Type Change 29031 & 47880_0.760 acres of Farm Lot 5, West of Main Street and 2.467 acres of Farm Lot 5 West of Main Street_1910 Main Street

concrete and brick. Also when it rains, the land absorbs the water and ~~is~~ helps keep run off from over occursing as it is in other parts of town. Just much better for the environment and all people involved.

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☑ I am opposed to the change.
- ☐ I have no objection to the change.

RECEIVED
NOV 19 2019
By

Property Owner Name: Walter Taylor Jr.

Property Address: 507 Hickory st

Mailing Address (if different than property address): _____

Phone (optional): 512-718-8524 Email (optional): _____

Property Owner's Signature: Walter Taylor Jr.

Additional Comments (Optional): _____

Re: Place Type Change 29031 & 47880_0.760 acres of Farm Lot 5, West of Main Street and 2.467 acres of Farm Lot 5 West of Main Street_1910 Main Street

From: David Barrow
To: Allison Land; Planning Dept
Subject: Property Owner Response for Zone Change - 1910 Main St
Date: Thursday, November 21, 2019 2:40:04 PM

Good afternoon Allison and Planning Dept,
Could you kindly add this response form to the P&Z and City Council Packets:

Property Address: 1910 Main St, Bastrop, TX 78602
Property ID: 29031 & 47880
Current Zoning: Form-Based Code - Neighborhood
Proposed B3 Code Zoning: P-3 Neighborhood
Requested Zoning: P-4 Mix

PROPERTY OWNER RESPONSE:

I AM IN FAVOR OF THE CHANGE.

We are not developing the property. Our intentions are to keep it a green space and encourage our neighbors to participate in anything we do in the future.

Property Owner's Name: Sonya Cote and David Barrow

Property Address: 1910 Main St, Bastrop, TX 78602
Phone: 510-501-5505
Email: edeneastfarm@gmail.com

Thank you!
Sonya Coté & David Barrow

--
Eden East Farm
Farm Stand hours every Wednesday and Saturday 9 AM -1 PM
755 Springdale Rd.
Austin, Texas 78702
https://edeneastaustin.com/
https://www.facebook.com/edeneastfarm/
https://www.instagram.com/farmeredeneast/?hl=en

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From:	Ellen Tanner
To:	Planning Dept; Allison Land
Subject:	Property Owner Response for Zone Change - 1910 Main St.
Date:	Thursday, November 21, 2019 2:56:37 PM

Good morning Allison and Planning Dept,
Could you kindly add this response form the the P&Z and City Council Packets:

Property Address: 1910 Main St, Bastrop, TX 78602
Property ID: 28823
Current Zoning: Form-Based Code - Neighborhood
Proposed B3 Code Zoning: P-3 Neighborhood
Requested Zoning: P-4 Mix

PROPERTY OWNER RESPONSE:
While I am in very much in favor of the proposed use of the property across the street from us by the current buyer I am a bit reticent to cast my vote in favor of an all time change to the zoning of properties on Main St. It seems to me to make good sense that this zoning change should come up for a review if a potential future buyer plans to do something exponentially different, such as build a bunch of cheap apartment buildings which will create more noise and traffic on the street. There is a huge difference between a gardening venture which has been pitched as an effort to beautify and support the existing community and some of the other scenarios suggested in the language of the zone change. Is there any way these zoning changes could be made on more of a case by case basis so that those of us who live in the neighborhood can still object to some unforeseen possibility which will change the landscape of the street in a way which could potentially have a negative impact on the value of our properties?

Property Owner's Name: Ellen Marie Tanner & Josh Lee Gordon
Property Address: 1911 Main St, Bastrop, TX 78602
Phone: 512-985-7209
Email: lntann75@gmail.com

Thank you!
Ellen Tanner

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1910 Main Street

Public hearing and consider action to deny the first reading of Ordinance 2019-74 of the City Council of the City of Bastrop, Texas, rezoning 0.760 acres of Farm Lot 5, West of Main Street, located at 1910 Main Street and 2.467 acres of Farm Lot 5 West of Main Street, to located to the west of 1910 Main Street from P-3 Neighborhood, to P-4 Mix, within the city limits of Bastrop, Texas; as shown in Exhibit A; including a severability clause; and establishing an effective date.

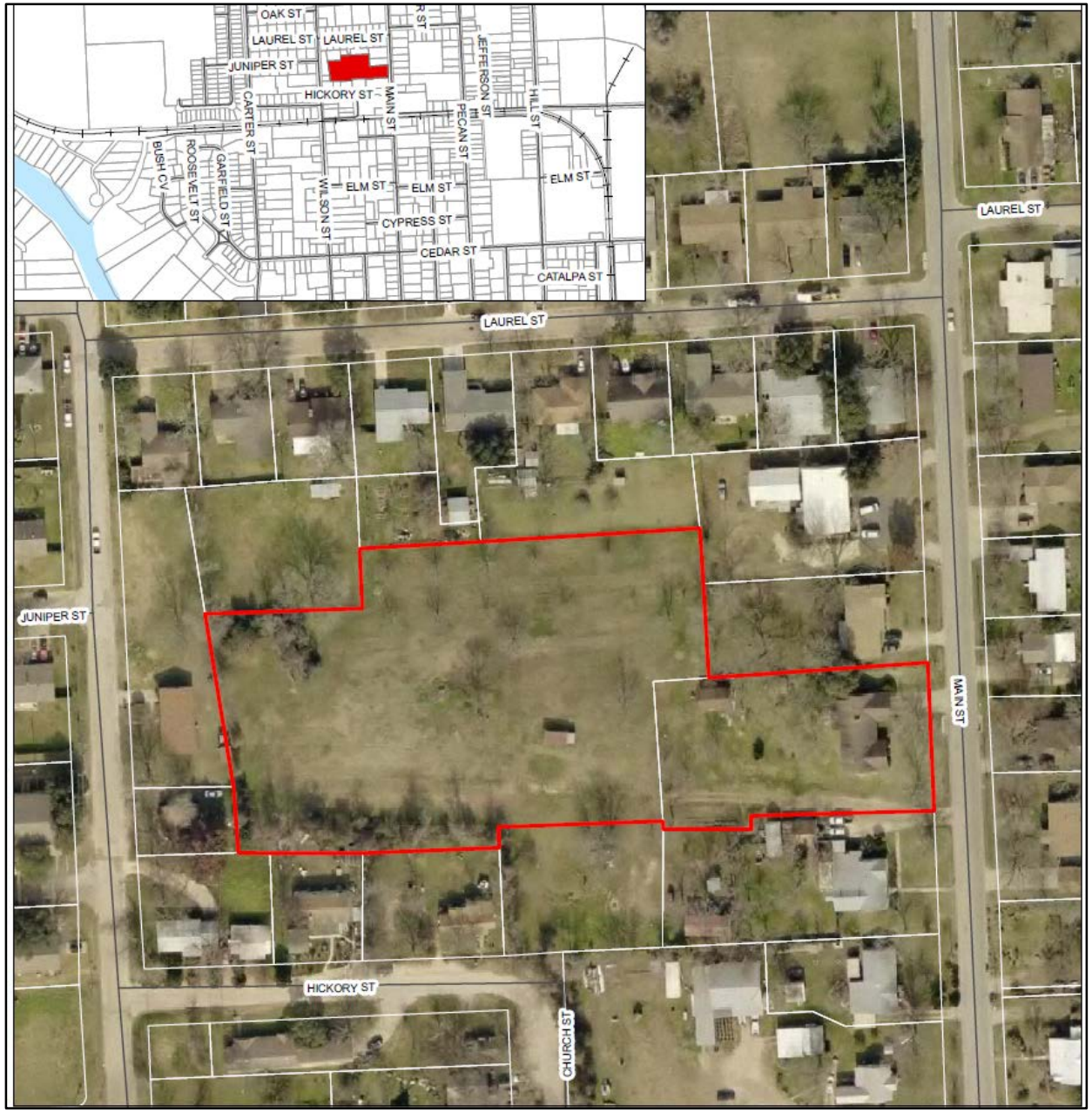
BASTROPTX
Heart of the Lost Pines
Est. 1832

Request

Change zoning from P-3 Neighborhood to P-4 Mix to allow for an urban farm and small-scale commercial sales. This area is comprised of two parcels. 1910 Main Street is a house with direct frontage on Main Street. The larger 2.467-acre tract has accessory structures and does not have any road frontage.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Location Map



BASTROPTX
Heart of the Lost Pines / Est. 1832

Staff Recommendation

Hold public hearing and consider action to deny the first reading of Ordinance 2019-74 of the City Council of the City of Bastrop, Texas, rezoning 0.760 acres of Farm Lot 5, West of Main Street, located at 1910 Main Street and 2.467 acres of Farm Lot 5 West of Main Street, to located to the west of 1910 Main Street from P-3 Neighborhood, to P-4 Mix, within the city limits of Bastrop, Texas; as shown in Exhibit A; including a severability clause; and establishing an effective date.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Planning & Zoning Recommendation

At the regular meeting on November 21, 2019, the Commission motion to approve failed by a vote of 3 for and 4 against, thus denying the request.

City Council must have a minimum vote of **4 out of 5** to overrule the recommendation of denial and approve the request.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Questions?

BASTROPTX
Heart of the Lost Pines / Est. 1832

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9O

TITLE:
Consider action to approve Resolution No. R-2019-129 of the City Council of the City of Bastrop, Texas supporting the rehabilitation of the Old Iron Bridge for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects; authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

STAFF REPRESENTATIVE:
Tony Buonodono, City Engineer
Trey Job, Assistant City Manager of Development Services
Lynda Humble, City Manager

BACKGROUND/HISTORY:
The City of Bastrop, Bastrop County and TxDOT gathered for a meeting in early November to discuss submitting projects for the Capital Area Metropolitan Regional Planning Organization (CAMPO) Regional Transportation plan. As a result of the meeting, three (3) projects were deemed priorities to the City of Bastrop, which are:

1. Extension of Blakey Lane to Jessica Place, (Agenda Item 9J),
2. **Repairing the Old Iron Bridge (Agenda Item 9O),**
3. Extension of Agnes Street (Agenda Item 9V).







The City of Bastrop priority project "The Old Iron Bridge" project perimeters are:

- Repair and rehabilitation of the Old Iron Bridge across the Colorado River multimodal transportation to include pedestrian, and cycling. The project limits are from Perkins Street to Alley B and will include approximately 1,300 LF of concrete deck replacement and structural repair to the bridge components.

In addition to the identifying City priorities, TxDOT has requested that the City co-sponsor two (2) state roads, where a portion of the roadway is in the City of Bastrop. Those two (2) state roads are State Highway 95 and Farm-to-Market 969. Resolutions supporting these projects as co-sponsors are included on the November 26th agenda as Item 9K and 9L, respectively.

Bastrop County has requested a letter of support for one of their projects (Item 9M), which also includes a segment in the City of Bastrop. This project perimeters are:

- Construction of a new bridge across the Colorado River connecting SH 304/Shiloh Rd. to S.H.71 through Tahitian Village connecting with Margie's Way with an additional segment within the City of Bastrop at Lover's Lane connecting to SH 71.

POLICY EXPLANATION:
This resolution, if passed, will provide a potential funding source for the Old Iron Bridge, which has been established as a Council priority.

FUNDING SOURCE:
Funding for these projects has not been identified. Although no specific funding sources for these projects have been secured at this time, going forward the City of Bastrop will work with our state, federal, local and regional partners to finance these much needed improvements to our transportation system.

RECOMMENDATION:
Consider action to approve Resolution No. R-2019-129 of the City Council of the City of Bastrop, Texas supporting the rehabilitation of the Old Iron Bridge for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects; authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

ATTACHMENTS:

- Resolution

RESOLUTION NO. R-2019-129

A RESOLUTION OF THE CITY COUNCIL OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS SUPPORTING THE REHABILITATION OF THE OLD IRON BRIDGE FOR INCLUSION IN CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION (CAMPO) REGIONAL TRANSPORTATION PLAN 2045 CALL FOR PROJECTS; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council understands that participation in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects can result in future funding and a chance to participate in regional transportation; and

WHEREAS, the City of Bastrop has identified certain streets shown in the City of Bastrop Master Transportation Plan Map located within the City of Bastrop, Texas; and

WHEREAS, the City Council understands transportation projects to be important as it pertains to life safety of its citizens and the traveling public during times of disaster; and

WHEREAS, the City Council understands the projects to be important to quality of life of its citizens; and

WHEREAS, the City Council understands that well planned transportation projects provide an economic benefit to the City of Bastrop; and

WHEREAS, the City Council of the City of Bastrop wishes to be a good regional partner to neighboring governmental entities.

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

Section 1. The City of Bastrop City Council hereby supports the submission of the projects to CAMPO for inclusion into 2045 the regional transportation plan.

Section 2. The City Manager is authorized to execute a letter submitting the Old Iron Bridge Rehabilitation as a priority project along with all necessary documents needed to meet all program criteria.

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 26th day of November, 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM:** 9P

TITLE:
Public hearing and consider action to approve the first reading of Ordinance No. 2019-67 of the City Council of the City of Bastrop, Texas, rezoning 0.683 acres of Farm Lot 37 East of Main Street from P-3 Neighborhood to P-5 Core, located 1302 SH 95, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

STAFF REPRESENTATIVE:
Allison Long, Planner

ITEM DETAILS:

Site Address:	1302 SH 95 (Exhibit A)
Total Acreage:	0.683 acres
Legal Description:	0.683 acres of Farm Lot 37 East of Main Street
Property Owners:	Morris J & Diana L Mach Revocable Trust
Existing Use:	Vacant
Existing Zoning:	P-3 Zoning (Formerly Form-Based Code—Neighborhood District) (Attachment 3)
Requested Zoning:	P-5 - Core
Future Land Use:	Downtown Bastrop (Attachment 4)

BACKGROUND/HISTORY:
This lot is bisected by Gill's Branch. At a previous point, it was deemed appropriate to apply different zoning categories to each half. Previously, the half closest to SH 95 was zoned Commercial Mixed Use and the other half was zoned Neighborhood. The property owner is requesting for both halves to be zoned P-5 under the new code.

PUBLIC COMMENTS:
Property owner notifications were sent to 6 adjacent property owners on November 5, 2019. At the time of this report, no responses have received. (Attachment 2)

POLICY EXPLANATION:

Texas Local Government Code

Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. (a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

Notice was published in the Bastrop Advertiser and notice was sent to property owners within 200 feet of the property boundary.

(b) In addition to the notice required by Subsection (a), a general-law municipality that does not have a zoning commission shall give notice of a proposed change in a zoning classification to each property owner who would be entitled to notice under Section 211.007(c) if the municipality had a zoning commission. That notice must be given in the same manner as required for notice to property owners under Section 211.007(c). The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given.

N/A. Bastrop is not a general-law municipality.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

Notice of the meeting was posted at least 72 hours in advance.

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots or land covered by the proposed change; or

(2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

(e) In computing the percentage of land area under Subsection (d), the area of streets and alleys shall be included.

At the time of this report, no protest has been received.

(f) The governing body by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the municipality's zoning commission that a proposed change to a regulation or boundary be denied.

If the Planning & Zoning Commission recommends denial of the zoning request, the City Council must have a minimum vote of 4 out of 5 members to approve the zoning request.

Compliance with 2036 Comprehensive Plan:

- Future Land Use Plan – Downtown Bastrop: The Downtown Bastrop character area allows for a wide range of residential, retail, entertainment, professional service, and institutional land uses. The character area's range of land uses may be mixed on individual parcels or developments sites, and within individual buildings. Building form and lot arrangement will support an urban character with structures framing the street. The scale of land uses, and transitions between them will compliment historic building form and intensity, but increased development intensity may be allowed on a case-by-case basis to encourage viable investment in center city Bastrop.

  A future commercial use is consistent with the Downtown Bastrop future land use category.

PLANNING & ZONING COMMISSION RECOMMENDATION:
At the November 21, 2019 meeting, the Planning & Zoning Commission unanimously voted to approve the rezoning request.

RECOMMENDATION:
Hold public hearing and consider action to approve the first reading of Ordinance 2019-67 of the City Council of the City of Bastrop, Texas, rezoning 0.683 acres of Farm Lot 37 East of Main Street from P-3 Neighborhood to P-5 Core, located 1302 SH 95, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

ATTACHMENTS:
- Ordinance
- Exhibit A: Location Map
- Attachment 1: Letter from Applicant
- Attachment 2: Surrounding Property Owners Notification
- Attachment 3: Zoning Map
- Attachment 4: Future Land Use Map
- PowerPoint Presentation



ORDINANCE 2019-67

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, REZONING 0.683 ACRES OF FARM LOT 37 EAST OF MAIN STREET FROM P-3 NEIGHBORHOOD TO P-5 CORE, LOCATED 1302 SH 95, WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AS SHOWN IN EXHIBIT A, INCLUDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Morris J & Diana L Mach Revocable Trust (hereinafter referred to as "Property Owner") submitted a request to rezone 0.683 acres of Farm Lot 37 East of Main Street within the City limits of Bastrop, Texas, hereinafter referred to as "the Property"; and

WHEREAS, a location map is attached hereto as Exhibit "A" (the "Property); and

WHEREAS, the Property is currently zoned as P-3 Neighborhood and

WHEREAS, the Property Owner is requesting to be rezoned to P-5 Core and

WHEREAS, the Future Land Use Designation for this Property is Downtown Bastrop, which allows for a wide range of residential, retail, entertainment, professional service, and institutional land uses; and

WHEREAS, pursuant to Texas Local Government Code Section 211, notice of the rezoning was given to all property owners located within two hundred (200) feet of the Property, and the Planning and Zoning Commission of the City of Bastrop held a public hearing on the rezoning request on November 21, 2019; and

WHEREAS, after notice and hearing, the Planning and Zoning Commission has recommended approval of the proposed request by a unanimous vote; and

WHEREAS, the City Council of the City of Bastrop held a public hearing on November 26, 2019 to consider the Property Owner's request; and

WHEREAS, after consideration of public input received at the hearing, the information provided by the Applicants, and all other information presented, City Council finds that it is in the public interest to approve the rezoning.

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

Section 1: The Property, situated on 0.683 acres of Farm Lot 37 East of Main Street, located 1302 SH 95, in the city limits of Bastrop, Texas as more particularly shown on attachment Exhibit A is rezoned to P-5 Core.

Section 2: 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 ACKNOWLEDGED on First Reading on the 26th day of November 2019.

READ and APPROVED on the Second Reading on the 10th day of December 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A
Location Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 90 180 360
Feet

1 inch = 266 feet

1302 SH 95
Rezone Request

N

Date: 11/12/2019

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

BUILDING BASTROP

RECEIVED
SEP 30 2019
By_____

BASTROPTX
Heart of the Lost Pines / Est. 1832

Individual Property Owner Place Type Change Request

Proposed Place Type Zoning (from the notice): P3 & P5

Requested Place Type Zoning: P5

Reason for Requested Place Type / Why I would like to change my zoning:

My lot at 1302 Hy 95 is divided by Gils Branch or water way & the zoning at this point only show the Hy 95 portion zoned commerical - I am requesting that the Entire lot be zoned commerical on both sides of Gils Branch.

Property Owner Name: Morris & Diana Revocable Trust

Property Address/Parcel ID: 1302 Highway 95 Bastrop Tx

Property Owner's Signature: Morris J Mach

Staff Use Only

Reviewed By: _____

Staff Comments: _____

Staff Recommendation: ☐ Approve ☐ Deny

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing part of 0.683 acres of Farm Lot 37 East of Main Street located at 1302 State Highway 95, from the existing Form-Based Code Neighborhood District (which is being rezoned to P-3 Neighborhood with the B³ Code rezoning) to P-5 Core, within the City Limits of Bastrop, Texas.

Property Address:	1302 State Highway 95
Property ID/Parcel Number:	32405
Current Zoning:	Form-Based Code – Neighborhood & Commercial Mixed Use
Proposed B³ Code Zoning (Place Type):	P-3 Neighborhood & P-5 Core
Requested Zoning (Place Type):	P-5 Core

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: _____

Property Address: _____

Mailing Address (if different than property address): _____

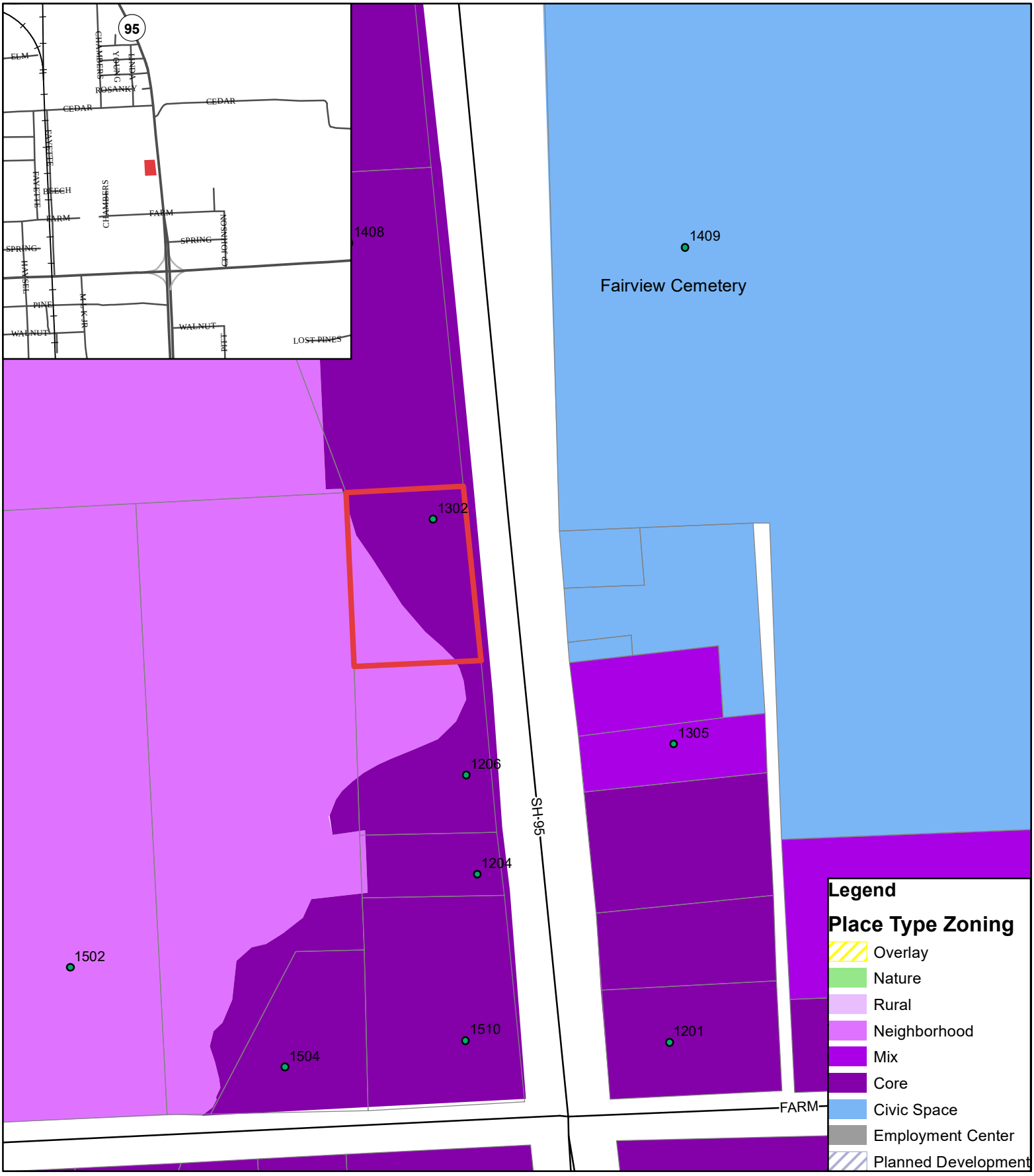
Phone (optional): _____ Email (optional): _____

Property Owner's Signature: _____

Additional Comments (Optional): _____

_____

Re: Place Type Change 32405_0.683 acres of Farm Lot 37 East of Main Street_1302 State Highway 95



BASTROPTX
Heart of the Lost Pines
Est. 1832

1 inch = 150 feet

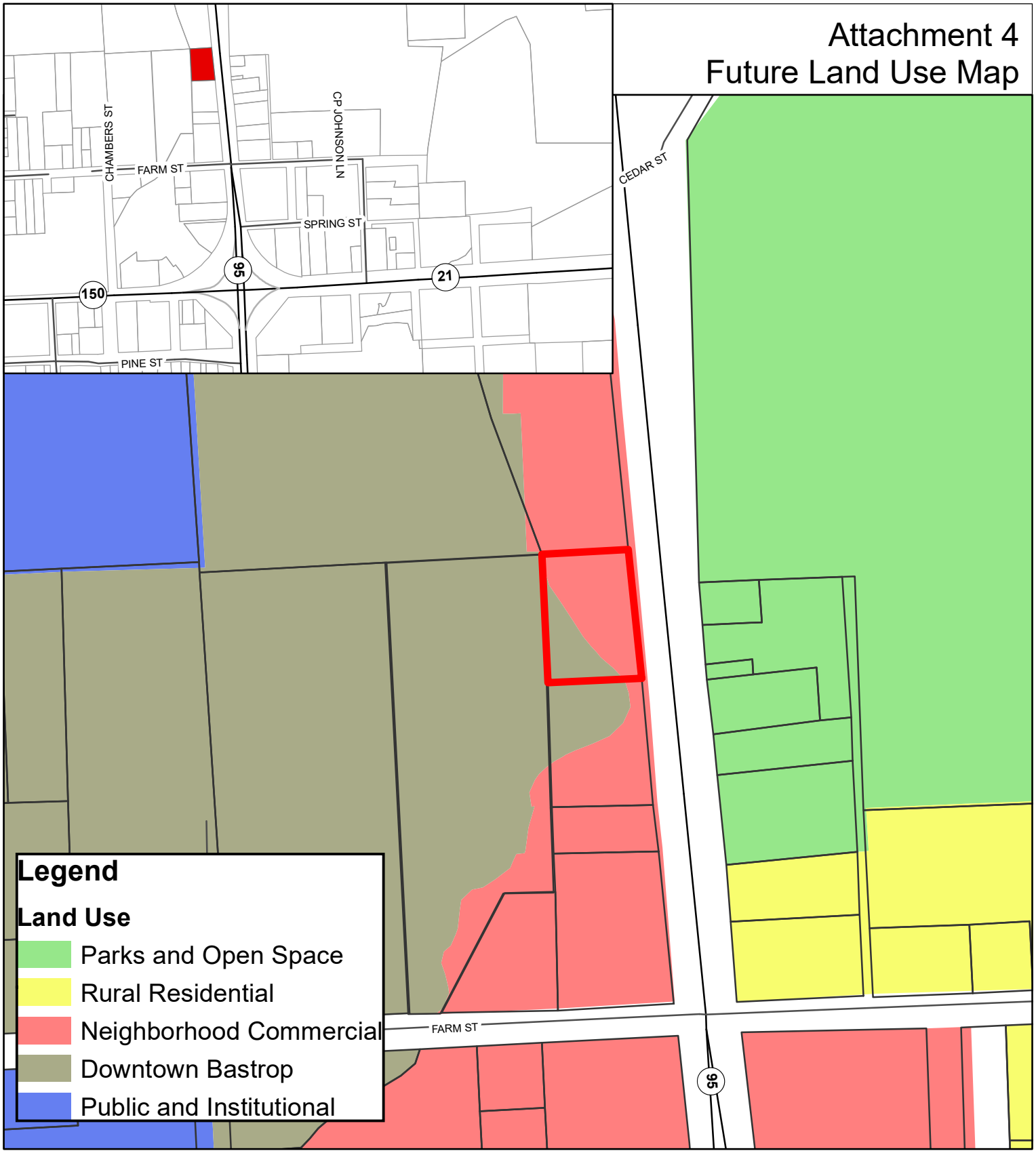
Location Map
Zoning Change
1302 State Highway 95

Date: 11/1/2019

N

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

Attachment 4
Future Land Use Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 70 140 280
Feet

1302 SH 95
Rezone Request

1 inch = 208 feet

N

Date: 11/13/2019

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

1302 State Highway 95

Public hearing and consider action to approve the first reading of Ordinance No. 2019-67 of the City Council of the City of Bastrop, Texas, rezoning 0.683 acres of Farm Lot 37 East of Main Street from P-3 Neighborhood to P-5 Core, located 1302 SH 95, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

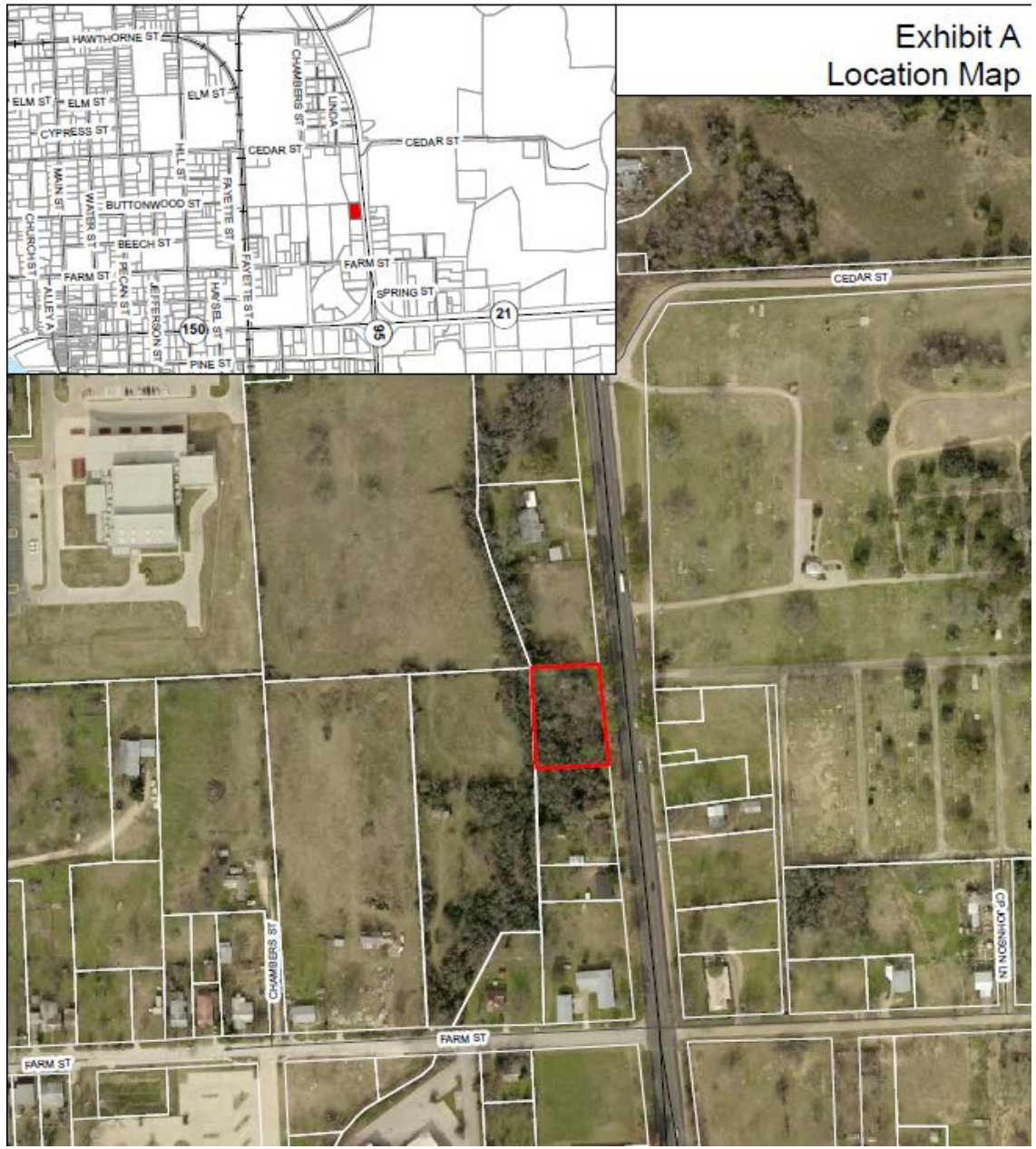
BASTROPTX
Heart of the Lost Pines
Est. 1832

Request

Rezone portion of tract from P-3 Neighborhood to P-5 Core to match the other half of the tract. The zoning boundary follows Gills Branch.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Location Map



BASTROPTX
Heart of the Lost Pines / Est. 1832

Staff Recommendation

Conduct public hearing and consider action to approve the first reading of Ordinance No. 2019-67 of the City Council of the City of Bastrop, Texas, rezoning 0.683 acres of Farm Lot 37 East of Main Street from P-3 Neighborhood to P-5 Core, located 1302 SH 95, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Planning & Zoning Recommendation

At the regular meeting on November 21, 2019, the Commission voted unanimously to approve the rezoning request.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Questions?

BASTROPTX
Heart of the Lost Pines / Est. 1832

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM:** 9Q

TITLE:
Public hearing and consider action to approve the first reading of Ordinance No. 2019-68, of the City Council of the City of Bastrop, Texas, rezoning 0.193 acres of Building Block 6 West of Water Street, from P-5 Core to P-4 Mix, located 1110 Water Street within the City Limits of Bastrop, Texas; as showing in Exhibits A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

STAFF REPRESENTATIVE:
Allison Long, Planner

ITEM DETAILS:

Site Address:	1110 Water Street (Exhibit A)
Total Acreage:	0.193 acres
Legal Description:	0.193 acres of Building Block 6 West of Water Street
Property Owners:	Rebeca Jensen
Existing Use:	Residential
Existing Zoning:	P-5 Core (Previously Form-Based Code -- Downtown Mixed Use (Attachment 3)
Requested Zoning:	P-4 Mix
Future Land Use:	Downtown Bastrop (Attachment 4)

BACKGROUND/HISTORY:
Currently, this property includes a residential home. If the property were zoned to P-5, it would become a non-conforming use. The P-4 Mix allows for residential homes, as well as commercial in residential form, so this district would be appropriate.

PUBLIC COMMENTS:
Property owner notifications were sent to 13 adjacent property owners on November 5, 2019. (Attachment 2) At the time of this report, three responses have been received. (Attachment 5)

POLICY EXPLANATION:
Texas Local Government Code

Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. (a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

Notice was published in the Bastrop Advertiser and notice was sent to property owners within 200 feet of the property boundary.

(b) In addition to the notice required by Subsection (a), a general-law municipality that does not have a zoning commission shall give notice of a proposed change in a zoning classification to each property owner who would be entitled to notice under Section 211.007(c) if the municipality had a zoning commission. That notice must be given in the same manner as required for notice to property owners under Section 211.007(c). The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given.

N/A. Bastrop is not a general-law municipality.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

Notice of the meeting was posted at least 72 hours in advance.

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots or land covered by the proposed change; or

(2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

(e) In computing the percentage of land area under Subsection (d), the area of streets and alleys shall be included.

At the time of this report, no protest has been received.

(f) The governing body by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the municipality's zoning commission that a proposed change to a regulation or boundary be denied.

If the Planning & Zoning Commission recommends denial of the zoning request, the City Council must have a minimum vote of 4 out of 5 members to approve the zoning request.

Compliance with 2036 Comprehensive Plan:

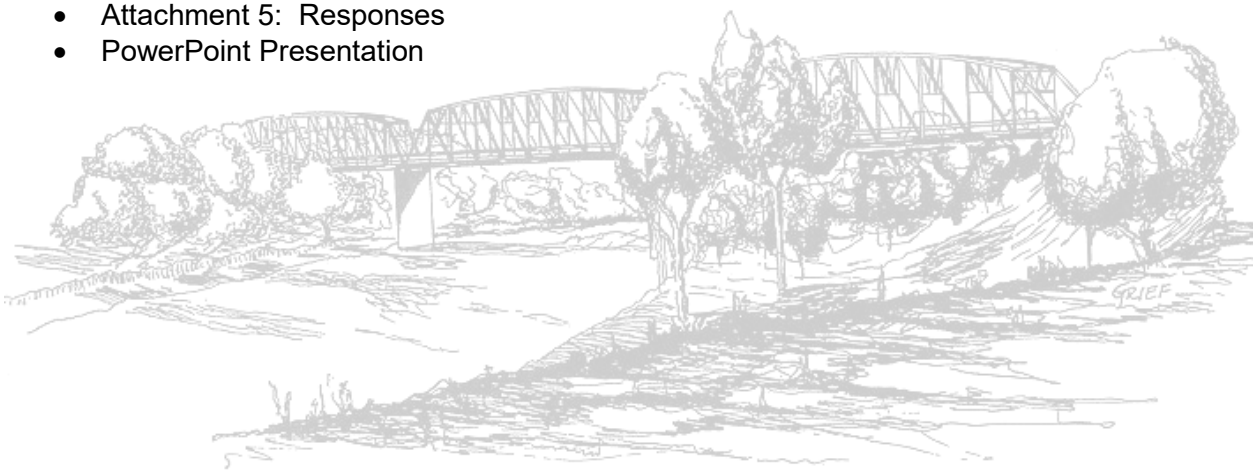
- Future Land Use Plan – Downtown Bastrop: The Downtown Bastrop character area allows for a wide range of residential, retail, entertainment, professional service, and institutional land uses. The character area's range of land uses may be mixed on individual parcels or developments sites, and within individual buildings. Building form and lot arrangement will support an urban character with structures framing the street. The scale of land uses, and transitions between them will compliment historic building form and intensity, but increased development intensity may be allowed on a case-by-case basis to encourage viable investment in center city Bastrop.

  The request for P-4 Mix is appropriate in the Downtown Bastrop future land use category, as it will allow for a mix of uses for both the site and for the area. Furthermore, it allows for a transition in the intensity of use from adjacent properties, while maintaining the house form of the P-4 district.

PLANNING & ZONING COMMISSION RECOMMENDATION:
At the November 21, 2019 meeting, the Planning & Zoning Commission unanimously voted to approve the rezoning request.

RECOMMENDATION:
Hold public hearing and consider action to approve the first reading of Ordinance 2019-68, of the City Council of the City of Bastrop, Texas, rezoning 0.193 acres of Building Block 6 West of Water Street, from P-5 Core to P-4 Mix, located 1110 Water Street within the City Limits of Bastrop, Texas; as showing in Exhibits A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

ATTACHMENTS:
- Ordinance
- Exhibit A: Location Map
- Attachment 1: Letter from Applicant
- Attachment 2: Surrounding Property Owners Notification
- Attachment 3: Zoning Map
- Attachment 4: Future Land Use Map
- Attachment 5: Responses
- PowerPoint Presentation



ORDINANCE 2019-68

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, REZONING 0.193 ACRES OF BUILDING BLOCK 6 WEST OF WATER STREET, FROM P-5 CORE TO P-4 MIX, LOCATED 1110 WATER STREET WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AS SHOWN IN EXHIBIT A, INCLUDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Rebeca Jensen (hereinafter referred to as "Property Owner") submitted a request to rezone 0.193 acres of Building Block 6 West of Water Street, within the City limits of Bastrop, Texas, hereinafter referred to as "the Property"; and

WHEREAS, a location map is attached hereto as Exhibit "A" (the "Property); and

WHEREAS, the Property is currently zoned as P-5 Core; and

WHEREAS, the Property Owner is requesting to be rezoned to P-4 Mix; and

WHEREAS, the Future Land Use Designation for this Property is Downtown Bastrop, which allows for a wide range of residential, retail, entertainment, professional service, and institutional land uses; and

WHEREAS, pursuant to Texas Local Government Code Section 211, notice of the rezoning was given to all property owners located within two hundred (200) feet of the Property, and the Planning and Zoning Commission of the City of Bastrop held a public hearing on the rezoning request on November 21, 2019; and

WHEREAS, after notice and hearing, the Planning and Zoning Commission has recommended approval of the proposed request by a unanimous vote; and

WHEREAS, the City Council of the City of Bastrop held a public hearing on November 26, 2019 to consider the Property Owner's request; and

WHEREAS, after consideration of public input received at the hearing, the information provided by the Applicants, and all other information presented, City Council finds that it is in the public interest to approve the rezoning.

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

Section 1: The Property, situated on 0.193 acres of Building Block 6 West of Water Street, located 1110 Water Street, in the city limits of Bastrop, Texas as more particularly shown on attachment Exhibit A is rezoned to P-4 Mix.

Section 2: 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 ACKNOWLEDGED on First Reading on the 26th day of November 2019.

READ and APPROVED on the Second Reading on the 10th day of December 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A
Location Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 15 30 60
Feet

1110 Water Street
Rezone Request

1 inch = 50 feet

N

Date: 11/12/2019

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From: Rebeca Jensen
To: Jennifer Bills
Subject: Re: Zoning change
Date: Tuesday, October 8, 2019 10:01:23 AM

I am having trouble filling out the form.
My designation was P-4 mixed use
Proposed is P-5
Property is 33610
I want to stay P-4
1110 Water Street is currently a single family home.
Thank you
Rebeca Jensen

Sent from my iPhone

> On Oct 7, 2019, at 2:54 PM, Jennifer Bills <jbills@cityofbastrop.org> wrote:
>
> 33610

WARNING EXTERNAL EMAIL: This email is from an external source. Do not click links or open attachments without positive sender verification of purpose. Never enter Username, Password or sensitive information on linked pages from this email. If you are unsure about the message, please contact the IT Department for assistance.

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing 0.193 acres of Building Block 6 West of Water Street, located at 1110 Water Street, from the existing Form-Based Code – Downtown Mixed Use District (which is being rezoned to P-5 Core with the B³ Code rezoning) to P-4 Mix, within the City Limits of Bastrop, Texas.

Property Address:	1110 Water Street
Property ID/Parcel Number:	33610
Current Zoning:	Form-Based Code – Downtown Mixed Use
Proposed B³ Code Zoning (Place Type):	P-5 Core
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: _____

Property Address: _____

Mailing Address (if different than property address): _____

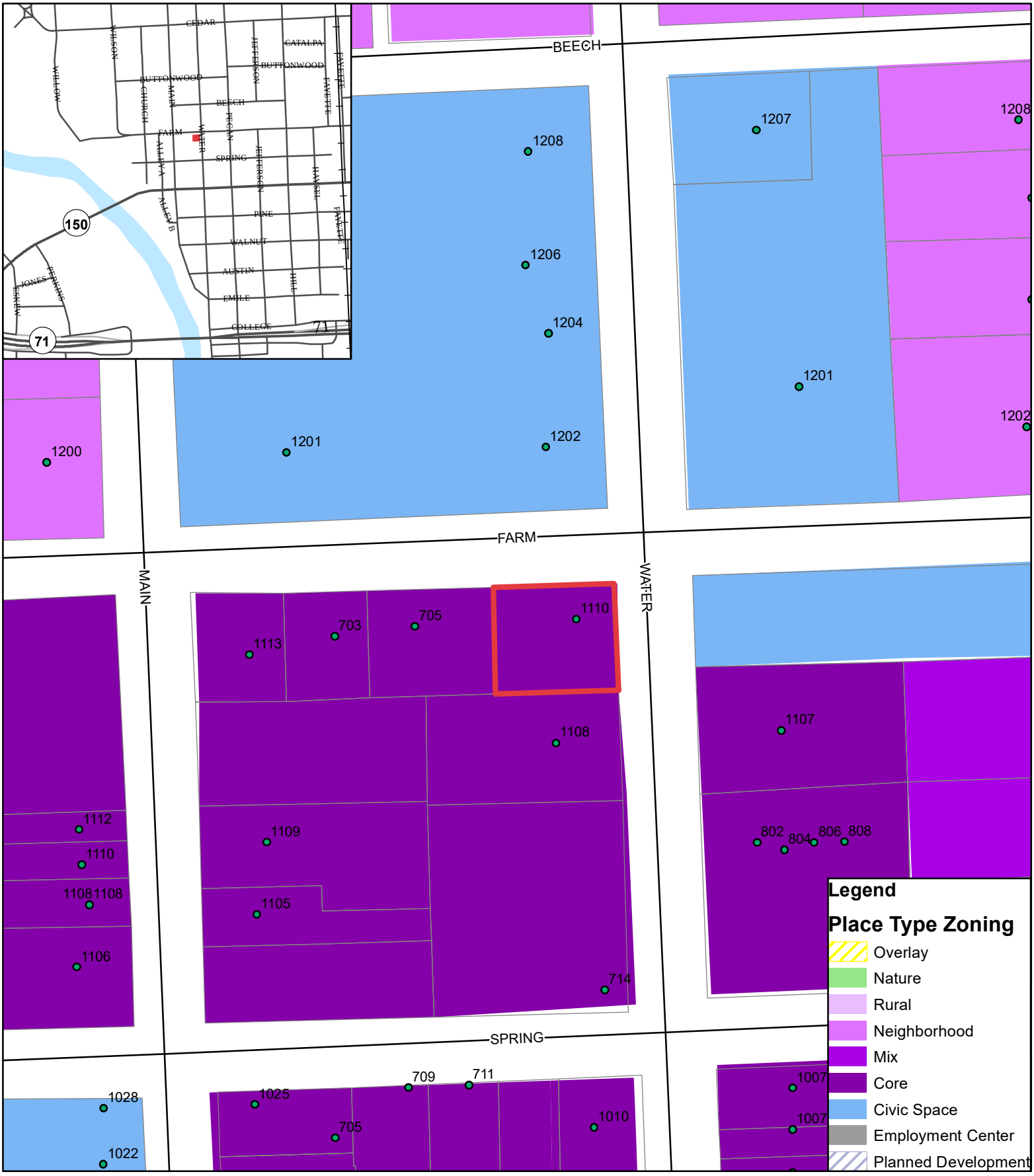
Phone (optional): _____ Email (optional): _____

Property Owner's Signature: _____

Additional Comments (Optional): _____

_____

Re: Place Type Change 33610_ 0.193 acres of Building Block 6 West of Water Street _1110 Water Street



BASTROPTX
Heart of the Lost Pines
Est. 1832

1 inch = 100 feet

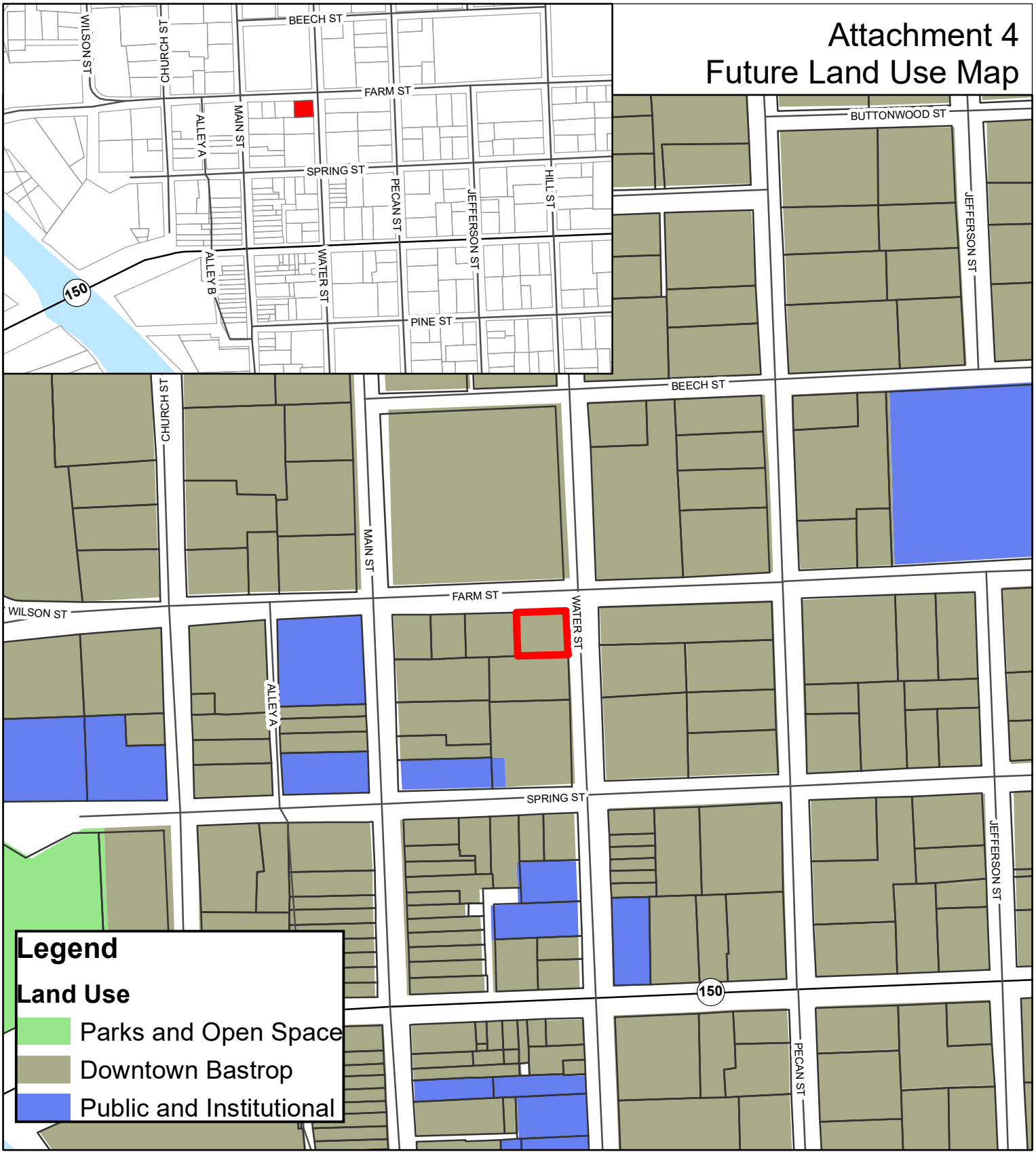
Location Map
Zoning Change
1110 Water St

Date: 11/1/2019

N

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Attachment 4
Future Land Use Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 85 170 340
Feet

1 inch = 250 feet

1110 Water Street
Rezone Request

Date: 11/13/2019

N

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Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

BASTROPTX
Heart of the Lost Pines
Est. 1832

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Property Address:	1110 Water Street
Property ID/Parcel Number:	33610
Current Zoning:	Form-Based Code – Downtown Mixed Use
Proposed B³ Code Zoning (Place Type):	P-5 Core
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

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✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☑ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

RECEIVED
NOV 18 2019
BY

Property Owner Name: Rebeca Jensen

Property Address: 1110 Water St

Mailing Address (if different than property address): Box 1254 Bastrop

Phone (optional): _____ Email (optional): _____

Property Owner's Signature: [signature]

Additional Comments (Optional): 1110 Water is a one family home.
I'd like to keep it that way with mix use P-4 Mix

Re: Place Type Change 33610_ 0.193 acres of Building Block 6 West of Water Street _1110 Water Street

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing 0.193 acres of Building Block 6 West of Water Street, located at 1110 Water Street, from the existing Form-Based Code – Downtown Mixed Use District (which is being rezoned to P-5 Core with the B³ Code rezoning) to P-4 Mix, within the City Limits of Bastrop, Texas.

Property Address:	1110 Water Street
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Requested Zoning (Place Type):	P-4 Mix

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✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- [x] I am in favor of the change.
- [ ] I am opposed to the change.
- [ ] I have no objection to the change.

RECEIVED
NOV 18 2019
By

Property Owner Name: Annie Taylor

Property Address: 703 Farm Street 78602

Mailing Address (if different than property address): PO Box 1175 78602

Phone (optional): _____ Email (optional): _____

Property Owner's Signature: _____

Additional Comments (Optional): _____

Re: Place Type Change 33610_ 0.193 acres of Building Block 6 West of Water Street _1110 Water Street

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

BASTROPTX
Heart of the Lost Pines
Est. 1832

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✂ ----------

RECEIVED
NOV 15 2019
By _____

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☐ I am opposed to the change.
- ☒ I have no objection to the change.

Property Owner Name: First Baptist Church

Property Address: 1201 Water Street

Mailing Address (if different than property address): P.O. Box 633

Phone (optional): 512-321-3384 Email (optional): _____

Property Owner's Signature: Jamie Goffard - Financial Secretary

Additional Comments (Optional): _____

Re: Place Type Change 33610_ 0.193 acres of Building Block 6 West of Water Street _1110 Water Street

1110 Water Street

Public hearing and consider action to approve the first reading of Ordinance No. 2019-68, of the City Council of the City of Bastrop, Texas, rezoning 0.193 acres of Building Block 6 West of Water Street, from P-5 Core to P-4 Mix, located 1110 Water Street within the City Limits of Bastrop, Texas; as showing in Exhibits A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

BASTROPTX
Heart of the Lost Pines
Est. 1832

Request

This property owner is requesting to change from P-5 Core to P-4 mix. This property includes a residential home. If the property were zoned to P-5, it would become a non-conforming use. The P-4 Mix allows for residential homes as well as commercial in residential form.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Location Map



BASTROPTX
Heart of the Lost Pines / Est. 1832

Staff Recommendation

Conduct public hearing and consider action to approve the first reading of Ordinance No. 2019-68, of the City Council of the City of Bastrop, Texas, rezoning 0.193 acres of Building Block 6 West of Water Street, from P-5 Core to P-4 Mix, located 1110 Water Street within the City Limits of Bastrop, Texas; as showing in Exhibits A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Planning & Zoning Recommendation

At the regular meeting on November 21, 2019, the Commission voted unanimously to approve the rezoning request.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Questions?

BASTROPTX
Heart of the Lost Pines / Est. 1832

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM:** 9R

TITLE:
Public hearing and consider action to approve the first reading of Ordinance No. 2019-69 of the City Council of the City of Bastrop, Texas, rezoning 0.129 acres of Building Block 6, West of Water Street, from P-5 Core to P-4 Mix, located 703 Farm Street, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

STAFF REPRESENTATIVE:
Allison Long, Planner

ITEM DETAILS:

Site Address:	703 Farm Street (Exhibit A)
Total Acreage:	0.129 acres
Legal Description:	0.129 acres of Building Block 6, West of Water St
Property Owners:	Jonathan Clinton & Annie Marie Taylor
Existing Use:	Residential
Existing Zoning:	P-5 Core (Previously Form-Based Code – Downtown Mixed Use (Attachment 3)
Requested Zoning:	P-4 Mix
Future Land Use:	Downtown Bastrop (Attachment 4)

BACKGROUND/HISTORY:
Currently, this property includes a residential home. If the property were zoned to P-5, it would immediately become a non-conforming use. The property owner also provided that this home is a State designated historical marker and that they believe the P-4 designation is the place type most aligned with the current house form.

PUBLIC COMMENTS:
Property owner notifications were sent to 15 adjacent property owners on November 5, 2019. (Attachment 2) At the time of this report, two responses have been received. (Attachment 5)

POLICY EXPLANATION:
Texas Local Government Code

Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. (a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

Notice was published in the Bastrop Advertiser and notice was sent to property owners within 200 feet of the property boundary.

(b) In addition to the notice required by Subsection (a), a general-law municipality that does not have a zoning commission shall give notice of a proposed change in a zoning classification to each property owner who would be entitled to notice under Section 211.007(c) if the municipality had a zoning commission. That notice must be given in the same manner as required for notice to property owners under Section 211.007(c). The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given.

N/A. Bastrop is not a general-law municipality.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

Notice of the meeting was posted at least 72 hours in advance.

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots or land covered by the proposed change; or

(2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

(e) In computing the percentage of land area under Subsection (d), the area of streets and alleys shall be included.

At the time of this report, no protest has been received.

(f) The governing body by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the municipality's zoning commission that a proposed change to a regulation or boundary be denied.

If the Planning & Zoning Commission recommends denial of the zoning request, the City Council must have a minimum vote of 4 out of 5 members to approve the zoning request.

Compliance with 2036 Comprehensive Plan:

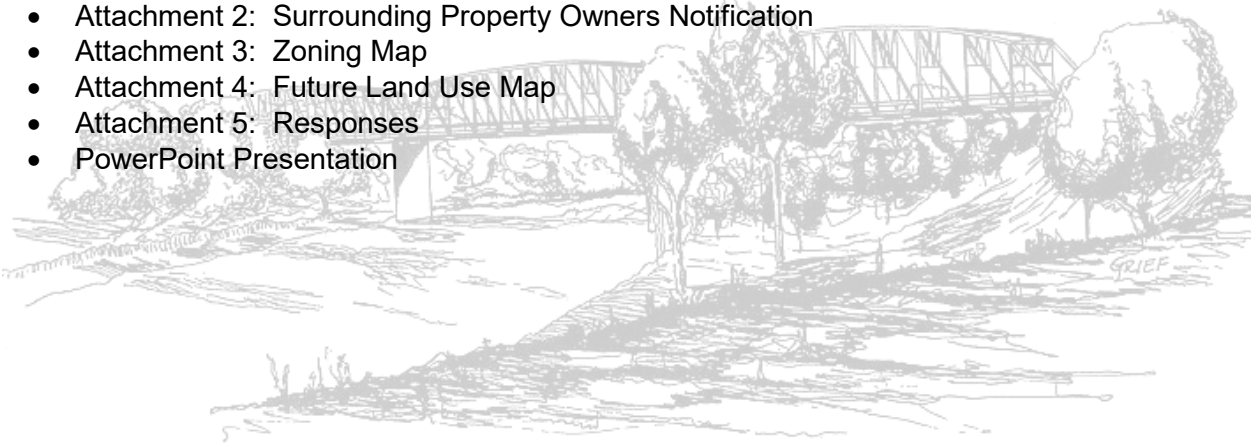
- Future Land Use Plan – Downtown Bastrop: The Downtown Bastrop character area allows for a wide range of residential, retail, entertainment, professional service, and institutional land uses. The character area's range of land uses may be mixed on individual parcels or developments sites, and within individual buildings. Building form and lot arrangement will support an urban character with structures framing the street. The scale of land uses, and transitions between them will compliment historic building form and intensity, but increased development intensity may be allowed on a case-by-case basis to encourage viable investment in center city Bastrop.

The request for P-4 Mix is appropriate in the Downtown Bastrop future land use category, as it will allow for a mix of uses for both the site and for the area. Furthermore, it allows for an increase of the intensity of use, while maintaining the house form of the P-4 district.

PLANNING & ZONING COMMISSION RECOMMENDATION:
At the November 21, 2019 meeting, the Planning & Zoning Commission unanimously voted to approve the rezoning request.

RECOMMENDATION:
Hold public hearing and consider action to approve the first reading of Ordinance 2019-69 of the City Council of the City of Bastrop, Texas, rezoning 0.129 acres of Building Block 6, West of Water Street, from P-5 Core to P-4 Mix, located 703 Farm Street, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

ATTACHMENTS:
- Ordinance
- Exhibit A: Location Map
- Attachment 1: Letter from Applicant
- Attachment 2: Surrounding Property Owners Notification
- Attachment 3: Zoning Map
- Attachment 4: Future Land Use Map
- Attachment 5: Responses
- PowerPoint Presentation



ORDINANCE 2019-69

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, REZONING 0.129 ACRES OF BUILDING BLOCK 6, WEST OF WATER STREET, FROM P-5 CORE TO P-4 MIX, LOCATED 703 FARM STREET, WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AS SHOWN IN EXHIBIT A, INCLUDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Jonathan Clinton & Annie Marie Taylor (hereinafter referred to as "Property Owner") submitted a request to rezone 0.129 acres of Building Block 6, West of Water St, within the City limits of Bastrop, Texas, hereinafter referred to as "the Property"; and

WHEREAS, a location map is attached hereto as Exhibit "A" (the "Property); and

WHEREAS, the Property is currently zoned as P-5 Core; and

WHEREAS, the Property Owner is requesting to be rezoned to P-4 Mix; and

WHEREAS, the Future Land Use Designation for this Property is Downtown Bastrop, which allows for a wide range of residential, retail, entertainment, professional service, and institutional land uses; and

WHEREAS, pursuant to Texas Local Government Code Section 211, notice of the rezoning was given to all property owners located within two hundred (200) feet of the Property, and the Planning and Zoning Commission of the City of Bastrop held a public hearing on the rezoning request on November 21, 2019; and

WHEREAS, after notice and hearing, the Planning and Zoning Commission has recommended approval of the proposed request by a unanimous vote; and

WHEREAS, the City Council of the City of Bastrop held a public hearing on November 26, 2019 to consider the Property Owner's request; and

WHEREAS, after consideration of public input received at the hearing, the information provided by the Applicants, and all other information presented, City Council finds that it is in the public interest to approve the rezoning.

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

Section 1: The Property, situated on 0.129 acres of Building Block 6, West of Water Street, located 703 Farm Street, in the city limits of Bastrop, Texas as more particularly shown on attachment Exhibit A is rezoned to P-4 Mix.

Section 2: 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 ACKNOWLEDGED on First Reading on the 26th day of November 2019.

READ and APPROVED on the Second Reading on the 10th day of December 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

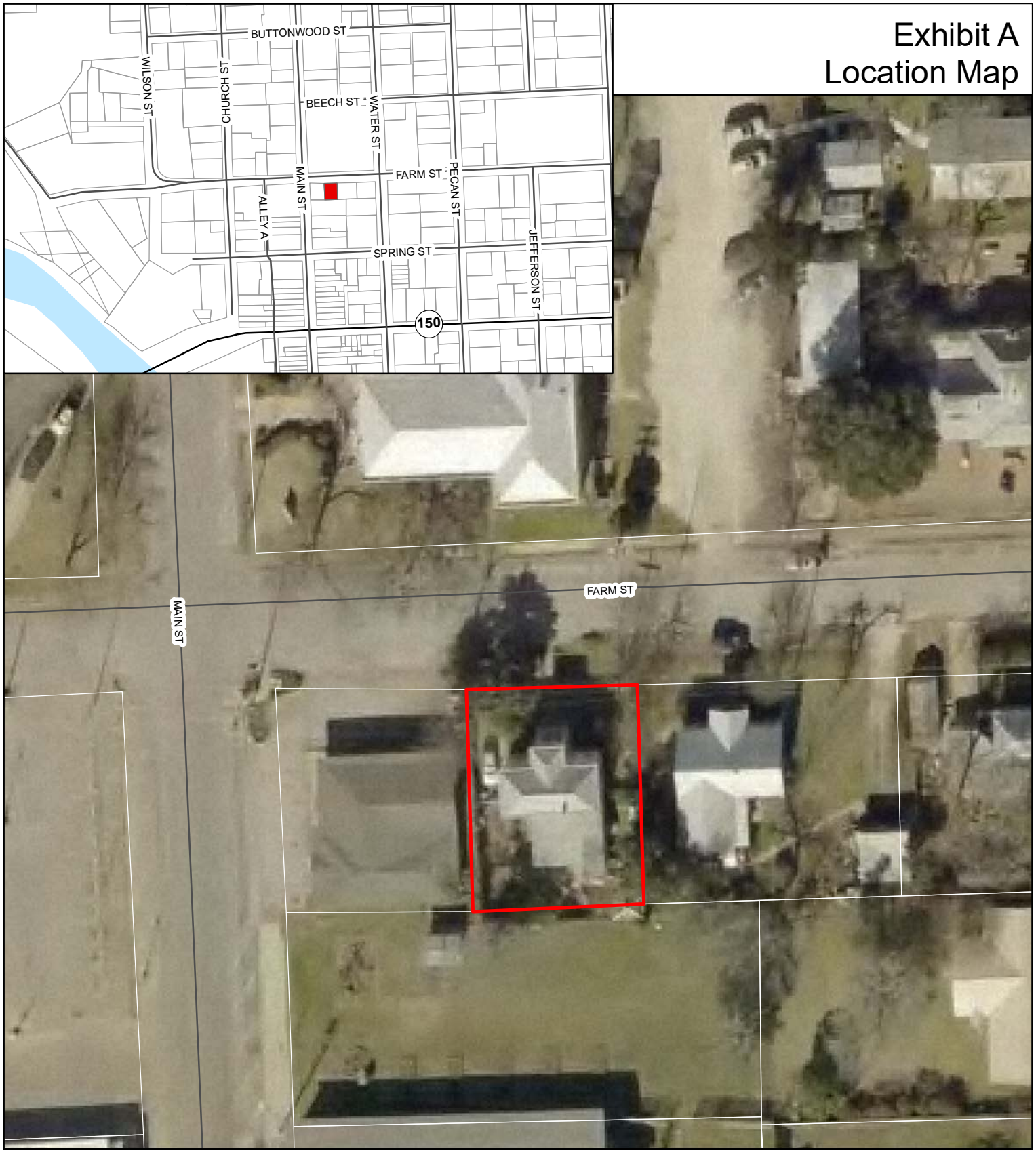
ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A
Location Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 15 30 60
Feet

703 Farm Street
Rezone Request

1 inch = 50 feet

N

Date: 11/12/2019

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

Attachment 1

From: Anne Taylor
To: Jennifer Bills
Subject: Re: Bastrop Building Block Code - Change to Zoning request
Date: Tuesday, October 8, 2019 10:12:39 AM

Jennifer,
I appreciate your assistance this morning and your help with this form. Thank you so much!
See below for the answers to the form.
Many thanks in advance.
Annie Taylor

Proposed place type zoning: P-5

Requested place type zoning: P-4

Reason for requested place type: 703 Farm is a two-story historic home with a registry designation built in the 1860s. It is a single family home. It could potentially house a business should the character of the home be retained although it's currently a residence. The P4-Mix designation accurately describes this home while P5-Core does not.

Property owner name:
Jonathan & Annie Taylor

Property Address:
703 Farm Street-Property ID 33624

Sent from my iPhone

> On Oct 8, 2019, at 10:04 AM, Jennifer Bills <jbills@cityofbastrop.org> wrote:
>
> Hello Ms. Taylor,
>
> Attached is the request form.
>
> Please provide the information requested on the form in email and I will attach it for the request.
>
> Thanks,
>
> Jennifer C. Bills, AICP, LEED AP
> Assistant Planning Director
> City of Bastrop
> Office: 512-332-8845
>
> <Property Owner Request to Change Zoning Form.pdf>

WARNING EXTERNAL EMAIL: This email is from an external source. Do not click links or open attachments without positive sender verification of purpose. Never enter Username, Password or sensitive information on linked pages from this email. If you are unsure about the message, please contact the IT Department for assistance.

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing 0.129 acres of Building Block 6 West of Water Street, located at 703 Farm Street, from the existing Form-Based Code – Downtown Mixed Use District (which is being rezoned to P-5 Core with the B³ Code rezoning) to P-4 Mix, within the City Limits of Bastrop, Texas.

Property Address:	703 Farm Street
Property ID/Parcel Number:	33624
Current Zoning:	Form-Based Code – Downtown Mixed Use
Proposed B³ Code Zoning (Place Type):	P-5 Core
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: _____

Property Address: _____

Mailing Address (if different than property address): _____

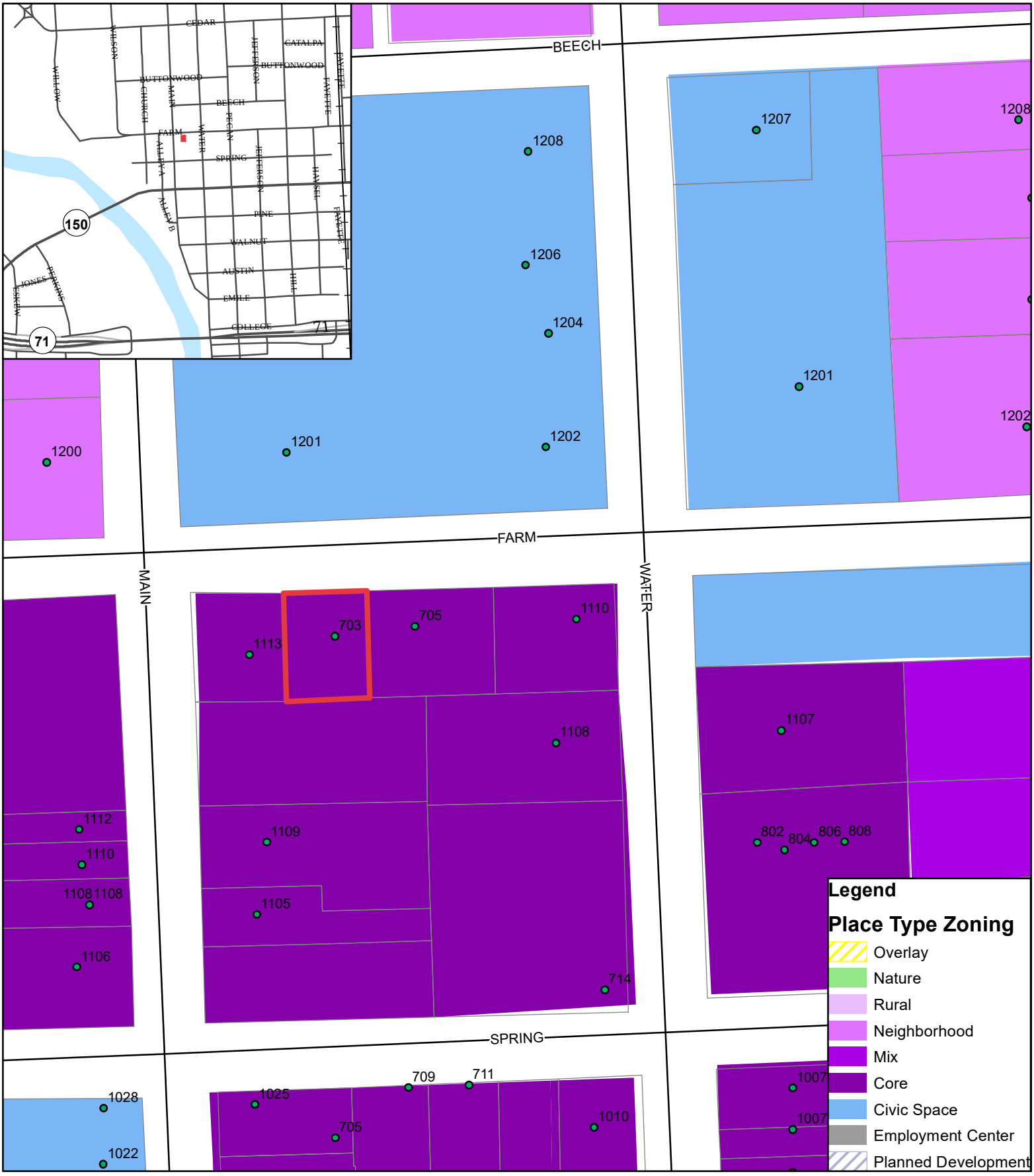
Phone (optional): _____ Email (optional): _____

Property Owner's Signature: _____

Additional Comments (Optional): _____

_____

Re: Place Type Change 33624_ 0.129 acres of Building Block 6 West of Water Street _703 Farm Street



BASTROPTX
Heart of the Lost Pines
Est. 1832

1 inch = 100 feet

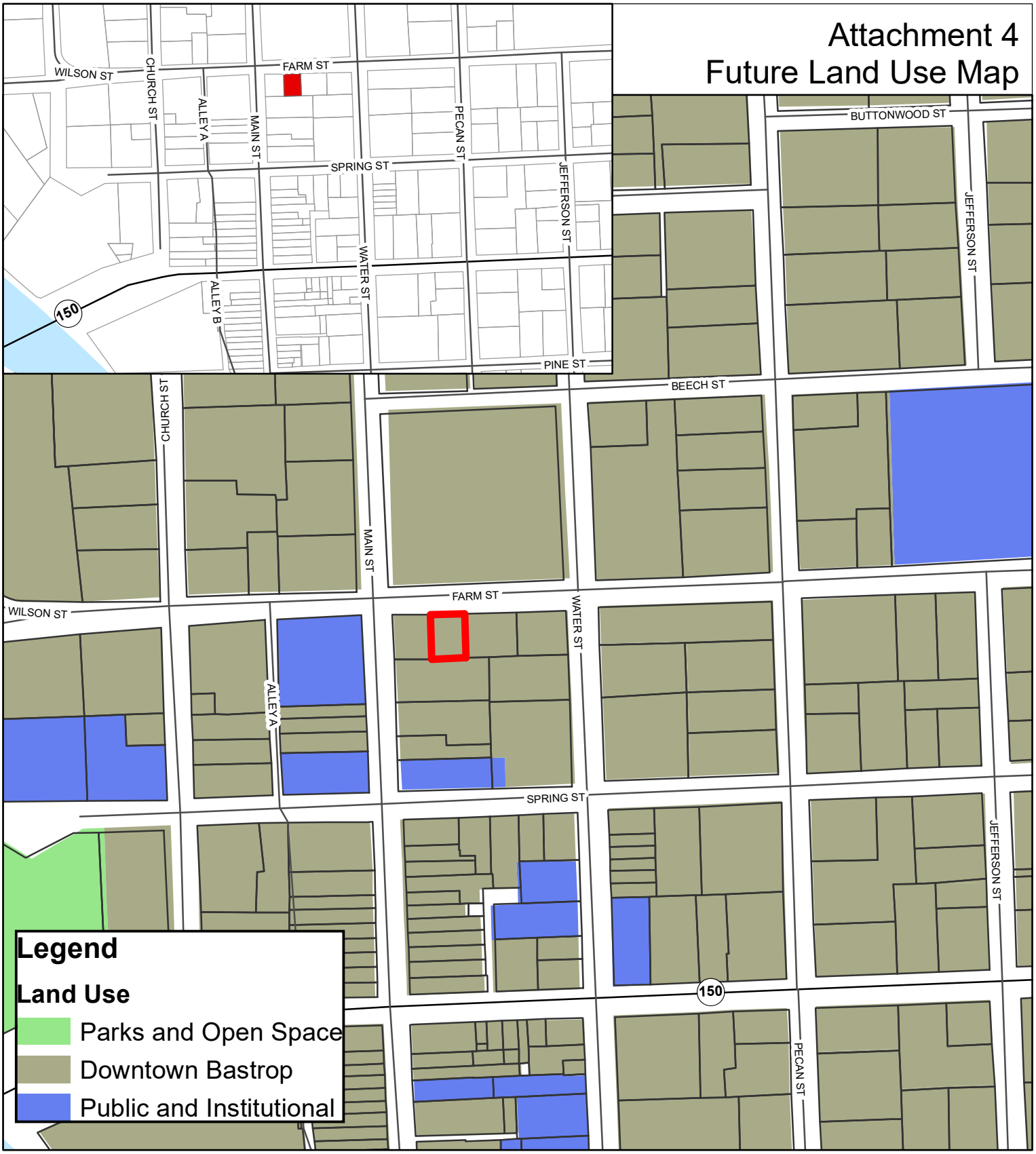
Location Map
Zoning Change
703 Farm St

Date: 11/1/2019

N

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

Attachment 4
Future Land Use Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 85 170 340
Feet

1 inch = 250 feet

703 Farm Street
Rezone Request

Date: 11/13/2019

N

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Property Address:	703 Farm Street
Property ID/Parcel Number:	33624
Current Zoning:	Form-Based Code – Downtown Mixed Use
Proposed B³ Code Zoning (Place Type):	P-5 Core
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

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✂ ----------

PROPERTY OWNER'S RESPONSE

RECEIVED
NOV 18 2019
By

As a property owner within 200 feet: (please check one)

- ☒ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: Annie Taylor

Property Address: 703 Farm Street 78602

Mailing Address (if different than property address): PO Box 1175 78602

Phone (optional): _____ Email (optional): _____

Property Owner's Signature: _____

Additional Comments (Optional): 703 Farm Street is a recorded Texas historic landmark & is on the national register of historic places.

Re: Place Type Change 33624_ 0.129 acres of Building Block 6 West of Water Street _703 Farm Street

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

BASTROPTX
Heart of the Lost Pines
Est. 1832

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Property Address:	703 Farm Street
Property ID/Parcel Number:	33624
Current Zoning:	Form-Based Code – Downtown Mixed Use
Proposed B³ Code Zoning (Place Type):	P-5 Core
Requested Zoning (Place Type):	P-4 Mix

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✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☑ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: Rebecca Jensen

Property Address: 1110 Water Street

Mailing Address (if different than property address): Box 1254

Phone (optional): _____ Email (optional): _____

Property Owner's Signature: [signature]

Additional Comments (Optional): 703 Farm St is a historic home Let's keep it that way with P-4 mix

Re: Place Type Change 33624_ 0.129 acres of Building Block 6 West of Water Street _703 Farm Street

9T. 703 Farm Street

Public hearing and consider action to approve the first reading of Ordinance 2019-69 of the City Council of the City of Bastrop, Texas, rezoning 0.129 acres of Building Block 6, West of Water Street, from P-5 Core to P-4 Mix, located 703 Farm Street, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

BASTROPTX
Heart of the Lost Pines
Est. 1832

Request

This property owner is requesting to change from P-5 Core to P-4 mix. This property includes a residential home. If the property were zoned to P-5, it would become a non-conforming use. The P-4 Mix allows for residential homes as well as commercial in residential form. Additionally, this home is a Texas Historical Landmark.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Location Map



BASTROPTX
Heart of the Lost Pines / Est. 1832

Staff Recommendation

Hold public hearing and consider action to approve the first reading of Ordinance 2019-69 of the City Council of the City of Bastrop, Texas, rezoning 0.129 acres of Building Block 6, West of Water Street, from P-5 Core to P-4 Mix, located 703 Farm Street, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Planning & Zoning Recommendation

At the regular meeting on November 21, 2019, the Commission voted unanimously to approve the rezoning request.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Questions?

BASTROPTX
Heart of the Lost Pines / Est. 1832

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM:** 9S

TITLE:
Conduct public hearing and consider action to approve the first reading of Ordinance 2019-70 of the City Council of the City of Bastrop, Texas, rezoning 0.353 acres of Building Block 8, West of Water Street, from P-CS Civic Space to P-5 Core, Located 1028 Main Street, within the City Limits of Bastrop, Texas; as showing in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

STAFF REPRESENTATIVE:
Allison Long, Planner

ITEM DETAILS:

Site Address:	1028 Main Street (Exhibit A)
Total Acreage:	0.353 acres
Legal Description:	0.353 acres of Building Block 8, West of Water Street
Property Owners:	Protestant Episcopal Church
Existing Use:	Commercial/Church
Existing Zoning:	P-CS Civic Space (Previously Form-Based Code – Historic Main Street) (Attachment 3)
Requested Zoning:	P-5 - Core
Future Land Use:	Downtown Bastrop (Attachment 4)

BACKGROUND/HISTORY:
This property is currently the Fellowship Hall for the Calvary Episcopal Church and the lot directly faces Main Street. Under the Form-Based Code, it was zoned Historic Main Street. Place Type – Civic Space is appropriate for a church but is not the best fit if the church were to use or the property as a retail or event space. The previous zoning allowed for commercial uses without a civic component if the property were to redevelop. P-5 Core is consistent with the rest of downtown Main Street.

PUBLIC COMMENTS:
Property owner notifications were sent to 23 adjacent property owners on November 5, 2019. (Attachment 2) At the time of this report, two responses had been received. (Attachment 5)

POLICY EXPLANATION:
Texas Local Government Code

Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. (a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and

place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

Notice was published in the Bastrop Advertiser and notice was sent to property owners within 200 feet of the property boundary.

(b) In addition to the notice required by Subsection (a), a general-law municipality that does not have a zoning commission shall give notice of a proposed change in a zoning classification to each property owner who would be entitled to notice under Section 211.007(c) if the municipality had a zoning commission. That notice must be given in the same manner as required for notice to property owners under Section 211.007(c). The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given.

N/A. Bastrop is not a general-law municipality.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

Notice of the meeting was posted at least 72 hours in advance.

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots or land covered by the proposed change; or

(2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

(e) In computing the percentage of land area under Subsection (d), the area of streets and alleys shall be included.

At the time of this report, no protest has been received.

(f) The governing body by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the municipality's zoning commission that a proposed change to a regulation or boundary be denied.

If the Planning & Zoning Commission recommends denial of the zoning request, the City Council must have a minimum vote of 4 out of 5 members to approve the zoning request.

Compliance with 2036 Comprehensive Plan:

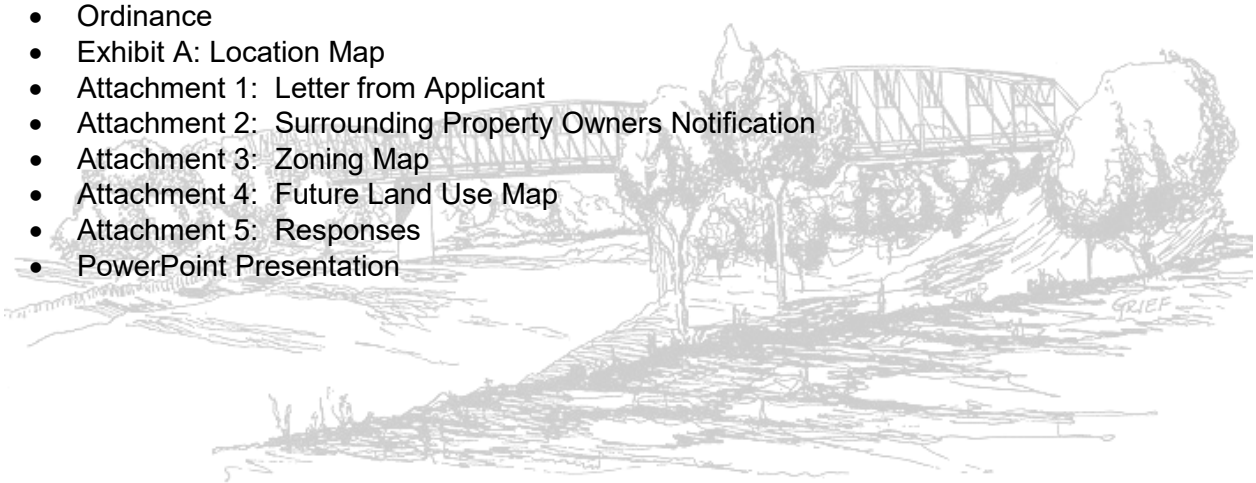
- Future Land Use Plan – Downtown Bastrop: The Downtown Bastrop character area allows for a wide range of residential, retail, entertainment, professional service, and institutional land uses. The character area's range of land uses may be mixed on individual parcels or developments sites, and within individual buildings. Building form and lot arrangement will support an urban character with structures framing the street. The scale of land uses, and transitions between them will compliment historic building form and intensity, but increased development intensity may be allowed on a case-by-case basis to encourage viable investment in center city Bastrop.

The request for P-5 Mix is appropriate in the Downtown Bastrop future land use category, as it will allow for a mix of uses for both the site and for the area. Currently, this property includes a church, which is also in line with the future land use.

PLANNING & ZONING COMMISSION RECOMMENDATION:
At the November 21, 2019 meeting, the Planning & Zoning Commission unanimously voted to approve the rezoning request.

RECOMMENDATION:
Conduct public hearing and consider action to approve the first reading of Ordinance 2019-70 of the City Council of the City of Bastrop, Texas rezoning 0.353 acres of Building Block 8, West of Water Street, from P-CS Civic Space to P-5 Core, Located 1028 Main Street, within the City Limits of Bastrop, Texas; as showing in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

ATTACHMENTS:
- Ordinance
- Exhibit A: Location Map
- Attachment 1: Letter from Applicant
- Attachment 2: Surrounding Property Owners Notification
- Attachment 3: Zoning Map
- Attachment 4: Future Land Use Map
- Attachment 5: Responses
- PowerPoint Presentation



ORDINANCE 2019-70

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, REZONING 0.353 ACRES OF BUILDING BLOCK 8, WEST OF WATER STREET, FROM P-CS CIVIC SPACE TO P-5 CORE, LOCATED 1028 MAIN STREET, WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AS SHOWN IN EXHIBIT A, INCLUDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Protestant Episcopal Church (hereinafter referred to as "Property Owner") submitted a request to rezone 0.353 acres of Building Block 8, West of Water Street, within the City limits of Bastrop, Texas, hereinafter referred to as "the Property"; and

WHEREAS, a location map is attached hereto as Exhibit "A" (the "Property); and

WHEREAS, the Property is currently zoned as P-CS Civic Space; and

WHEREAS, the Property Owner is requesting to be rezoned to P-5 Core; and

WHEREAS, the Future Land Use Designation for this Property is Downtown Bastrop, which allows for a wide range of residential, retail, entertainment, professional service, and institutional land uses; and

WHEREAS, pursuant to Texas Local Government Code Section 211, notice of the rezoning was given to all property owners located within two hundred (200) feet of the Property, and the Planning and Zoning Commission of the City of Bastrop held a public hearing on the rezoning request on November 21, 2019; and

WHEREAS, after notice and hearing, the Planning and Zoning Commission has recommended approval of the proposed request by a unanimous vote; and

WHEREAS, the City Council of the City of Bastrop held a public hearing on November 26, 2019 to consider the Property Owner's request; and

WHEREAS, after consideration of public input received at the hearing, the information provided by the Applicants, and all other information presented, City Council finds that it is in the public interest to approve the rezoning.

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

Section 1: The Property, situated on 0.353 acres of Building Block 8, West of Water Street, located 1028 Main Street, in the city limits of Bastrop, Texas as more particularly shown on attachment Exhibit A is rezoned to P-5 Core.

Section 2: 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 ACKNOWLEDGED on First Reading on the 26th day of November 2019.

READ and APPROVED on the Second Reading on the 10th day of December 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A
Location Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

1028 Main Street
Rezone Request

0 40 80 160
Feet

1 inch = 125 feet

N

Date: 11/12/2019

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

BUILDING BASTROP

BASTROPTX
Heart of the Lost Pines / Est. 1832

Individual Property Owner Place Type Change Request

Proposed Place Type Zoning (from the notice): P-CS Civic Space

Requested Place Type Zoning: 1028 Main Street P-5 Core

Reason for Requested Place Type / Why I would like to change my zoning: This property fronts Bastrop Main Street in the Core of the business district. Core is the appropriate designation.

Property Owner Name: Calvary Episcopal/Diocese of Texas

Property Address/Parcel ID: 1028 Main Street, Bastrop

Property Owner's Signature: Carol Brown, Senior Warden

Staff Use Only

Reviewed By:

Staff Comments:

Staff Recommendation: ☐ Approve ☐ Deny

RECEIVED
OCT 08 2019
By

PLANNING & DEVELOPMENT
1311 Chestnut Street – PO Box 427 – Bastrop, Texas 78602 – 512.332.8840
www.cityofbastrop.org

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing 0.353 acres out of Building Block 8, West of Water Street, located at 1028 Main Street, from the existing From-Based Code – Historic Main Street District (which is being rezoned to P-CS Civic Space with the B³ Code rezoning) to P-5 Core, within the City Limits of Bastrop, Texas.

Property Address:	1028 Main Street
Property ID/Parcel Number:	33792
Current Zoning:	Form-Based Code – Historic Main Street
Proposed B³ Code Zoning (Place Type):	P-CS Civic Space
Requested Zoning (Place Type):	P-5 Core

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: _____

Property Address: _____

Mailing Address (if different than property address): _____

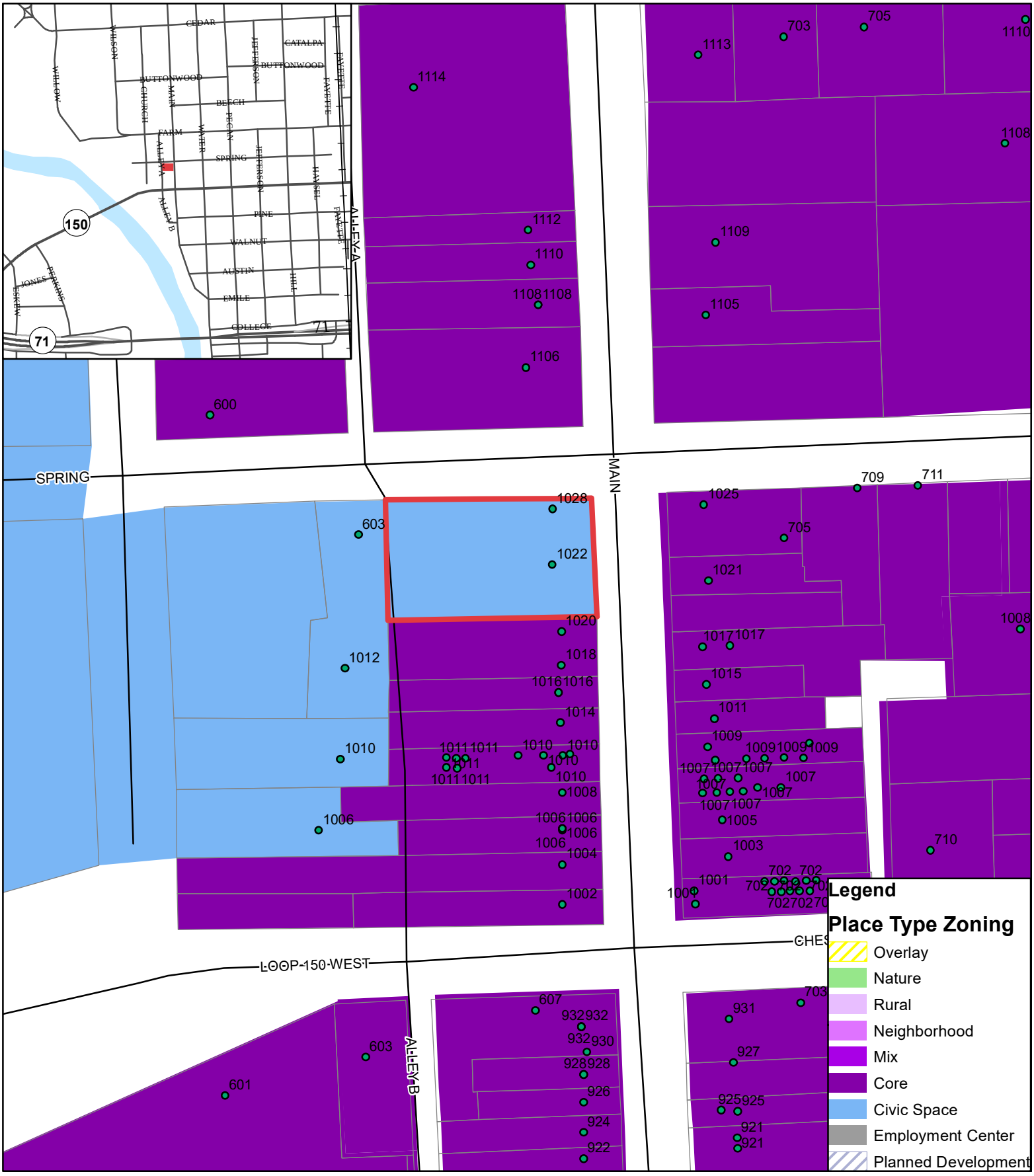
Phone (optional): _____ Email (optional): _____

Property Owner's Signature: _____

Additional Comments (Optional): _____

_____

Re: Place Type Change 33792_Building Block 8, West of Water Street_1028 Main Street



BASTROPTX
Heart of the Lost Pines
Est. 1832

1 inch = 100 feet

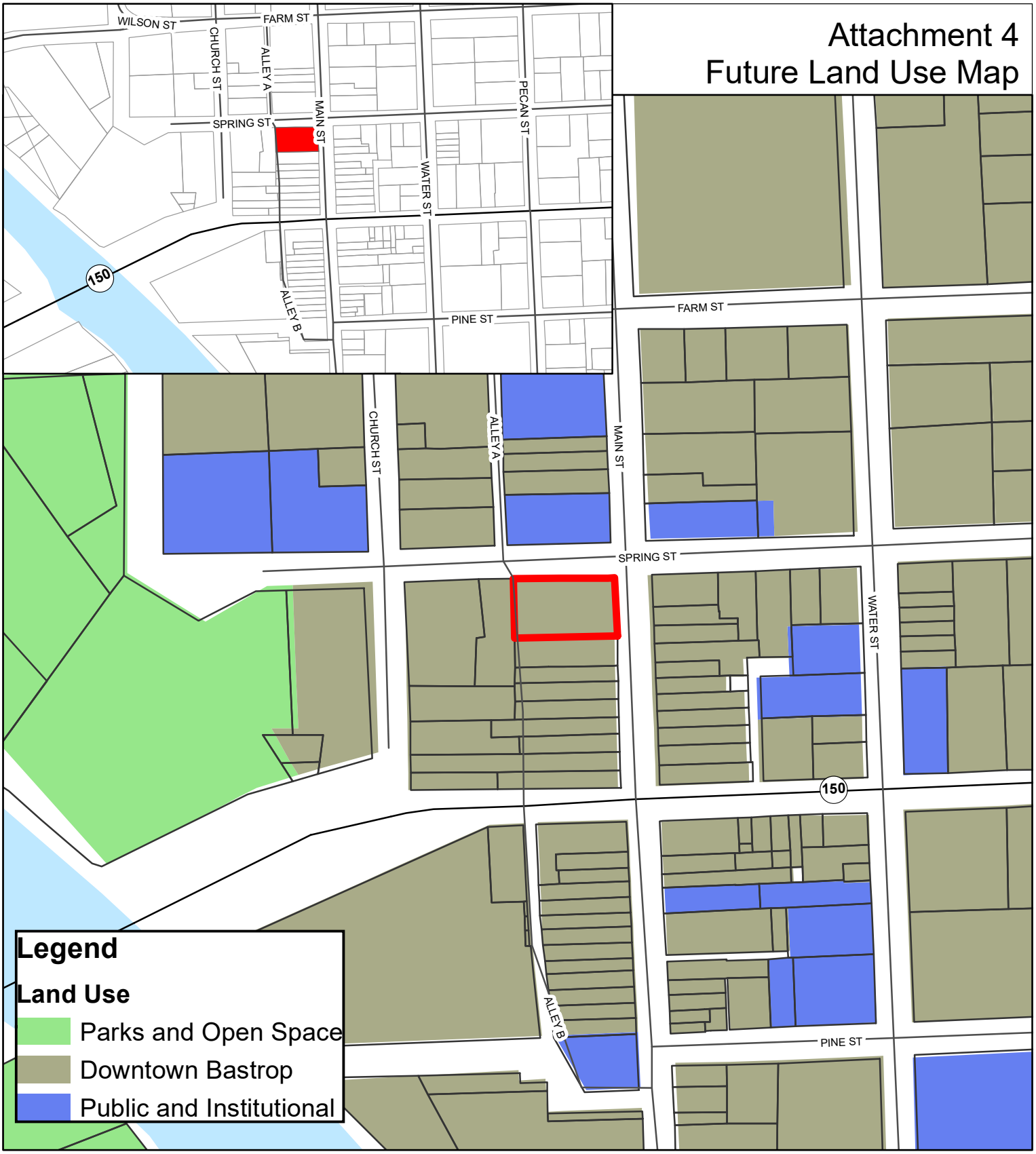
Location Map
Zoning Change
1028 Main St

Date: 11/1/2019

N

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

Attachment 4
Future Land Use Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 70 140 280
Feet

1 inch = 208 feet

1028 Main Street
Rezone Request

Date: 11/13/2019

N

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

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

BASTROPTX
Heart of the Lost Pines
Est. 1832

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing 0.353 acres out of Building Block 8, West of Water Street, located at 1028 Main Street, from the existing From-Based Code – Historic Main Street District (which is being rezoned to P-CS Civic Space with the B³ Code rezoning) to P-5 Core, within the City Limits of Bastrop, Texas.

Property Address:	1028 Main Street
Property ID/Parcel Number:	33792
Current Zoning:	Form-Based Code – Historic Main Street
Proposed B³ Code Zoning (Place Type):	P-CS Civic Space
Requested Zoning (Place Type):	P-5 Core

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

RECEIVED
NOV 18 2019
By _____

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☒ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: JOHN DOUFF AND ROBERT DOUFF

Property Address: 1016 MAIN

Mailing Address (if different than property address): 1111 WILCREST GREEN, STE 100

Phone (optional): _____ Email (optional): HOUSTON, TX 77042

Property Owner's Signature: _____ JTDOUFF@

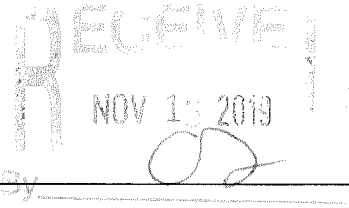
Additional Comments (Optional): LANDMARKINDUSTRIES.COM

Re: Place Type Change 33792_Building Block 8, West of Water Street_1028 Main Street

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☑ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.



Property Owner Name: William P. & Lisa K. Gossett

Property Address: 1009 Main St, Bastrop, TX 78602

Mailing Address (if different than property address): 316 Schaefer Blvd, Bastrop TX 78602

Phone (optional): _____ Email (optional): _____

Property Owner's Signature: William P. Gossett Lisa K. Gossett

Additional Comments (Optional): _____

Re: Place Type Change 33792_Building Block 8, West of Water Street_1028 Main Street

1028 Main Street

Public hearing and consider action to approve the first reading of Ordinance 2019-70 of the City Council of the City of Bastrop, Texas, rezoning 0.353 acres of Building Block 8, West of Water Street, from P-CS Civic Space to P-5 Core, Located 1028 Main Street, within the City Limits of Bastrop, Texas; as showing in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

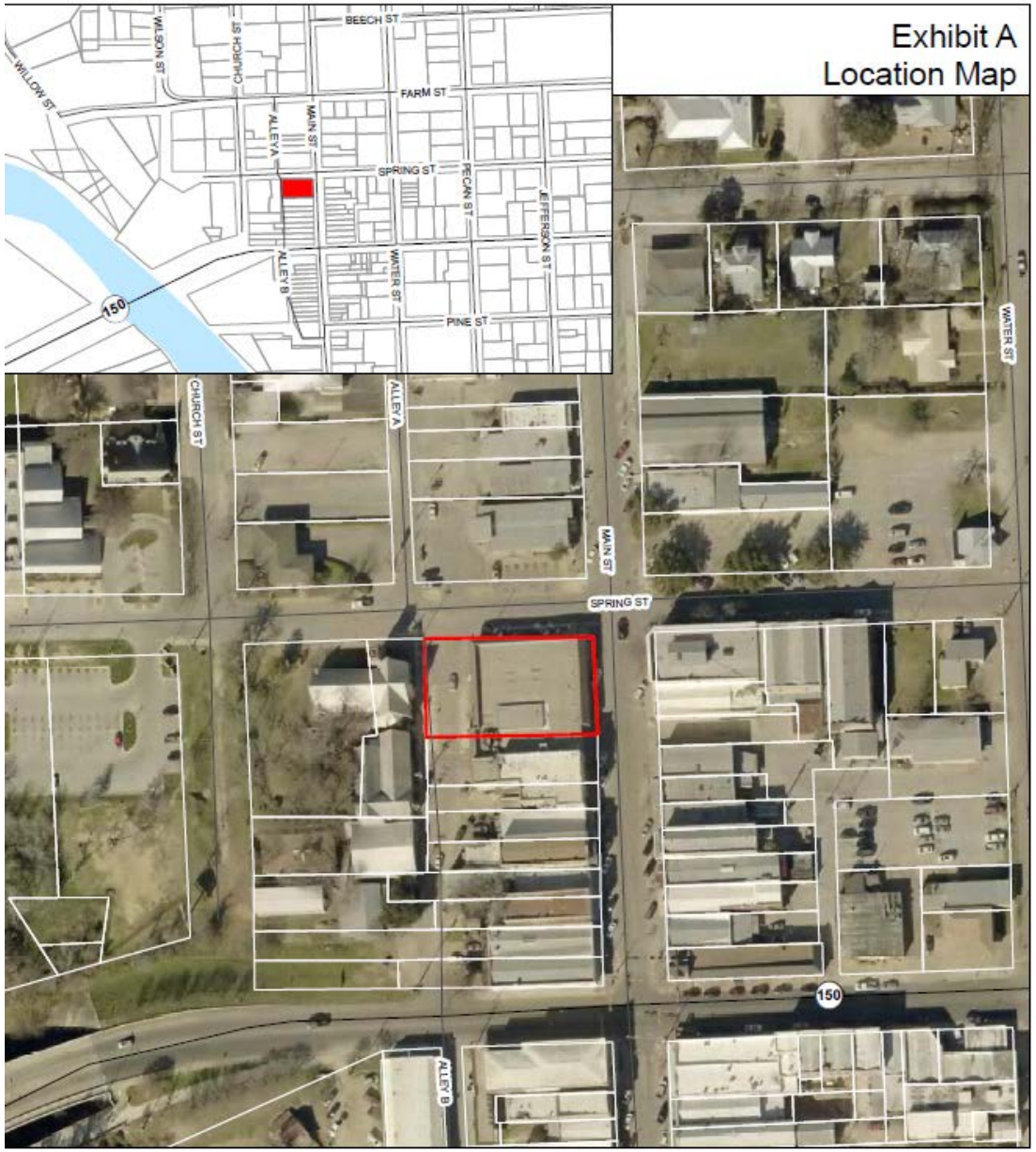
BASTROPTX
Heart of the Lost Pines
Est. 1832

Request

This property is currently the Fellowship Hall for the Calvary Episcopal Church and the lot directly faces Main Street. Under the Form-Based Code, it was zoned Historic Main Street. The previous zoning allowed for commercial uses without a civic component if the property were to redevelop. Place Type – Civic Space is appropriate for a church but is not the best fit if the church were to use the property as a retail or event space. The property owners are requesting P-5 Core. This is consistent with the rest of downtown Main Street.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Location Map



BASTROPTX
Heart of the Lost Pines / Est. 1832

Staff Recommendation

Hold public hearing and consider action to approve the first reading of Ordinance 2019-70 of the City Council of the City of Bastrop, Texas, rezoning 0.353 acres of Building Block 8, West of Water Street, from P-CS Civic Space to P-5 Core, Located 1028 Main Street, within the City Limits of Bastrop, Texas; as showing in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Planning & Zoning Recommendation

At the regular meeting on November 21, 2019, the Commission voted unanimously to approve the rezoning request.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Questions?

BASTROPTX
Heart of the Lost Pines / Est. 1832

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9T

TITLE:
Conduct public hearing and consider action to deny the first reading of No. Ordinance 2019-71 of the City Council of the City of Bastrop, Texas, rezoning 0.2067 acres of Farm Lot 3 West of Main Street from P-3 Neighborhood, to P-4 Mix, located at 606 Cedar Street, within the city limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date.

STAFF REPRESENTATIVE:
Jennifer C. Bills, AICP, LEED AP, Assistant Planning Director

ITEM DETAILS:

Site Address:	606 Cedar Street (Exhibit A)
Total Acreage:	0.2067 acres
Legal Description:	0.2067 acres of Farm Lot 3, West of Main Street
Property Owners:	Forrest Jr. & Sarah B. Chalmers
Existing Use:	Accessory Structure/Parking
Existing Zoning:	P-3 - Residential (P Form-Based Code – Neighborhood) (Attachment 3)
Requested Zoning:	P-4 - Mix
Future Land Use:	Downtown Bastrop (Attachment 4)

BACKGROUND/HISTORY:
The property owner has requested to be zoned to the P-4 Mix Place Type to allow for employee parking for Tracy's Drive-in Grocery located beside the tract. Currently, the lot has an accessory structure used as storage for the business and is used for informal parking. Rezoning the site to P-4 Mix would allow the store to utilize the lot as organized parking or as future expansion space.

PUBLIC COMMENTS:
Property owner notifications were sent to 20 adjacent property owners on November 5, 2019 (Attachment 2). At the time of this report, two responses have been received in favor of the zoning and one response was received opposed to the zoning (Attachment 5).

POLICY EXPLANATION:

Texas Local Government Code

Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. (a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

Notice was published in the Bastrop Advertiser and notice was sent to property owners within 200 feet of the property boundary.

(b) In addition to the notice required by Subsection (a), a general-law municipality that does not have a zoning commission shall give notice of a proposed change in a zoning classification to each property owner who would be entitled to notice under Section 211.007(c) if the municipality had a zoning commission. That notice must be given in the same manner as required for notice to property owners under Section 211.007(c). The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given.

N/A. Bastrop is not a general-law municipality.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

Notice of the meeting was posted at least 72 hours in advance.

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots or land covered by the proposed change; or

(2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

(e) In computing the percentage of land area under Subsection (d), the area of streets and alleys shall be included.

At the time of this report, no protest has been received.

(f) The governing body by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the municipality's zoning commission that a proposed change to a regulation or boundary be denied.

If the Planning & Zoning Commission recommends denial of the zoning request, the City Council must have a minimum vote of 4 out of 5 members to approve the zoning request.

Compliance with 2036 Comprehensive Plan:

- Future Land Use Plan – Downtown Bastrop: The Downtown Bastrop character area allows for a wide range of residential, retail, entertainment, professional service, and institutional land uses. The character area's range of land uses may be mixed on individual parcels or developments sites, and within individual buildings. Building form and lot arrangement will support an urban character with structures framing the street. The scale of land uses, and transitions between them will compliment historic building form and intensity, but increased development intensity may be allowed on a case-by-case basis to encourage viable investment in center city Bastrop.

The request for P-4 Mix is appropriate in the Downtown Bastrop Land Use. This property is located adjacent to 1602 Main Street and under the same ownership as the small retail store (Tracy's Drive-In Grocery).

PLANNING & ZONING COMMISSION RECOMMENDATION:
At the November 21, 2019 meeting, the Planning & Zoning Commission motioned to approve the request and the motion failed by a vote of 3 for and 4 against.

If the Planning & Zoning Commission recommends denial of the zoning request, the City Council must have a minimum vote of 4 out of 5 members to approve the zoning request.

RECOMMENDATION:
Conduct public hearing and consider action to deny the first reading of No. Ordinance 2019-71 of the City Council of the City of Bastrop, Texas, rezoning 0.2067 acres of Farm Lot 3 West of Main Street from P-3 Neighborhood, to P-4 Mix, located at 606 Cedar Street, within the city limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date.

ATTACHMENTS:
- Ordinance
- Exhibit A: Location Map
- Attachment 1: Applicant Request
- Attachment 2: Surrounding Property Owners Notification
- Attachment 3: Zoning Map
- Attachment 4: Future Land Use Map
- Attachment 5: Property Owner Responses
- PowerPoint Presentation



ORDINANCE 2019-71

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, REZONING 0.2067 ACRES OF FARM LOT 3 WEST OF MAIN STREET FROM P-3 NEIGHBORHOOD, TO P-4 MIX, LOCATED AT 606 CEDAR STREET, WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AS SHOWN IN EXHIBIT A, INCLUDING A SEVERABLILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Forrest Jr and Sarah Chalmers (hereinafter referred to as "Property Owner") submitted a request to rezone 0.2067 acres of Farm Lot 3 West of Main Street, within the City limits of Bastrop, Texas, hereinafter referred to as "the Property"; and

WHEREAS, a location map is attached hereto as Exhibit "A" (the "Property); and

WHEREAS, the Property is currently zoned as P-3 Neighborhood; and

WHEREAS, the Property Owner is requesting to be rezoned to P-4 Mix; and

WHEREAS, the Future Land Use Designation for this Property is Downtown Bastrop character area which allows for a wide range of residential, retail, entertainment, professional service, and institutional land uses.; and

WHEREAS, pursuant to Texas Local Government Code Section 211, notice of the rezoning was given to all property owners located within two hundred (200) feet of the Property, and the Planning and Zoning Commission of the City of Bastrop held a public hearing on the rezoning request on November 21, 2019; and

WHEREAS, after notice and hearing, the Planning and Zoning Commission motion to approve failed by a vote of three to four; and

WHEREAS, the City Council of the City of Bastrop held a public hearing on November 26, 2019 to consider the Property Owner's request; and

WHEREAS, after consideration of public input received at the hearing, the information provided by the Applicants, and all other information presented, City Council finds that it is in the public interest to approve the rezoning.

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

Section 1: The Property, situated on 0.2067 acres of Farm Lot 3 West of Main Street, located 606 Cedar Street, in the city limits of Bastrop, Texas as more particularly shown on attachment Exhibit A is rezoned to P-4 Mix.

Section 2: 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 ACKNOWLEDGED on First Reading on the 26th day of November 2019.

READ and APPROVED on the Second Reading on the 10th day of December 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

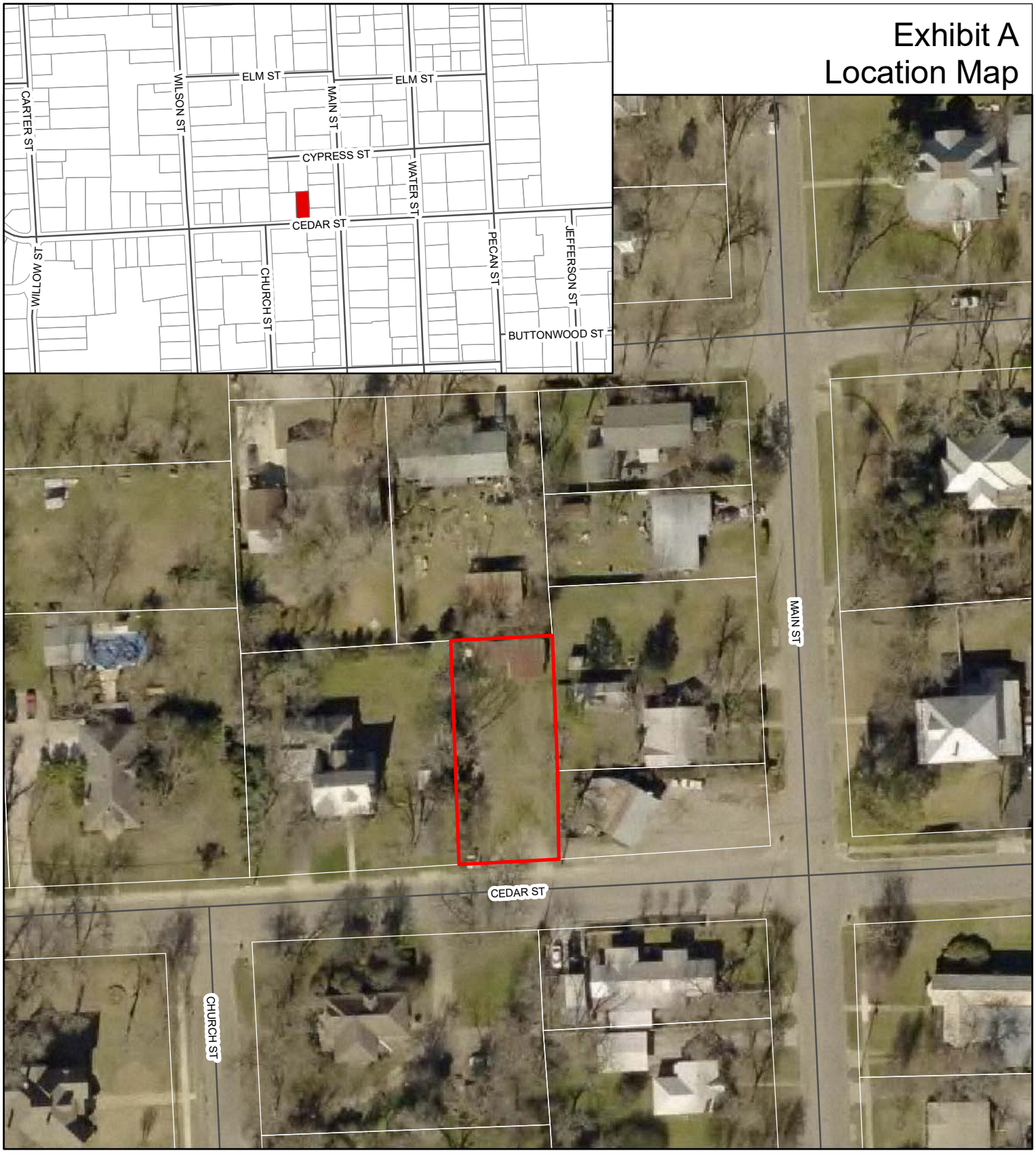
ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A
Location Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

606 Cedar Street
Rezone Request

0 25 50 100
Feet

1 inch = 83 feet

N

Date: 11/12/2019

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

BUILDING BASTROP

BASTROPTX
Heart of the Lost Pines / Est. 1832

Individual Property Owner Place Type Change Request

Proposed Place Type Zoning (from the notice): ~~Residential~~ P4

Requested Place Type Zoning: ~~Neighborhood Services~~ P4

Reason for Requested Place Type / Why I would like to change my zoning:

EMPLOYEE PARKING

Property Owner Name: Forrest T Chalmers And SARAH B. CHALMERS

Property Address/Parcel ID: 606 CEDAR ST BASTROP (ADJACENT TO 16 & 2 MAIN)

Property Owner's Signature: Forrest T. Chalmers Sarah Chalmers

Staff Use Only

Reviewed By:

Staff Recommendation:

Staff Comments:

PLANNING & DEVELOPMENT
1311 Chestnut Street – PO Box 427 – Bastrop, Texas 78602 – 512.332.8840
www.cityofbastrop.org

RECEIVED
SEP 26 2019
By

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing 0.2067 acres of Farm Lot 3 West of Main Street, located at 606 Cedar Street, from the existing Form-Based Code – Neighborhood District (which is being rezoned to P-3 Neighborhood with the B³ Code rezoning) to P-4 Mix, within the City Limits of Bastrop, Texas.

Property Address:	606 Cedar Street
Property ID/Parcel Number:	28031
Current Zoning:	Form-Based Code - Neighborhood
Proposed B³ Code Zoning (Place Type):	P-3 Neighborhood
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: _____

Property Address: _____

Mailing Address (if different than property address): _____

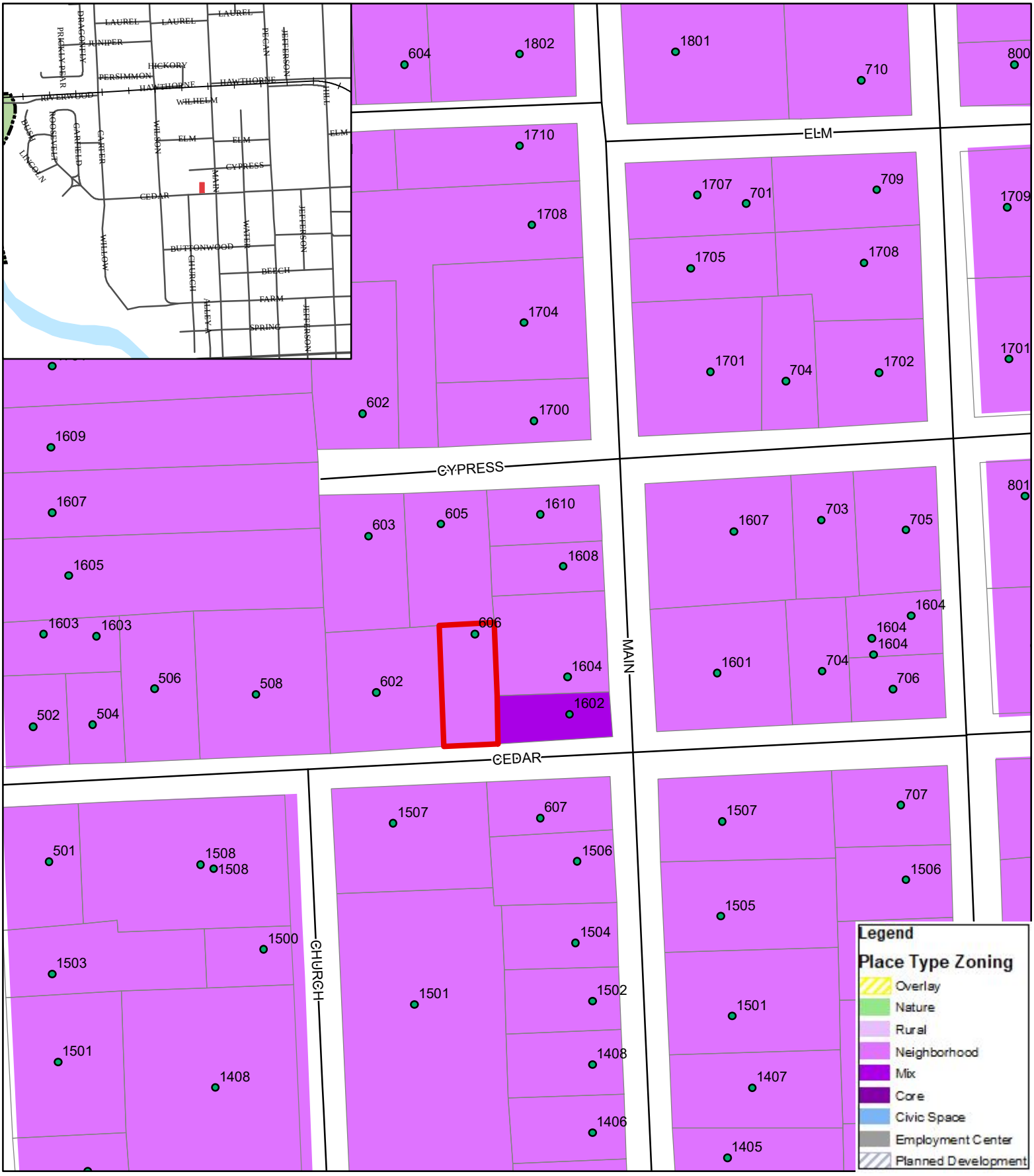
Phone (optional): _____ Email (optional): _____

Property Owner's Signature: _____

Additional Comments (Optional): _____

_____

Re: Place Type Change 28031_0.2067 acres of Farm Lot 3 West of Main Street_606 Cedar Street



BASTROPTX
Heart of the Lost Pines
Est. 1832

1 inch = 150 feet

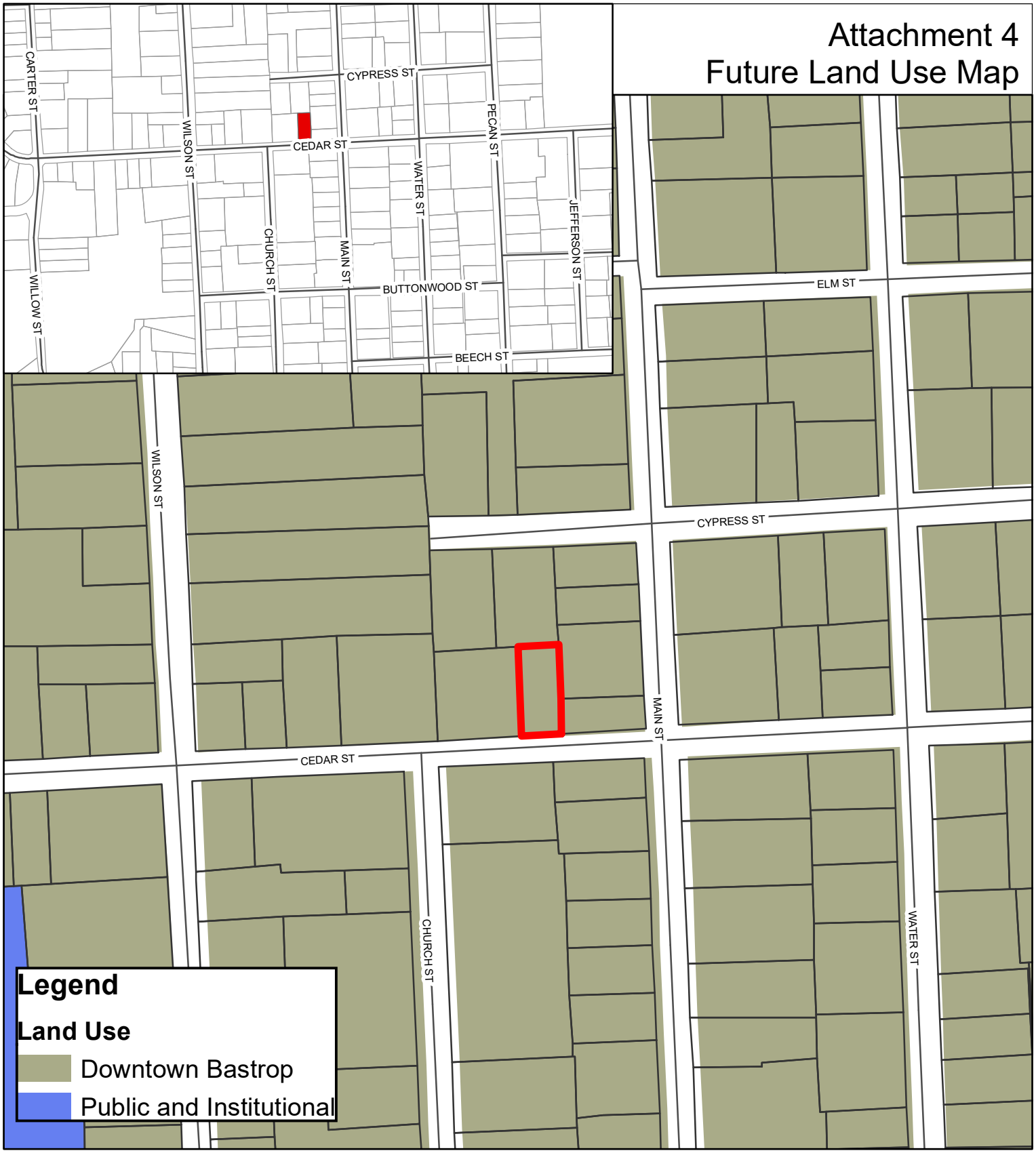
Attachment 3 Place Type Zoning Map Zoning Change 606 Cedar Street

Date: 11/1/2019

N

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

Attachment 4
Future Land Use Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 70 140 280
Feet

1 inch = 208 feet

606 Cedar Street
Rezone Request

N

Date: 11/13/2019

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

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☒ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

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NOV 14 2019
By

Property Owner Name: Forrest & Sarah Chalmers

Property Address: 1602 & 1604 Main St.

Mailing Address (if different than property address): 404 Cedar St.

Phone (optional): (512) 461-6146 Email (optional): sagrah16@att.net

Property Owner's Signature: Sarah Chalmers ; Forrest Chalmers

Additional Comments (Optional): _____

Re: Place Type Change 28031_0.2067 acres of Farm Lot 3 West of Main Street_606 Cedar Street

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

BASTROPTX
Heart of the Lost Pines
Est. 1832

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing 0.2067 acres of Farm Lot 3 West of Main Street, located at 606 Cedar Street, from the existing Form-Based Code – Neighborhood District (which is being rezoned to P-3 Neighborhood with the B³ Code rezoning) to P-4 Mix, within the City Limits of Bastrop, Texas.

Property Address:	606 Cedar Street
Property ID/Parcel Number:	28031
Current Zoning:	Form-Based Code - Neighborhood
Proposed B³ Code Zoning (Place Type):	P-3 Neighborhood
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

PROPERTY OWNER'S RESPONSE

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NOV 15 2019
By

As a property owner within 200 feet: (please check one)

- ☑ I am in favor of the change.
- ☐ I am opposed to the change.
- ☑ I have no objection to the change.

Property Owner Name: Ruben S. Tovar

Property Address: 607 Cedar ST.

Mailing Address (if different than property address): _____

Phone (optional): _____ Email (optional): _____

Property Owner's Signature: Ruben S. Tovar

Additional Comments (Optional): Forest + Sarah Chalmers are friends of mine + long time Bastrop residents. Whatever I can do to help them, I will do. R.S.T.

Re: Place Type Change 28031_0.2067 acres of Farm Lot 3 West of Main Street_606 Cedar Street

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

RECEIVED
NOV 20 2019
By _____

BASTROPTX
Heart of the Lost Pines
Est. 1832

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing 0.2067 acres of Farm Lot 3 West of Main Street, located at 606 Cedar Street, from the existing Form-Based Code – Neighborhood District (which is being rezoned to P-3 Neighborhood with the B³ Code rezoning) to P-4 Mix, within the City Limits of Bastrop, Texas.

Property Address:	606 Cedar Street
Property ID/Parcel Number:	28031
Current Zoning:	Form-Based Code - Neighborhood
Proposed B³ Code Zoning (Place Type):	P-3 Neighborhood
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

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✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☒ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: Martin and Elva Conrardy

Property Address: 602 Cedar St.

Mailing Address (if different than property address): _____

Phone (optional): 512-673-2651 Email (optional): navona70@yahoo.com

Property Owner's Signature: Elva Conrardy Martin Conrardy

Additional Comments (Optional): _____

Re: Place Type Change 28031_0.2067 acres of Farm Lot 3 West of Main Street_606 Cedar Street

606 Cedar Street

Public hearing and consider action to deny the first reading of Ordinance 2019-71 of the City Council of the City of Bastrop, Texas, rezoning 0.2067 acres of Farm Lot 3 West of Main Street from P-3 Neighborhood, to P-4 Mix, located at 606 Cedar Street, within the city limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date.

BASTROPTX
Heart of the Lost Pines
Est. 1832

Request

Change from P-3 Neighborhood to P-4 Mix. This property is adjacent to Tracy's Drive-in Grocery and has been used as informal parking and has an accessory structure.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Location Map



BASTROPTX
Heart of the Lost Pines / Est. 1832

Staff Recommendation

Hold public hearing and consider action to approve the first reading of Ordinance 2019-71 of the City Council of the City of Bastrop, Texas, rezoning 0.2067 acres of Farm Lot 3 West of Main Street from P-3 Neighborhood, to P-4 Mix, located at 606 Cedar Street, within the city limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date; and move to include on the December 10, 2019 Consent Agenda for second reading.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Planning & Zoning Recommendation

At the regular meeting on November 21, 2019, the Commission motion to approve the request failed by a vote of 3 for and 4 against, thus denying the request.

City Council must have a minimum vote of **4 out of 5** to overrule the recommendation of denial and approve the request.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Questions?

BASTROPTX
Heart of the Lost Pines / Est. 1832

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM:** 9U

TITLE:
Conduct public hearing and consider action to approve the first reading of Ordinance No. 2019-72 of the City Council of the City of Bastrop, Texas, rezoning 0.214 acres of Building Block 1 West of Water Street from P-3 Neighborhood, to P-4 Mix, located at 701 Austin Street, within the city limits of Bastrop, Texas; as shown in Exhibit A; including a severability clause; and establishing an effective date; and move to include on the December 10, 2019 Consent Agenda for second reading.

STAFF REPRESENTATIVE:
Jennifer C. Bills, AICP, LEED AP, Assistant Planning Director

ITEM DETAILS:

Site Address:	701 Austin Street (Exhibit A)
Total Acreage:	0.214 acres
Legal Description:	0.214 acres of Building Block 1, West of Water Street
Property Owners:	Patsy Namken Trigg
Existing Use:	Residential
Existing Zoning:	P-3 - Residential (Previously Form-Based Code – Neighborhood) (Attachment 3)
Requested Zoning:	P-4 - Mix
Future Land Use:	Downtown Bastrop (Attachment 4)

BACKGROUND/HISTORY:
The property owner has requested to change the Place Type to P-4 to extend the business area further south along Main Street (Attachment 1). Main Street serves as a major thoroughfare and connection from State Highway 71 to the historic downtown. Allowing for single-family, multi-family, and commercial businesses in house form will allow for the transition from the neighborhood into the downtown.

PUBLIC COMMENTS:
Property owner notifications were sent to 14 adjacent property owners on November 5, 2019 (Attachment 2). At the time of this report, two responses have been received, one in favor and one opposed to the zoning request (Attachment 5).

POLICY EXPLANATION:

Texas Local Government Code

Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. (a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and

place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

Notice was published in the Bastrop Advertiser and notice was sent to property owners within 200 feet of the property boundary.

(b) In addition to the notice required by Subsection (a), a general-law municipality that does not have a zoning commission shall give notice of a proposed change in a zoning classification to each property owner who would be entitled to notice under Section 211.007(c) if the municipality had a zoning commission. That notice must be given in the same manner as required for notice to property owners under Section 211.007(c). The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given.

N/A. Bastrop is not a general-law municipality.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

Notice of the meeting was posted at least 72 hours in advance.

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots or land covered by the proposed change; or

(2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

(e) In computing the percentage of land area under Subsection (d), the area of streets and alleys shall be included.

At the time of this report, no protest has been received.

(f) The governing body by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the municipality's zoning commission that a proposed change to a regulation or boundary be denied.

If the Planning & Zoning Commission recommends denial of the zoning request, the City Council must have a minimum vote of 4 out of 5 members to approve the zoning request.

Compliance with 2036 Comprehensive Plan:

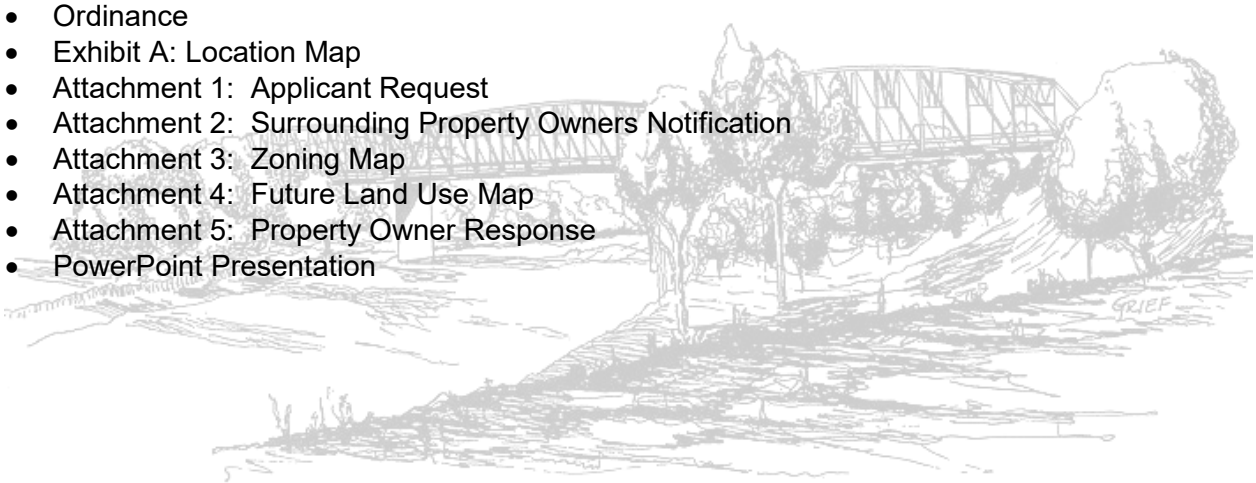
- Future Land Use Plan – Downtown Bastrop: The Downtown Bastrop character area allows for a wide range of residential, retail, entertainment, professional service, and institutional land uses. The character area's range of land uses may be mixed on individual parcels or developments sites, and within individual buildings. Building form and lot arrangement will support an urban character with structures framing the street. The scale of land uses, and transitions between them will compliment historic building form and intensity, but increased development intensity may be allowed on a case-by-case basis to encourage viable investment in center city Bastrop.

The request for P-4 Mix is appropriate in the Downtown Bastrop Land Use, as it will allow for a mix of uses for both the site and for the area. This property is located on the corner of Main Street and Austin Street. The land use allows for an increase of the intensity of use, while maintaining the house form of the P-4 district.

PLANNING & ZONING COMMISSION RECOMMENDATION:
At the November 21, 2019 meeting, the Planning & Zoning Commission voted 4 - 3 to approve the rezoning request.

RECOMMENDATION:
Conduct public hearing and consider action to approve the first reading of Ordinance No. 2019-72 of the City Council of the City of Bastrop, Texas, rezoning 0.214 acres of Building Block 1 West of Water Street from P-3 Neighborhood, to P-4 Mix, located at 701 Austin Street, within the city limits of Bastrop, Texas; as shown in Exhibit A; including a severability clause; and establishing an effective date; and move to include on the December 10, 2019 Consent Agenda for second reading.

ATTACHMENTS:
- Ordinance
- Exhibit A: Location Map
- Attachment 1: Applicant Request
- Attachment 2: Surrounding Property Owners Notification
- Attachment 3: Zoning Map
- Attachment 4: Future Land Use Map
- Attachment 5: Property Owner Response
- PowerPoint Presentation



ORDINANCE 2019-72

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, REZONING 0.214 ACRES OF BUILDING BLOCK 1 WEST OF WATER STREET FROM P-3 NEIGHBORHOOD, TO P-4 MIX, LOCATED AT 701 AUSTIN STREET, WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AS SHOWN IN EXHIBIT A, INCLUDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Patsy Namken Trigg (hereinafter referred to as "Property Owner") submitted a request to 0.214 acres of Building Block 1 West of Water Street, within the City limits of Bastrop, Texas, hereinafter referred to as "the Property"; and

WHEREAS, a location map is attached hereto as Exhibit "A" (the "Property); and

WHEREAS, the Property is currently zoned as P-3 Neighborhood; and

WHEREAS, the Property Owner is requesting to be rezoned to P-4 Mix; and

WHEREAS, the Future Land Use Designation for this Property is Downtown Bastrop character area which allows for a wide range of residential, retail, entertainment, professional service, and institutional land uses; and

WHEREAS, pursuant to Texas Local Government Code Section 211, notice of the rezoning was given to all property owners located within two hundred (200) feet of the Property, and the Planning and Zoning Commission of the City of Bastrop held a public hearing on the rezoning request on November 21, 2019; and

WHEREAS, after notice and hearing, the Planning and Zoning Commission has recommended approval of the proposed request by a unanimous vote; and

WHEREAS, the City Council of the City of Bastrop held a public hearing on November 26, 2019 to consider the Property Owner's request; and

WHEREAS, after consideration of public input received at the hearing, the information provided by the Applicants, and all other information presented, City Council finds that it is in the public interest to approve the rezoning.

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

Section 1: The Property, situated on 0.214 acres of Building Block 1 West of Water Street, located at 701 Austin Street, in the city limits of Bastrop, Texas as more particularly shown on attachment Exhibit A is rezoned to P-4 Mix.

Section 2: 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 ACKNOWLEDGED on First Reading on the 26th day of November 2019.

READ and APPROVED on the Second Reading on the 10th day of December 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A
Location Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 15 30 60
Feet

701 Austin Street
Rezone Request

1 inch = 50 feet

N

Date: 11/12/2019

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

BUILDING BASTROP

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Heart of the Lost Pines / Est. 1832

Individual Property Owner Place Type Change Request

Proposed Place Type Zoning (from the notice): P3

Requested Place Type Zoning: P4

Reason for Requested Place Type / Why I would like to change my zoning:

Both sides of Main Street are P4 or P5 all the way from College Street to the North except my property and 2 others on Main Street. I would like for you to consider making these properties P4 rather than P3. These 3 properties are a logical extension of the business zone.

Property Owner Name: Patsy Nanken Trigg

Property Address/Parcel ID: 701 Austin street 37846

Property Owner's Signature: Patsy Nanken Trigg

Staff Use Only

RECEIVED
SEP 23 2019
By

Reviewed By:

Staff Comments:

Staff Recommendation: ☐ Approve ☐ Deny

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing 0.214 acres of Building Block 1 West of Water Street located at 701 Austin Street, from the existing Form-Based Code - Neighborhood District (which is being rezoned to P-3 Neighborhood with the B³ Code rezoning) to P-4 Mix, within the City Limits of Bastrop, Texas.

Property Address:	701 Austin Street
Property ID/Parcel Number:	32846
Current Zoning:	Form-Based Code - Neighborhood
Proposed B³ Code Zoning (Place Type):	P-3 Neighborhood
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: _____

Property Address: _____

Mailing Address (if different than property address): _____

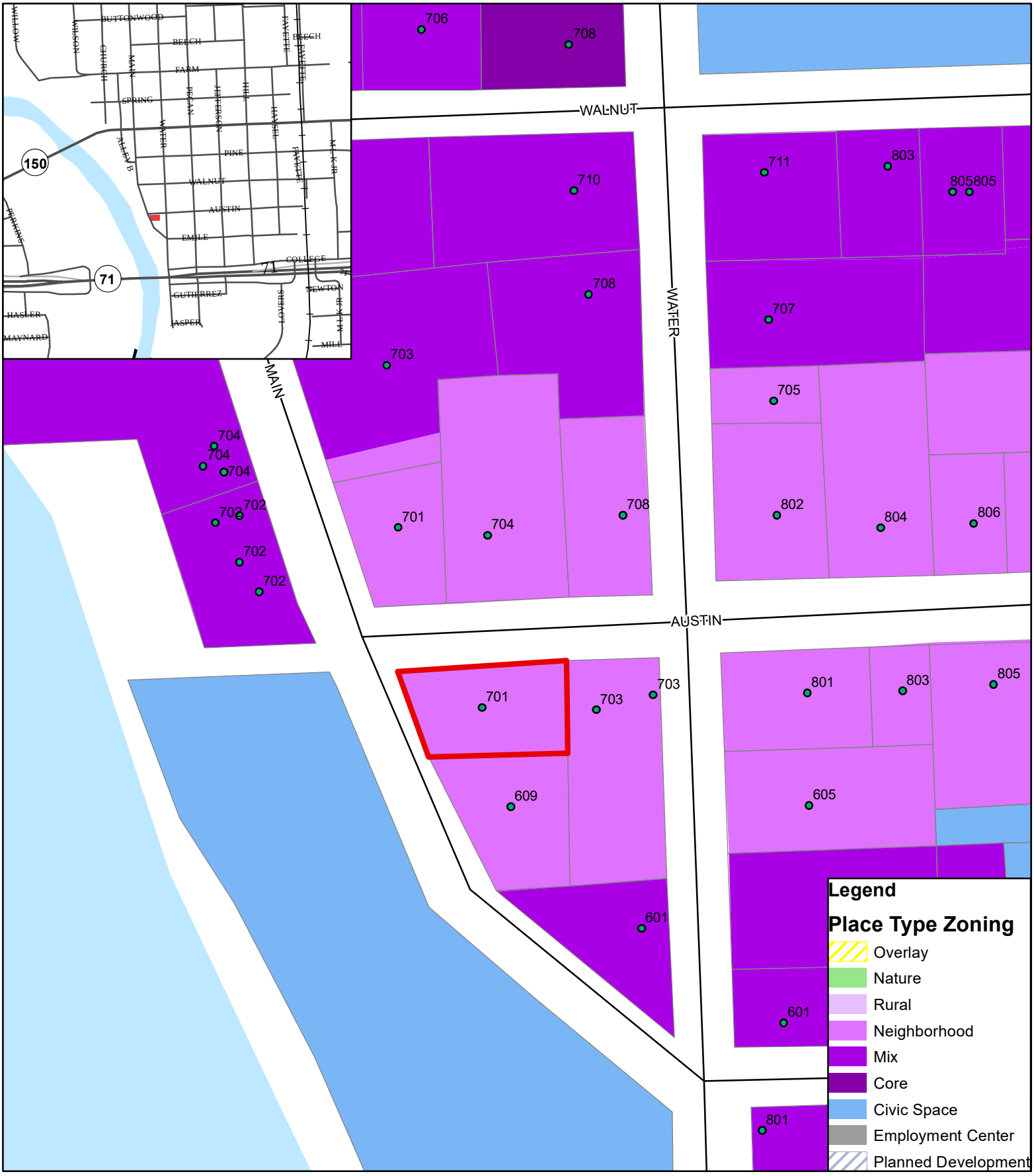
Phone (optional): _____ Email (optional): _____

Property Owner's Signature: _____

Additional Comments (Optional): _____

_____

Re: Place Type Change 32846_0.214 acres of Building Block 1, West of Water Street _701 Austin



BASTROPTX
Heart of the Lost Pines
Est. 1832

1 inch = 100 feet

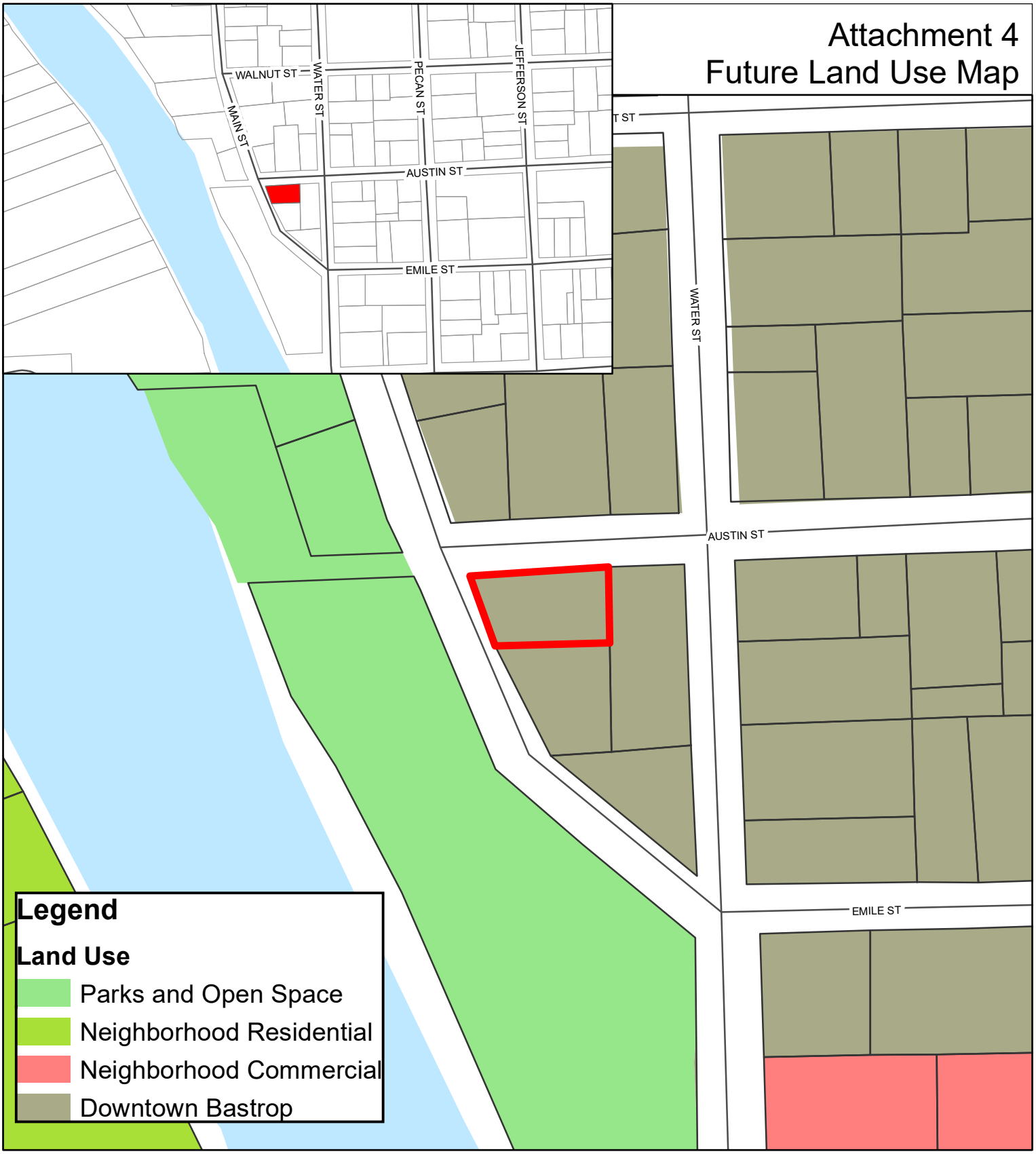
Attachment 3
Place Type Zoning Map
Zoning Change 701
Austin St

N

Date: 11/1/2019

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

Attachment 4
Future Land Use Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 40 80 160
Feet

701 Austin Street
Rezone Request

1 inch = 125 feet

N

Date: 11/13/2019

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

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☑ WE ~~I am~~ ARE in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: MINA MASONIC LODGE No. 1456

Property Address: 601 MAIN ST.

Mailing Address (if different than property address): _____

Phone (optional): 512 303-0191 Email (optional): MINA1456@GVEC.NET

Property Owner's Signature: D. Wheeler, Secretary

Additional Comments (Optional): NONE

Re: Place Type Change 32846_0.214 acres of Building Block 1, West of Water Street _701 Austin

RECEIVED
NOV 18 2019
By

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☒ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: Amy Wadum

Property Address: 605 Water St

Mailing Address (if different than property address): _____

Phone (optional): _____ Email (optional): _____

Property Owner's Signature: Amy L Wadum

Additional Comments (Optional): _____

Re: Place Type Change 32846_0.214 acres of Building Block 1, West of Water Street_701 Austin

RECEIVED
NOV 18 2019
By _____

PLANNING & DEVELOPMENT
1311 Chestnut Street – PO Box 427 – Bastrop, Texas 78602 – 512.332.8840
www.cityofbastrop.org

701 Austin Street

Public hearing and consider action to approve the first reading of Ordinance 2019-72 of the City Council of the City of Bastrop, Texas, rezoning 0.214 acres of Building Block 1 West of Water Street from P-3 Neighborhood, to P-4 Mix, located at 701 Austin Street, within the city limits of Bastrop, Texas; as shown in Exhibit A; including a severability clause; and establishing an effective date; and move to include on the December 10, 2019 Consent Agenda for second reading.

BASTROPTX
Heart of the Lost Pines
Est. 1832

Request

Change zoning from P-3 Neighborhood to P-4 Mix to allow flexibility in uses along Main Street.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Location Map



BASTROPTX
Heart of the Lost Pines / Est. 1832

Staff Recommendation

Hold public hearing and consider action to approve the first reading of Ordinance 2019-72 of the City Council of the City of Bastrop, Texas, rezoning 0.214 acres of Building Block 1 West of Water Street from P-3 Neighborhood, to P-4 Mix, located at 701 Austin Street, within the city limits of Bastrop, Texas; as shown in Exhibit A; including a severability clause; and establishing an effective date; and move to include on the December 10, 2019 Consent Agenda for second reading.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Planning & Zoning Recommendation

At the regular meeting on November 21, 2019, the Commission voted 4 – 3 to approve the rezoning request.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Questions?

BASTROPTX
Heart of the Lost Pines / Est. 1832

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9V

TITLE:
Consider action to approve Resolution No. R-2019-127 of the City Council of the City of Bastrop, Texas supporting the completion of Agnes Street for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects; authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

STAFF REPRESENTATIVE:
Tony Buonodono, City Engineer
Trey Job, Assistant City Manager of Development Services
Lynda Humble, City Manager

BACKGROUND/HISTORY:
The City of Bastrop, Bastrop County and TxDOT gathered for a meeting in early November to discuss submitting projects for the Capital Area Metropolitan Regional Planning Organization (CAMPO) Regional Transportation plan. As a result of the meeting, three (3) projects were deemed priorities to the City of Bastrop, which are:

1. Extension of Blakey Lane to Jessica Place, (Agenda Item 9J),
2. Repairing the Old Iron Bridge (Agenda Item 9O),
3. **Extension of Agnes Street (Agenda Item 9V).**



In addition to the identifying City priorities, TxDOT has requested that the City co-sponsor two (2) state roads, where a portion of the roadway is in the City of Bastrop. Those two (2) state roads are State Highway 95 and Farm-to-Market 969. Resolutions supporting these projects as co-sponsors are included on the November 26th agenda as Item 9K and 9L, respectively.

Bastrop County has requested a letter of support for one of their projects (Item 9M), which also includes a segment in the City of Bastrop. This project perimeters are:

- Construction of a new bridge across the Colorado River connecting SH 304/Shiloh Rd. to S.H.71 through Tahitian Village connecting with Margie's Way with an additional segment within the City of Bastrop at Lover's Lane connecting to SH 71.

POLICY EXPLANATION:
This resolution, if passed, continues the policy previously set by City Council to assist other local governmental entities with projects that are mutually beneficial.

FUNDING SOURCE:
Funding for these projects has not been identified. Although no specific funding sources for these projects have been secured at this time, going forward the City of Bastrop will work with our state, federal, local and regional partners to finance these much needed improvements to our transportation system.

RECOMMENDATION:
Consider action to approve Resolution No. R-2019-127 of the City Council of the City of Bastrop, Texas supporting the completion of Agnes Street for inclusion in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects; authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

ATTACHMENTS:
- Resolution

RESOLUTION NO. R-2019-127

A RESOLUTION OF THE CITY COUNCIL OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS SUPPORTING THE COMPLETION OF AGNES STREET FOR INCLUSION IN CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION (CAMPO) REGIONAL TRANSPORTATION PLAN 2045 CALL FOR PROJECTS; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council understands that participation in Capital Area Metropolitan Planning Organization (CAMPO) Regional Transportation Plan 2045 Call for Projects can result in future funding and a chance to participate in regional transportation; and

WHEREAS, the City of Bastrop has identified certain streets shown in the City of Bastrop Master Transportation Plan Map located within the City of Bastrop, Texas; and

WHEREAS, the City Council understands transportation projects to be important as it pertains to life safety of its citizens and the traveling public during times of disaster; and

WHEREAS, the City Council understands the projects to be important to quality of life of its citizens; and

WHEREAS, the City Council understands that well planned transportation projects provide an economic benefit to the City of Bastrop; and

WHEREAS, the City Council of the City of Bastrop wishes to be a good regional partner to neighboring governmental entities.

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

Section 1. The City of Bastrop City Council hereby supports the submission of the projects to CAMPO for inclusion into 2045 the regional transportation plan.

Section 2. The City Manager is authorized to execute a letter submitting the Blakey Lane extension to Jessica Place as a priority project along with all necessary documents needed to meet all program criteria.

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 26th day of November, 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM:** 9W

TITLE:
Public hearing and consider action to approve the first reading of Ordinance 2019-63 of the City Council of the City of Bastrop, Texas, rezoning Farms End Estates Lot 3 from P-5, Core, to P-4, Mix, located at 1706 Farm Street, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

STAFF REPRESENTATIVE:
Allison Land, Planner and GIS Coordinator

ITEM DETAILS:

Site Address:	1706 Farm Street (Exhibit A)
Total Acreage:	0.4 acres
Legal Description:	Farms End Estates Lot 3
Property Owners:	Ronald H Jr and Carole Reynolds
Existing Use:	Vacant
Existing Zoning:	P-5 Core (Formerly Form-Based Code – Commercial Mixed Use) (Attachment 3)
Requested Zoning:	P-4 Mix
Future Land Use:	Rural Residential (Attachment 4)

BACKGROUND/HISTORY:
The property owners are building a duplex on Lot 3. Duplexes were allowed in the Form-Based Code – Commercial Mixed Use zoning district but are not an allowed building type in P-5 Core. P-4 Mix does allow for the duplex building type. The requested change in zoning would allow the duplex under construction to remain a conforming structure under the new Bastrop Building Block Code.

PUBLIC COMMENTS:
Property owner notifications were sent to 6 adjacent property owners on November 5, 2019 (Attachment 2). At the time of this report, no responses have been received.

POLICY EXPLANATION:
Texas Local Government Code

Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. (a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

Notice was published in the Bastrop Advertiser and notice was sent to property owners within 200 feet of the property boundary.

(b) In addition to the notice required by Subsection (a), a general-law municipality that does not have a zoning commission shall give notice of a proposed change in a zoning classification to each property owner who would be entitled to notice under Section 211.007(c) if the municipality had a zoning commission. That notice must be given in the same manner as required for notice to property owners under Section 211.007(c). The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given.

N/A. Bastrop is not a general-law municipality.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

Notice of the meeting was posted at least 72 hours in advance.

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots or land covered by the proposed change; or

(2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

(e) In computing the percentage of land area under Subsection (d), the area of streets and alleys shall be included.

At the time of this report, no protest has been received.

(f) The governing body by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the municipality's zoning commission that a proposed change to a regulation or boundary be denied.

If the Planning & Zoning Commission recommends denial of the zoning request, the City Council must have a minimum vote of 4 out of 5 members to approve the zoning request.

Compliance with 2036 Comprehensive Plan:

- Future Land Use Plan – Rural Residential: The Rural Residential character area is for lands that are, and will continue to be, sparsely populated and largely undeveloped. Primarily found on the City's periphery, this area is characterized by large lot single-family residences, as well as agriculture, ranching, silviculture, and natural landscape. Unlike the Parks and Open Space character area, Rural Residential areas which retain a pastoral setting have not always been set aside for conservation or public use, but may eventually be subject to subdivision, and/or conversion to agricultural or other similar uses.

The request for P-4 Mix is appropriate since it is less intense than the current P-5 Core designation, will allow for the planned residential duplex use, and blend with the character of the existing development in the area. This property is in a residential area near the northeast corner

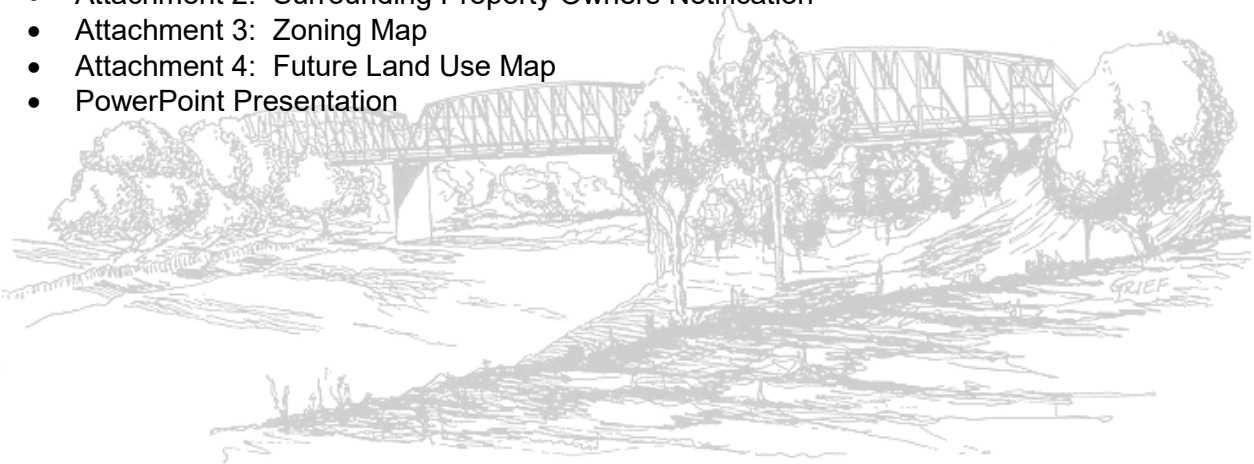
of State Highway 95 and State Highway 21. The zoning allows for a transition between the residential houses and the potential commercial corridor along the highway perimeter.

PLANNING & ZONING COMMISSION RECOMMENDATION:
At the November 21, 2019 meeting, the Planning & Zoning Commission unanimously voted to approve the rezoning request.

RECOMMENDATION:
Hold public hearing and consider action to approve the first reading of Ordinance 2019-63 of the City Council of the City of Bastrop, Texas, rezoning Farms End Estates Lot 3 from P-5, Core, to P-4, Mix, located at 1706 Farm Street, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

ATTACHMENTS:

- Ordinance
- Exhibit A: Location Map
- Attachment 1: Applicant Request
- Attachment 2: Surrounding Property Owners Notification
- Attachment 3: Zoning Map
- Attachment 4: Future Land Use Map
- PowerPoint Presentation



ORDINANCE 2019-63

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, REZONING FARMS END ESTATES LOT 3 FROM P-5, CORE, TO P-4, MIX, LOCATED 1706 FARM STREET, WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AS SHOWN IN EXHIBIT A, INCLUDING A SEVERABLILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Ronald and Carole Reynolds (hereinafter referred to as "Property Owner") submitted a request to rezone Farms End Estates, Lot 3, within the City limits of Bastrop, Texas, hereinafter referred to as "the Property"; and

WHEREAS, a location map is attached hereto as Exhibit "A" (the "Property); and

WHEREAS, the Property is currently zoned as P-5, Core; and

WHEREAS, the Future Land Use Designation for this Property is Rural Residential, which allows low-density residential and agricultural uses; and

WHEREAS, pursuant to Texas Local Government Code Section 211, notice of the rezoning was given to all property owners located within two hundred (200) feet of the Property, and the Planning and Zoning Commission of the City of Bastrop held a public hearing on the rezoning request on November 21, 2019; and

WHEREAS, after notice and hearing, the Planning and Zoning Commission has recommended approval of the proposed request by a unanimous vote; and

WHEREAS, the City Council of the City of Bastrop held a public hearing on November 26, 2019 to consider the Property Owner's request; and

WHEREAS, after consideration of public input received at the hearing, the information provided by the Applicants, and all other information presented, City Council finds that it is in the public interest to approve the rezoning.

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

Section 1: The Property, situated on Farms End Estates, Lot 3, located 1706 Farm Street, in the city limits of Bastrop, Texas as more particularly shown and Exhibit A is rezoned to P-4 Mix.

Section 2: 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 ACKNOWLEDGED on First Reading on the 26th day of November 2019.

READ and APPROVED on the Second Reading on the 10th day of December 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

Exhibit A
Location Map



Farms End Estates, Lot 3
Rezone Request

Date: 11/12/2019

0 25 50 100
Feet

1 inch = 83 feet

N

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

BUILDING BASTROP

BASTROPTX
Heart of the Lost Pines / Est. 1832

Individual Property Owner Place Type Change Request

Proposed Place Type Zoning (from the notice): P5

Requested Place Type Zoning: P4

Reason for Requested Place Type / Why I would like to change my zoning:

- We are currently permitted and in the process of building a duplex on the lot. ~~which~~ P5 would make our structure non-conforming before its complete.
- Our other surrounding lots are P4 and
- this is not highway-facing.

Property Owner Name: Ronald and Carole Reynolds

Property Address/Parcel ID: 1706 Farm St.

Property Owner's Signature: Ronald A Reynolds Carole Reynolds

Staff Use Only

Reviewed By:

Staff Comments:

Staff Recommendation: ☐ Approve ☐ Deny

Notice of Pending Zoning Change
City of Bastrop
Planning & Zoning Commission
And City Council

The **Planning and Zoning Commission** will conduct a public hearing on **Thursday, November 21, 2019 at 6:00 p.m.** and the **City Council** will conduct a public hearing (first reading) **Tuesday, November 26, 2019 at 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** on changing the Farms End Estates, Lot 3, from the existing Form-Based Code - Commercial Mixed Use district (which is being rezoned to P-5 Core with the B³ Code rezoning) to P-4 Mix, within the City Limits of Bastrop, Texas.

Property Address:	1706 Farm Street
Property ID/Parcel Number:	32810
Current Zoning:	Form-Based Code - Commercial Mixed Use
Proposed B³ Code Zoning (Place Type):	P-5 Core
Requested Zoning (Place Type):	P-4 Mix

You are receiving this notice as a property owner within 200 feet of the subject property, in accordance with Texas Local Government Code Chapter 211. Attached is a site location map for reference.

Additional information on the Bastrop Building Block Code Place Types and a zoning/place type map are available at this website: https://www.cityofbastrop.org/page/buildingbastrop

You may also contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602.

✂ ----------

PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- ☐ I am in favor of the change.
- ☐ I am opposed to the change.
- ☐ I have no objection to the change.

Property Owner Name: _____

Property Address: _____

Mailing Address (if different than property address): _____

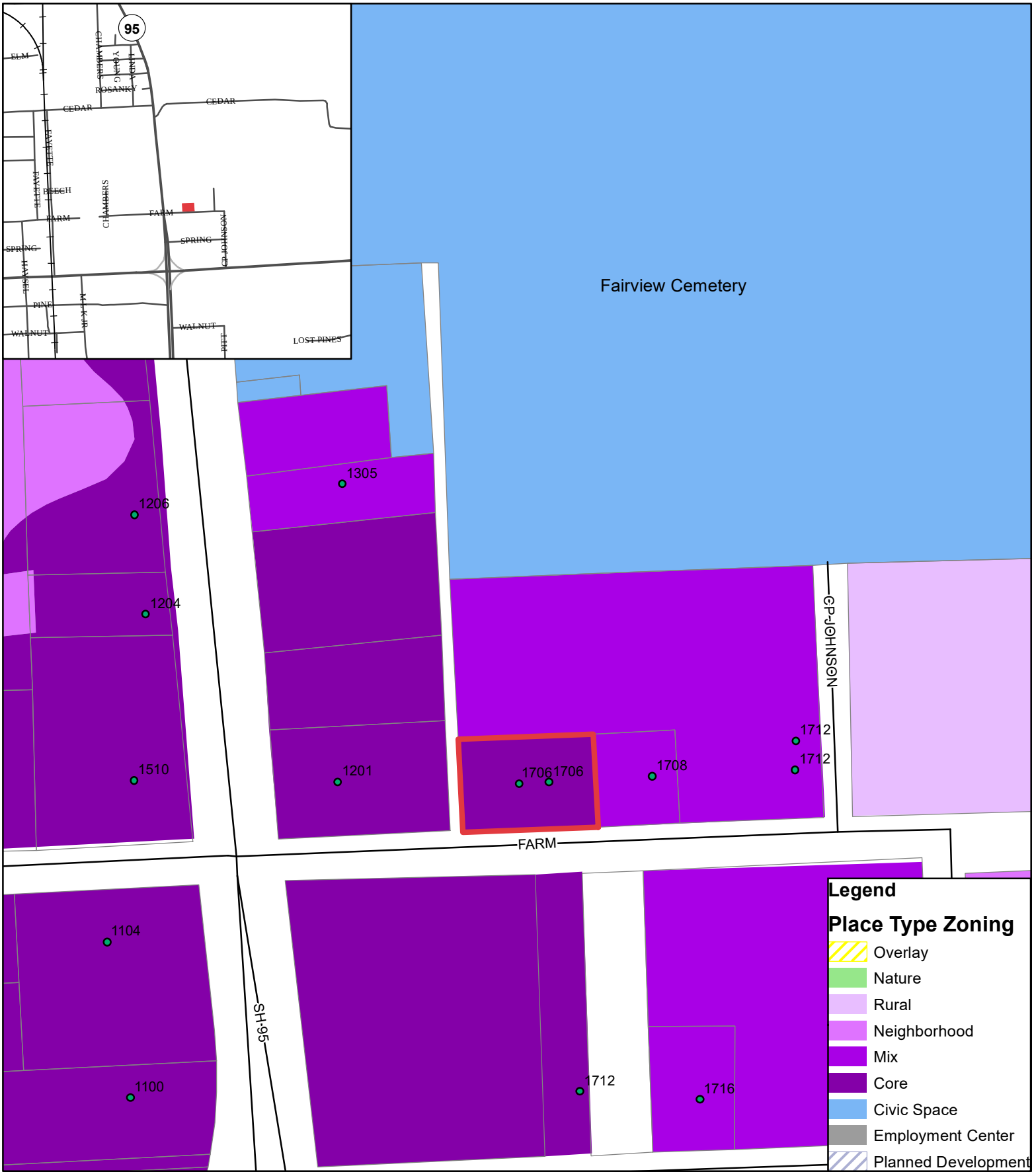
Phone (optional): _____ Email (optional): _____

Property Owner's Signature: _____

Additional Comments (Optional): _____

_____

Re: Place Type Change 32810_Farms End Estates, Lot 3_1706 Farm Street



BASTROPTX
Heart of the Lost Pines
Est. 1832

1 inch = 150 feet

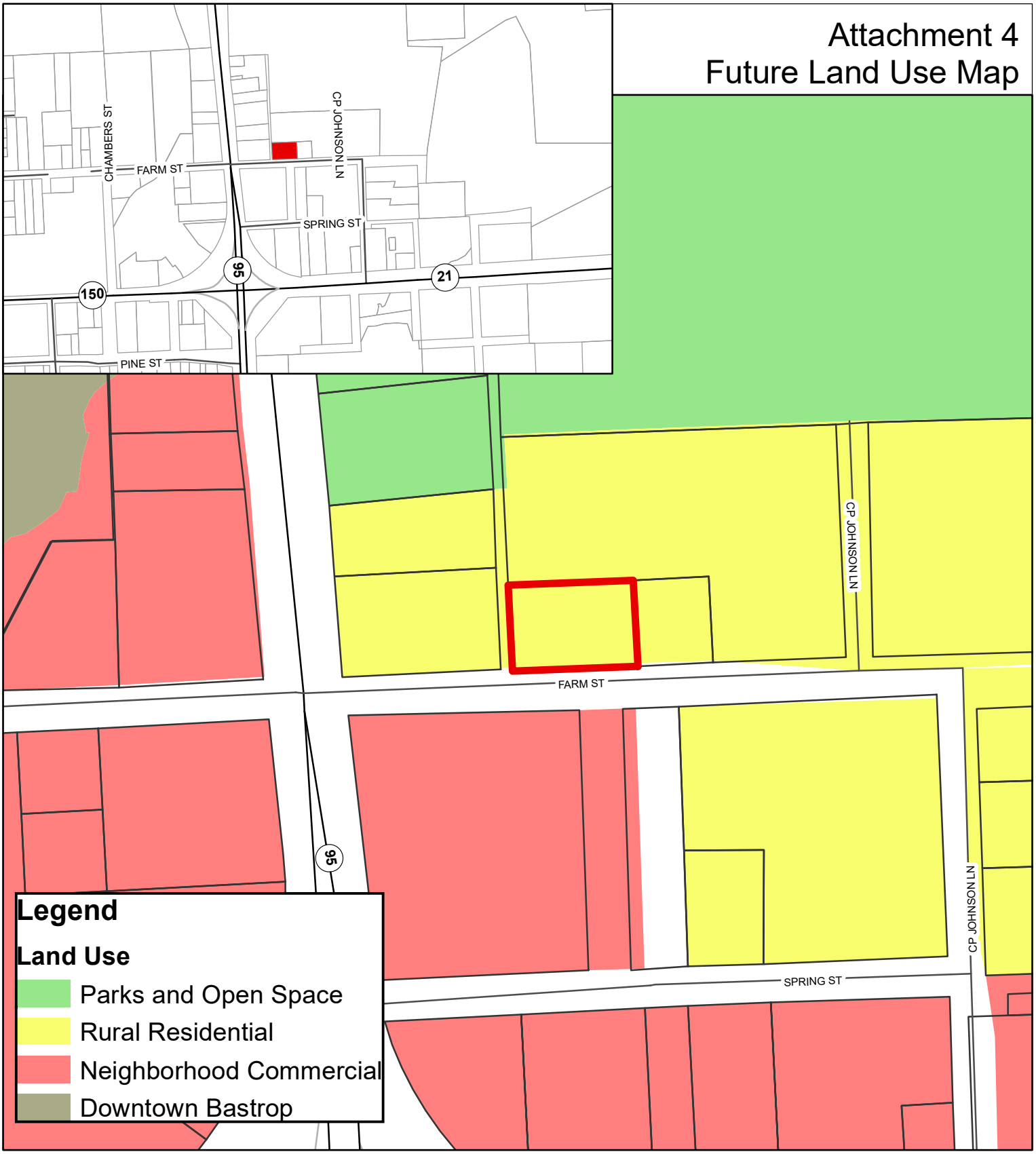
Location Map
Zoning Change
1706 Farm St

Date: 11/1/2019

N

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

Attachment 4
Future Land Use Map



BASTROPTX
Heart of the Lost Pines
Est. 1832

0 55 110 220
Feet

1706 Farm Street
Rezone Request

1 inch = 167 feet

N

Date: 11/13/2019

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

1706 Farm Street

Public hearing and consider action to approve the first reading of Ordinance No. 2019-63 of the City Council of the City of Bastrop, Texas, rezoning Farms End Estates Lot 3 from P-5, Core, to P-4, Mix, located at 1706 Farm Street, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

BASTROPTX
Heart of the Lost Pines
Est. 1832

Request

Change zoning from P-5 Core to P-4 Mix so that the duplex under construction does not turn into a legal non-conforming use. Duplexes are not an allowed building type in P-5 Core.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Location Map



BASTROPTX
Heart of the Lost Pines / Est. 1832

Staff Recommendation

Conduct public hearing and consider action to approve the first reading of Ordinance No. 2019-63 of the City Council of the City of Bastrop, Texas, rezoning Farms End Estates Lot 3 from P-5, Core, to P-4, Mix, located at 1706 Farm Street, within the City Limits of Bastrop, Texas; as shown in Exhibit A, including a severability clause; and establishing an effective date, and move to include on the December 10, 2019 Consent Agenda for second reading.

BASTROPTX
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Planning & Zoning Recommendation

At the regular meeting on November 21, 2019, the Commission voted unanimously to approve the rezoning request.

BASTROPTX
Heart of the Lost Pines / Est. 1832

Questions?

BASTROPTX
Heart of the Lost Pines / Est. 1832

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 9X

TITLE:
Consider action to approve Resolution No. R-2019-124 of the City Council of the City of Bastrop, Texas confirming a board appointment of the Mayor, as required in Section 3.08 of the City's Charter, and establishing an effective date.

STAFF REPRESENTATIVE:
Lynda K. Humble, City Manager

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

POLICY EXPLANATION:
Mayor Connie Schroeder has appointed Ed Skarnulis to the Bastrop Planning & Zoning Commission. The approval of this Resolution will provide confirmation of this appointment by Council as required by the Charter.

FUNDING SOURCE:
N/A

RECOMMENDATION:
Consider action to approve Resolution No. R-2019-124 of the City Council of the City of Bastrop, Texas confirming a board appointment of the Mayor, as required in Section 3.08 of the City's Charter, and establishing an effective date.

ATTACHMENTS:

- Resolution

RESOLUTION NO. R-2019-124

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS CONFIRMING A BOARD AND COMMISSION APPOINTMENT OF THE MAYOR, AS REQUIRED IN SECTION 3.08 OF THE CITY'S CHARTER; AND ESTABLISHING AN EFFECTIVE DATE.

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

WHEREAS, Mayor Connie Schroeder has appointed Ed Skarnulis to the Bastrop Planning & Zoning Commission; and

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

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

Section 1: That Mayor Connie Schroeder has appointed Ed Skarnulis to the Bastrop Planning & Zoning Commission.

Section 2: That the City Council of the City of Bastrop confirms Mayor Schroeder's appointment of Ed Skarnulis to the Bastrop Planning & Zoning Commission.

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

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 26th day of November, 2019.

APPROVED:

_____
Connie B. Schroeder, Mayor

ATTEST:

_____
Ann Franklin, City Secretary

APPROVED AS TO FORM:

_____
Alan Bojorquez, City Attorney

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 10A

TITLE:
City Council shall convene into closed executive session pursuant to Section 551.072 of the Texas Government Code to deliberate the acquisition of outstanding easements on Main Street.

STAFF REPRESENTATIVE:
Lynda Humble, City Manager

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 10B

TITLE:
City Council shall convene into closed executive session pursuant to Section 551.074 to conduct an annual performance evaluation of the City Manager as required by her employment agreement.

STAFF REPRESENTATIVE:
Lynda K. Humble, City Manager

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 10C

TITLE:
City Council shall convene into closed executive session pursuant to Section 551.072 of the Texas Government Code to deliberate the acquisition of property located on MLK Drive.

STAFF REPRESENTATIVE:
Lynda Humble, City Manager

STAFF REPORT

MEETING DATE: November 26, 2019 **AGENDA ITEM**: 11

TITLE:
Take any necessary or appropriate action on matters posted for consideration in closed/executive session

STAFF REPRESENTATIVE:
Lynda Humble, City Manager