

STANDARDIZED AGENDA RECOMMENDATION FORM

CITY COUNCIL

DATE SUBMITTED: October 21, 2015

MEETING DATE: October 27, 2015

1. Agenda Item: **Consideration, discussion and possible action regarding the approval of minutes from the regular meeting of October 13, 2015.**
2. Party Making Request: **City Secretary, Ann Franklin**
3. Nature of Request: (Brief Overview) Attachments: Yes ☒ No ☐

This is to receive approval of accuracy from Council for the minutes recorded during the October 13, 2015 Council Meeting.

4. Policy Implication:
5. Budgeted: _____ Yes _____ No _____ N/A
Bid Amount: _____ Budgeted Amount: _____
Under Budget: _____ Over Budget: _____
Amount Remaining: _____

6. Alternate Option/Costs:

- | 7. Routing: | <u>NAME/TITLE</u> | <u>INITIAL</u> | <u>DATE</u> | <u>CONCURRENCE</u> |
|-------------|-------------------|----------------|-------------|--------------------|
| a) | | | | |
| b) | | | | |
| c) | | | | |

8. Staff Recommendation: Approval

9. Advisory Board: Approved Disapproved None

- | | | | |
|-------------------------------|----------|-------------|------|
| 10. Manager's Recommendation: | Approved | Disapproved | None |
|-------------------------------|----------|-------------|------|

11. Action Taken: _____

**MINUTES OF REGULAR COUNCIL MEETING
BASTROP CITY COUNCIL
OCTOBER 13, 2015**

The Bastrop City Council met in a Regular Meeting on Tuesday, October 13, 2015 at 6:30 PM at the Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present were Mayor Ken Kesselus, Council Members, Kelly Gilleland, Willie DeLaRosa, Kay Garcia McAnally, and Gary Schiff. Dock Jackson was absent due to illness.

Chief Adcock gave an update on the status of the fire. The City Manager approved the use of the Bastrop arena for the city of Smithville to store livestock. Trey Job brought water in to the arena for the livestock.

CALL TO ORDER

At 6:40 p.m. Mayor Kesselus called the Meeting to order with a Quorum being present.

PLEDGE OF ALLEGIANCE

Mayor Kesselus led the Pledge of Allegiance and the Pledge to the Texas Flag.

INVOCATION

Council Member Schiff gave the Invocation.

PRESENTATIONS

A. Colin Guerra – My Bastrop Tx Mobile App

Colin demonstrated the new Bastrop app which will allow community members to submit requests for service and the requests will be visible to anyone that has the app loaded onto their phone. The citizens will be able to watch the progress of the requests. The app has the ability to push out notifications. There is the capability to put a crawler across any show for BTXN.

PROCLAMATIONS

A. Texas Chamber of Commerce Week

The proclamation was read by Mayor Kesselus. Becki Womble, President of the Bastrop Chamber of Commerce accepted the proclamation.

CITIZEN COMMENTS

Steve Bridges – Mr. Bridges asked the Council to give attention to the Farmers Market. He is concerned with farmers not being allowed to participate as vendors.

Nancy Wood – Ms. Wood is interested in an opportunity to use the Farmers Market to grow the culinary district.

Debbie Moore – Ms. Moore stated that she does not believe the vision is there to grow the Farmers Market. She would like to see Main Street, the Culinary District and the Farmer's Market come together as a group with ideas to grow the market and she wants to keep Bastrop green and bring fresh produce to downtown Bastrop and the Culinary District and would like to help with getting it going.

ANNOUNCEMENTS

A. Update on Comprehensive Plan Steering Committee - Kay Garcia McAnally and Dock Jackson

- There was a written report from Council Member Jackson. This report was posted on the City website.

B. Council Member Schiff -

- Announced on October 24, 2015 at 7:30 p.m. Doyle Dikes will perform at the Bastrop Christian Outreach Center. There is no admission charge but donations are welcome.

C. Council Member Gilleland –

- Announced the kick off of the City of Bastrop's "Team Up To Clean Up" this year rather than doing a cleanup of the roadway a recycling challenge is being done to bring more awareness to the recycling community. There are cash prizes and so far there are twelve teams signed up. The deadline to sign up is Saturday, October 17, 2015 at 9:00 a.m. There are two schools participating this year. The event kicks off on Saturday, October 17, 2015 at City Hall at which time the rules will be reviewed. Metal Recycling Week will be Monday, October 19, 2015 – Sunday, October 25, 2015; Paper Recycling Week will be Monday, October 26, 2015 – Sunday, November 1, 2015; and Plastic Recycling Week will be Monday, November 2, 2015 – Saturday, November 7, 2015.

EXECUTIVE SESSION: *The Council reserves the right to convene into Executive Session at any time during the meeting regarding any agenda item. In compliance with the Open Meetings Act, Ch. 551 Govt. Code, Vernon's TX Code, Annotated, the item below will be discussed in closed session.* 1. SECTION 551.071 – Consultations with Attorney related to legal matters

A. CONSENT AGENDA

All of the following items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member so requests.

- A.1 **Consideration, discussion and possible action regarding approval of minutes from Regular Council Meeting of September 22, 2015.**
- A.2 **Consideration, discussion and possible action regarding the second reading of an ordinance of the City Council of The City of Bastrop, Texas, amending Sections 1.15.001 And 1.15.031; "Ethics Ordinance" in the code of ordinances of the City Of Bastrop; providing a severability clause; and providing an effective date.**
- A.3 **Approval of the statutory denial, for a period of 180 days from the date of Council action on a request for the Home Place Subdivision being a +/- 5.098 acre tract, north of Lovers Lane, within the City of Bastrop's 1 mile Extra Territorial Jurisdiction (ETJ).**

- A.4 **Approval of the statutory denial, for a period of 180 days from the date of Council action on a request for the Amended Plat of Lots 2-731, 2-732 and 2-733 Block 7, Tahitian Village Unit 2, within the City of Bastrop's Extra Territorial Jurisdiction (ETJ).**
- A.5 **Approval of the statutory denial, for a period of 180 days from the date of Council action on a request for the Final Plat of West Bastrop Village, Section 1, Phase 1 being +/-10.970 acres out of the Nancy Blakey, Abstract No. 98 within the City of Bastrop's 1 mile Extra Territorial Jurisdiction (ETJ).**
- A.6 **Approval of the statutory denial, for a period of 180 days from the date of Council action on a request for the Final Plat of West Bastrop Village, Section 1, Phase 2 being +/-7.117 acres out of the Nancy Blakey, Abstract No. 98 within the City of Bastrop's 1 mile Extra Territorial Jurisdiction (ETJ).**
- A.7 **Approval of Bastrop Marketing Corporation's request for reimbursement of funds for August 2015 in accordance with the agreement to be spent on advertising and marketing the City of Bastrop area.**

Council Member Schiff made the motion to approve the Consent Agenda, seconded by Council Member Gilleland. The Consent Agenda was approved on a vote of 4-0. Council Member Jackson was absent.

B. PUBLIC HEARINGS, ORDINANCES, & OTHER ITEMS ELIGIBLE FOR CONSIDERATION AND/OR ACTION

- B.1 **First reading of a proposed ordinance of the City Council of the City of Bastrop Texas, amending the budget for the Fiscal Year 2015 in accordance with existing statutory requirements; appropriating the various amounts herein; repealing all prior ordinances and actions in conflict herewith; and providing for an effective date.**

Council Member Gilleland made a motion to approve the first reading of the ordinance, seconded by Mayor Pro Tem DeLaRosa. The motion was approved on a vote of 4-0. Council Member Jackson was absent.

C. OLD BUSINESS - NONE

D. NEW BUSINESS

- D.1 **Consideration, discussion and possible action regarding a request by the Bastrop Chamber Of Commerce that the City Council approve a revised HOT funding grant for the Chamber for FY-16 as submitted by the Bastrop Chamber of Commerce requesting that the funding amount approved by the City Council for FY-16: be reduced for FY-16.**

Becki Womble, President of the Bastrop Chamber of Commerce explained that the Chamber has set very high goals for next year and would like to focus more on activities for the Chamber. The Chamber would like to reduce the request for the coming year and basically function as a visitors center through December 31, 2015 and ask for funding just for that quarter and make the transition from the City as well as the State. Want to make the transition to becoming a single Visitor's Center Community and help with the proceeding of moving towards a DMO. The amount being asked for regarding the Patriotic Festival has been increased and also to help facilitate the Chambers tithing in helping to take care of the Chambers obligations to the River of Lights.

Council Member McAnally asked Ms. Womble if the Chamber was planning to do anything for the Patriotic Festival that was not done before. Ms. Womble replied no it is the same. Ms. Womble stated that she does expect the cost to go up but what she has presented to council is the approximate cost from last year. Council Member McAnally asked if the HOT funds have paid for all of the Patriotic Festival in the past. Ms. Womble answered no. Council Member McAnally asked “why are we doing this now”. Ms. Womble stated “we probably will look at trying to find someone to take over the Patriotic Festival, the contract for fireworks have to be signed in the November timeframe and the Chamber does not feel like this is adequate time to find someone to take over this event but the Chamber will probably not be doing this in the future.” Council Member Gilleland asked Ms. Womble if the Chamber was asking for \$6,000 more than was asked for in the first round. Ms. Womble responded yes. Ms. Gilleland asked where it was going. Ms. Womble explained that last year there were sponsorships to offset the complete cost of the Patriotic Festival and this year there will need to be some sponsorship with the increase of the cost of fireworks and because there job is to advocate for the community the Chamber would not like to have to go out and solicit sponsorship for the entire cost of the event. City Manager Talbot explained that the point Ms. Womble is trying to make is that the Chamber of Commerce is vastly reducing the amount that they are receiving and returning \$17,000 to the City and shifting around a few of the dollars to offset the cost of the Patriotic Festival, the City is coming out a net of \$17,000 once the Council approves the funding.

Council Member Schiff made the motion to approve the revised budget as submitted, seconded by Council Member Gilleland. The motion was approved on a vote of 4-0. Council Member Jackson was absent.

D.2 Consideration, discussion and possible action regarding approval of a resolution of the City of Bastrop nomination of an individual to serve on the Bastrop County Appraisal District’s Board of Directors.

Council Member McAnally expressed her concerns regarding the lack of information on the candidates and due to the lack of information she did not feel equipped to vote. Mayor Kesselus informed her that she had the option to vote against the nominee.

Mayor Pro Tem DeLaRosa made the motion to nominate Roderick Emanuel to serve on the Bastrop County Appraisal District’s Board of Directors, seconded by Council Member Gilleland. The motion ended in a tie of a vote of 2-2. Mayor Pro Tem DeLaRosa and Council Member Gilleland voted aye. Council Members McAnally and Schiff voted nay. Mayor Kesselus voted aye to break the tie approving the motion on a vote of 3-2. Council Member Jackson was absent.

D.3 Consideration, discussion and possible action on acceptance of the unaudited Monthly Financial Reports and Quarterly Investment Report for the period ending in August 31, 2015.

Mayor Kesselus asked Chief Financial Officer Tracy Waldron if she found anything in the unaudited monthly financial reports and/or quarterly investment report that alarmed her. Tracy replied no.

City Manager Talbot stated that the sales tax collection is down across the state. He is bringing this to the Council’s attention because the budget is just taking off for this fiscal year and the budget is heavily dependent on the sales tax. The City Manager advised the Council to be cautious for the next few months. Mayor Pro Tem DeLaRosa asked how much the rate went down last month. The City Manager stated “about four percent to five percent.” The City Manager stated that he was sharing information with Council that was passed on to him by the Economic report. The Mayor stated that the City would track this very seriously.

Council Member McAnally made the motion to approve the acceptance of the unaudited Monthly Financial Reports and Quarterly Investment Report for the period ending in August 31, 2015, seconded by Council Member Gilleland. The motion was approved on a vote of 4-0. Council Member Jackson was absent.

D.4 Consideration, discussion and possible action on the Preliminary Plat for Pecan Park Residential Revised Section 4, being +/-11.13 acres within the Mozea Rousseau Survey A-56 located west of Childers Drive within the city limits of Bastrop, Texas.

Mayor Pro Tem DeLaRosa made the motion to approve the preliminary plat for Pecan Park Residential, seconded by Council Member Gilleland. The motion was approved on a vote of 4-0. Council Member Jackson was absent.

D.5 Consideration, discussion and possible action on the Preliminary Plat for West Bastrop Village, Section 1, Phase 1, being 41 residential lots on +/-10.970 acres out of the Nancy Blakey, Abstract No. 98 within the Bastrop, Texas One Mile Extra Territorial Jurisdiction (ETJ).

Council Member Gilleland asked Melissa, Director of Planning if she knew what the issue was with the individual on the Planning and Zoning Commission/Impact Fee Advisory Committee who voted nay in the 5-1 vote. Melissa stated that she did not remember. Mayor Kesselus asked if the minutes would reflect this information. Melissa stated yes.

Mayor Kesselus recessed the Council Meeting to allow the Director of Planning to retrieve the minutes from the previous Planning and Zoning Commission/Impact Fee Advisory Committee at 7:41 p.m.

Mayor Kesselus called the meeting back to order at 7:45 p.m.

D.5 CONTINUED

Melissa stated that she located the unofficial notes that were taken at the Planning and Zoning Commission/Impact Fee Advisory Committee meeting where the 5-1 vote was taken on this item. She stated that Mr. Kindred voted negative toward this item, Phase I and II, there wasn't a lot of discussion as to why he voted no. Mayor Pro Tem DeLaRosa asked if there was a lot of comment from the residents in this area. Melissa stated that there wasn't a lot of comments from residents in this area but there aren't a lot of residential homes in this area and she does not believe there were any public speakers for or against this item. Mayor Kesselus asked for more information regarding the traffic impact analysis (TIA). Melissa stated there was an original TIA when West Bastrop Village was planned a number years ago prior to the improvements of the construction and build out 20 which are now constructed. With Phase I and II it is less than 100 units, 41 and 37 residential lots total. Two exits are being proposed to FM 20 whereas the original development was only proposing one. A TIA update is not necessary at this time this is something that staff will be working with the applicant on in the future to update. Mayor Kesselus stated his confusion as to a ten year old TIA still being good in light of the extraordinary growth in the community. Melissa explained that the less than 100 units being proposed within the development at this point the TIA updated is not needed for these two plats.

Council Member Schiff made the motion to approve the preliminary plat for West Bastrop Village. The motion died for lack of a second.

Council Member McAnally made the motion to return to item D.5, seconded by Council Member Gilleland. The motion was approved on a vote of 4-0. Council Member Jackson was absent.

There was a motion made by Council Member Schiff to approve the preliminary plat for West Bastrop Village, Phase I with the following condition, seconded by Mayor Pro Tem DeLaRosa. The motion was approved on a vote of 4-0. Council Member Jackson was absent. The condition was that execution of appropriate utility agreements are obtained and also that no Final Plats are submitted to City Council until the utilities are finalized.

City Manager Talbot stated that the applicant is proceeding at her own risk due to the utility matters not being finalized.

D.6 Consideration, discussion and possible action on the Preliminary Plat for West Bastrop Village, Section 1, Phase 2, being 37 residential lots on +/-7.117 acres out of the Nancy Blakey, Abstract No. 98 within the Bastrop, Texas One Mile Extra Territorial Jurisdiction (ETJ).

Mayor Pro Tem DeLaRosa made the motion to approve the preliminary plot for West Bastrop Village, Phase 2 with the following condition, seconded by Council Member Schiff. The motion was approved on a vote of 4-0. Council Member Jackson was absent. The condition was that execution of appropriate utility agreements are obtained and also that no Final Plats are submitted to City Council until the utilities are finalized.

D.7 Consideration, discussion and possible action on the acceptance of Hulu Court and the portion of Mahalua Ln within the city limits and adding it to the list of streets already under the care and maintenance of the City of Bastrop's Public Works Department.

Mayor Pro Tem DeLaRosa asked who performed the inspection. Trey, Director of Public Works stated the City. Mayor Kesselus asked Trey what percentage of the roads in city limit portion are remaining to be done. Trey responded "maybe five."

Mayor Pro Tem DeLaRosa made the motion to approve Hulu Court and the portion of Mahalua Lane within the city limits and add to the list of streets existing under the care and maintenance of the City of Bastrop's Public Works Department, seconded by Council Member McAnally. The motion was approved on a vote of 4-0. Council Member Jackson was absent.

D.8 Consideration, discussion and possible action on the first reading of a proposed ordinance of the City Council of the City of Bastrop, Texas annexing the hereinafter described territory being 16.21 acres situated within the town tract of Bastrop, abstract 11 to the City Of Bastrop, Bastrop County, Texas, and extending the boundary limits of said city so as to include said hereinafter described property within said city limits, and granting to all the inhabitants of said property all the rights and privileges of other citizens and binding said inhabitants by all of the acts, ordinances, resolutions and regulations of said city.

Council Member McAnally made the motion to approve the first reading of the ordinance, seconded by Council Member Gilleland. The motion was approved on a vote of 4-0. Council Member Jackson was absent.

D.9 Consideration, discussion and possible action regarding approval of a resolution of the City of Bastrop, Texas, providing preliminary support for the future evaluation the construction of and potential development of transportation system and roadway(s) for enhancing connectivity in the western area of the city's corporate limits.

Shawn Kirkpatrick stated that the BEDC staff does not have Eminent Domain authority they are not allowed to do right of way acquisitions without the Councils consent.

Council Member McAnally asked if a resolution would be necessary each time the City Manager wanted to go look at property. The Mayor explained that the intent of the resolution is to take advantage of Council Member DeLaRosa's experience of twenty plus years and the Council has been clear lately of the fact that they do not want anyone but the City Manager to deal with anything unless the individual is named. Council Member Schiff stated that it is time to look at the western portion of town because it is known that there are a lot of issues there. Council Member McAnally agreed with Council Member Schiff but expressed that she is still confused by having to use a resolution to do so. Mayor Pro Tem DeLaRosa stated that once he and the City Manager sit down and talk it might be discovered that this project is bigger than expected and could require the assistance of the County. Before anything would be done the Mayor Pro Tem and City Manager would come back to Council and give a report and get direction from Council. Mayor Kesselus stated in his perspective if the Council sends someone out to do something there must be direction given and that is the purpose of this resolution. Council Member Gilleland questioned the specific wording of "negotiations, acquisition and potential construction of a City of Bastrop roadway" she wanted to know what it entailed. The Mayor asked the City Manager why this would be in the motion. The City Manager replied the Council will need to know what the right of way is going to cost, cost of construction of the street and in order for Mayor Pro Tem DeLaRosa and City Manager Talbot to do a total package the City Manager has to pull the costs together he also stated that he nor Mayor Pro Tem DeLaRosa has the authority to spend \$10,000,000. City Manager stated that he would have to turn in a budget to Council to show what streets were being extended, why and what it is going to cost. City Manager stated the reason he feels it merits being looked at is because previous councils have allowed properties to plat out there not taken into account existing streets so that requires this Council to have the authority to require new neighborhoods to dedicate the right of way. Council Member Gilleland asked the City Manager what he envisioned this resolution giving him the permission to do. The City Manager stated he envisions looking at both the north and south end. The City Manager stated that the last three Saturdays around 2:00 p.m. he has gone down to the intersection of Hasler and 71 and it takes four ques before you can proceed through the stop light. Council Member Gilleland ask for further explanation of what this resolution allows the City Manager to do. The City Manager stated it allows him to study, ask a seller how much they want for a property, and if deemed appropriate request an appraisal in order to justify the cost of the property but it does not allow him to purchase property. Council Member McAnally stated the only stumbling block that she can see is the negotiation part, she does not feel that it is appropriate for council members to be doing negotiation.

Council Member Schiff made the motion to approve the resolution with the following amendment to section 2 of the resolution, seconded by Council Member Gilleland. The motion was approved on a vote of 4-0. Council Member Jackson was absent. The amendment to Section 2 of the resolution should capture the following "...to develop the cost of acquisition potential construction of a City of Bastrop roadway, that would meet the standards and improve the City system and increasing connectivity subject to City Council approval."

D.10. Consideration, discussion and possible action on the Award of Contract to East Valley Golf, LTD. DBA Revegetation Services to complete the Gill Branch Fuel reduction Hazardous fuel mitigation project for a total amount of \$208,876.50.

Council Member Schiff made the motion to award a contract to East Valley Golf, LTD. Doing business as Revegetation Services, seconded by Mayor Pro Tem DeLaRosa. The motion was approved on a vote of 4-0. Council Member Jackson was absent.

D.11. Consideration, discussion and possible action regarding approval of the first reading of an ordinance amending Chapter 5 and Chapter 9 of the City of Bastrop Code of Ordinances and re-codifying portions of Chapter 5 into Chapter 9; creating and enumerating the powers and

duties of the positions of director of public safety, fire chief and assistant police chief; adding provisions concerning the administration of the Bastrop volunteer fire department; repealing provisions of Chapter 5 regarding the position of fire marshal; creating the position of fire inspector; amending provisions related to the powers and duties of City of Bastrop volunteer firefighters; providing a savings and a repeal clause; and providing an effective date.

Council Member McAnally made the motion to approve the first reading of the ordinance, seconded by Council Member Gilleland. The motion was approved on a vote of 4-0. Council Member Jackson was absent.

D.12 Consideration, discussion and possible action regarding approval of a Memorandum of Understanding between the City Of Bastrop and the YMCA of Austin regarding the Bastrop County Shelter Grant.

Council Member Gilleland asked that the proposal be accelerated to the December 8, 2015 meeting in order for Council to have time to approve before the ninety day expires. (This is for the Y, the 90 days remains as 90 days for the City of Bastrop.) Council Member Gilleland requested that the City Manager be prepared to go to plan B if necessary.

Carlos Liriano advocated for recreation for the kids in Bastrop.

Council Member Gilleland made the motion to approve the Memorandum of Understanding with the previous instructions, seconded by Council Member McAnally. The motion was approved on a vote of 4-0. Council Member Jackson was absent.

Chief Adcock gave an update on the status of the fire. The fire had covered 250 acres and was at 30% containment. The Smithville Shelter was open.

E. EXECUTIVE SESSION - NONE

ADJOURNMENT

At 9:05 p.m., Council Member Schiff made the motion to adjourn, Council Member Gilleland seconded the motion which passed on a 4-0 vote.

APPROVED:

ATTEST:

Mayor Ken Kesselus

City Secretary Ann Franklin

STANDARDIZED AGENDA RECOMMENDATION FORM

CITY COUNCIL

DATE SUBMITTED: October 20, 2015

MEETING DATE: **October 27, 2015**

1. Agenda Item: **SECOND READING** of a proposed Ordinance of the City Council of the City of Bastrop Texas, amending the budget for the Fiscal Year 2015 in accordance with existing statutory requirements; appropriating the various amounts herein; repealing all prior Ordinances and actions in conflict herewith; and providing for an effective date.

2. Party Making Request: **Mike Talbot, City Manager**

3. Nature of Request: (Brief Overview) Attachments: Yes X No

4. Policy Implication:

These budget amendments increase the budget appropriations for Fiscal Year 2015. See attached memo.

5. Budgeted: _____ Yes _____ No _____ N/A

Bid Amount: _____

Budgeted Amount: _____

Under Budget:

Over Budget: _____

Amount Remaining:

6. Alternate Option/Costs:

7. Routing:	NAME/TITLE	INITIAL	DATE	CONCURRENCE
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a) _____

c)

8. Staff Recommendation: **Staff recommends approval of the Budget Amendments**

9. Advisory Board:	Approved	Disapproved	None
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10. Manager's Recommendation:	Approved	Disapproved	None
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11. Action Taken:

ORDINANCE NO. 2015-21

AN ORDINANCE AMENDING THE BUDGET FOR THE FISCAL YEAR 2015 IN ACCORDANCE WITH EXISTING STATUTORY REQUIREMENTS; APPROPRIATING THE VARIOUS AMOUNTS HEREIN; REPEALING ALL PRIOR ORDINANCES AND ACTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Manager of the City of Bastrop has submitted to the Mayor and Council proposed amendment(s) to the budget of the revenues and/or expenditures/expenses of conducting the affairs of said city and providing a complete financial plan for Fiscal Year 2015; and,

WHEREAS, the Mayor and Council have now provided for and conducted a public hearing on the budget as provided by law. Now, Therefore:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, BASTROP COUNTY, TEXAS:

That the proposed budget amendments for the Fiscal Year 2015, as submitted to the City Council by the City Manager and which budget amendments are attached hereto as Exhibit "A" is hereby adopted and approved as the amended budget of said city for Fiscal Year 2015; and

Ordinance and prior actions in conflict herewith are hereby repealed; and

This Ordinance shall be and remain in full force and effect from and after its final passage and publication in accordance with existing statutory requirements.

READ and APPROVED on First Reading on the 13th day of October, 2015.

READ and ADOPTED on Second Reading on the 27th day of October, 2015.

APPROVED:

ATTEST:

Ken Kesselus, Mayor

Ann Franklin, City Secretary

EXHIBIT A

**FY 2015
BUDGET AMENDMENTS
GENERAL FUND**

Fund Balance as of 9-30-14	3,392,398
FY 2015 Budgeted Revenues	9,380,370
FY 2015 Budgeted Appropriations	(9,937,090)
1/2015 Budget Amendments (net)	0
5/2015 Budget Amendments (net)	(114,457)
9/2015 Budget Amendments (net)	(248,420)
Ending Fund Balance	<u>2,835,678</u>

DEPARTMENT	BUDGET	AMOUNT	DESCRIPTION	ACCOUNT NUMBER
Matching Revenues to Expenditures:				
	Neutral	183,000	Donated in-kind by BEDC	101-00-00-4496
	Neutral	246,580	Trans in - Hotel Motel Fund	101-00-00-4717
	Neutral	41,930	WCID Reimbursement	101-00-00-4418
	Neutral	15,000	BEDC In-kind	101-00-00-4493
	Neutral	8,969	Insurance Proceeds	101-00-00-4537
	Neutral	5,000	Municipal Court Fines	101-00-00-4070
	Neutral	13,000	City Sales Tax	101-00-00-4006
	Neutral	20,000	BEDC In-kind	101-00-00-4493
	Neutral	420,000	Sanitation Revenue	101-00-00-4051
	Total Revenues	<u>953,479</u>		

Matching Expenditures to Revenues:

Organizational	Neutral	(183,000)	Real Property Donated by BEDC	101-02-00-6060
Organizational	Neutral	(15,000)	Professional Services	101-02-00-5505
Organizational	Neutral	(246,580)	Contractual Services	101-02-00-5561
Police	Neutral	(6,675)	Maint of Vehicle-Admin	101-09-10-5340
Police	Neutral	(2,294)	Maint of Vehicle-Patrol	101-09-22-5345
Court	Neutral	(5,000)	Debt Collection Services	101-12-00-5545
Organizational	Neutral	(41,930)	WCID St. Improvements	101-02-00-5654
Organizational	Neutral	(13,000)	380 Agreement-sales tax	101-02-00-5644
Public Works	Neutral	(20,000)	Parks Equipment	101-18-19-6013
Finance	Neutral	(420,000)	Sanitation Expense	101-05-15-5561

New Expenditures:

Organizational	Increase	(53,420)	Contractual Services	101-02-00-5561
Organizational	Increase	(70,000)	Professional Fees	101-02-00-5505
Organizational	Increase	(5,000)	Property Tax Collection	101-02-00-5523
Organizational	Increase	(15,000)	Engineering & Consulting	101-02-00-5530
Organizational	Increase	(12,000)	Property & Liability Insurance	101-02-00-5540
Organizational	Increase	(40,000)	Legal Services	101-02-00-5525
City Manager	Increase	(20,000)	CM Operational Salaries	101-03-00-5101
Court	Increase	(18,000)	Professional Fees	101-12-00-5505
Public Works	Increase	(15,000)	Engineering	101-18-10-5530

Total Expenditures	<u>(1,201,899)</u>
Net Change	(248,420)

FY 2015
BUDGET AMENDMENTS
DEBT SERVICE FUND

Fund Balance as of 9-30-14	736,729
FY 2015 Budgeted Revenues	2,163,513
FY 2015 Budgeted Appropriations	(2,225,375)
1/2015 Budget Amendments (net)	(123,676)
05/2015 Budget Amendments (net)	0
09/2015 Budget Amendments (net)	(123,676)
Ending Fund Balance	<u>551,191</u>

DEPARTMENT	BUDGET	AMOUNT	DESCRIPTION	ACCOUNT NUMBER
Matching Revenues to Expenditures:				
	Neutral	1,695,558	Bond Proceeds	120-00-00-4380
	Neutral	256,961	Capital Contributions	120-00-00-4600
	Total Revenues	<u>1,952,519</u>		
Matching Expenditures to Revenues:				
	Neutral	(1,695,558)	Other Uses-Bond Refunding	120-00-00-8941
	Neutral	(20,655)	CO, Series 2008A Princ	120-00-00-7129
	Neutral	(11,969)	CO, Series 2008A Int	120-00-00-7130
	Neutral	(41,640)	CO, Series 2010 Princ	120-00-00-7137
	Neutral	(34,952)	CO, Series 2010 Int	120-00-00-7138
	Neutral	(41,140)	CO Tax & Lim Rev, Series 2013 Princ	120-00-00-7147
	Neutral	(102,160)	CO Tax & Lim Rev, Series 2013 Int	120-00-00-7148
	Neutral	(4,445)	GO Refunding, Series 2014 Int	120-00-00-7152
	Neutral			
New Expenditures:				
	Increase	(123,676)	Other Uses-Bond Refunding	120-00-00-8941
	Increase			
	Total Expense	<u>(2,076,195)</u>		
	Net Change	(123,676)		

**FY 2015
BUDGET AMENDMENTS
IMPACT FEE FUND #305**

Fund Balance as of 9-30-14	0
FY 2015 Budgeted Revenues	0
FY 2015 Budgeted Appropriations	0
1/2015 Budget Amendments (net)	0
5/2015 Budget Amendments (net)	0
9/2015 Budget Amendments (net)	0
Ending Fund Balance	<u>0</u>

* Includes reserved longterm project fund

DEPARTMENT	BUDGET	AMOUNT	DESCRIPTION	ACCOUNT NUMBER
Matching Revenues to Expenditures:				
	Neutral	25,000	Water CIF Revenue	305-00-00-4199
	Neutral	25,000	Wastewater CIF Revenue	305-00-00-4299
	Total Revenues	<u>50,000</u>		
Matching Expenditures to Revenues:				
	Neutral	(25,000)	Water Professional Fees	305-50-50-5505
	Neutral	(25,000)	Wastewater Professional fees	305-51-51-5505
New Expenditures:				
	Increase	0		
	Total Expense	<u>(50,000)</u>		
	Net Change	0		

**FY 2015
BUDGET AMENDMENTS
BP&L FUND**

Fund Balance as of 9-30-14	7,020,606
FY 2015 Budgeted Revenues	7,513,000
FY 2015 Budgeted Appropriations	(7,753,790)
1/2015 Budget Amendments (net)	0
05/2015 Budget Amendments (net)	0
09/2015 Budget Amendments (net)	(99,375)
Ending Fund Balance	<u>6,779,816</u>

DEPARTMENT	BUDGET	AMOUNT	DESCRIPTION	ACCOUNT NUMBER
Matching Revenues to Expenditures:				
	Neutral	85,000	Electric Sales-Resid	404-00-00-4301
	Total Revenues	<u>85,000</u>		
Matching Expenditures to Revenues:				
	Neutral	(85,000)	LCRA Power	404-60-00-5581
New Expenditures:				
	Increase	(99,375)	Electric Credit Rebate	404-60-00-5698
	Increase			
	Total Expense	<u>(184,375)</u>		
	Net Change	(99,375)		

**FY 2015
BUDGET AMENDMENTS
HOTEL/MOTEL TAX FUND**

Fund Balance as of 9-30-14	2,148,816
FY 2015 Budgeted Revenues	2,647,000
FY 2015 Budgeted Appropriations	(2,495,988)
1/2015 Budget Amendments (net)	0
5/2015 Budget Amendments (net)	(68,900)
9/2015 Budget Amendments (net)	(314,290)
Ending Fund Balance	<u>2,230,928</u>

* Includes reserved longterm project fund

DEPARTMENT	BUDGET	AMOUNT	DESCRIPTION	ACCOUNT NUMBER
Matching Revenues to Expenditures:				
	Neutral	150,000	Motel/Hotel Tax Receipts	501-00-00-4007
	Total Revenues	<u>150,000</u>		
Matching Expenditures to Revenues:				
	Neutral	(150,000)	Bastrop Marketing Corp	501-80-00-5576
New Expenditures:				
	Increase	(67,710)	Downtown Business Alliance	501-80-00-5577
	Increase	(246,580)	Transfer out General Fund	501-80-00-8001
	Total Expense	<u>(314,290)</u>		
	Net Change	(314,290)		

**FY 2015
BUDGET AMENDMENTS
MIAN STREET FUND**

Fund Balance as of 9-30-14	43,939
FY 2015 Budgeted Revenues	125,300
FY 2015 Budgeted Appropriations	(149,855)
1/2015 Budget Amendments (net)	0
5/2015 Budget Amendments (net)	0
9/2015 Budget Amendments (net)	(21,550)
Ending Fund Balance	<u>19,384</u>

* Includes reserved longterm project fund

DEPARTMENT	BUDGET	AMOUNT	DESCRIPTION	ACCOUNT NUMBER
New Expenditures:				
	Increase	(16,000)	Operational Salaries	503-00-00-5101
	Increase	(1,450)	Social Security	503-00-00-5150
	Increase	(1,500)	Retirement	503-00-00-5151
	Increase	(2,600)	Retiree Benefits	503-00-00-5159
	Total Expense	<u>(21,550)</u>		
	Net Change	(21,550)		

**City of Bastrop
Memorandum**

TO: Mayor & City Council Members

FROM: Tracy Waldron, Chief Financial Officer

SUBJECT: Ordinance Amending FY 2015 Budget

DATE: October 5, 2015

Recommendation:

To approve Ordinance Amending the Budget for unanticipated revenue and expenses incurred not included in the original budget approved by City Council.

Background:

The city charter requires that when the budget is amended that the amendment be by ordinance. The budget amendments include an increase to the budget appropriations for Fiscal Year 2015. Funds included in these amendments include the General Fund, Debt Service Fund, BP&L, Hotel/Motel, and Main Street Fund.

- General Fund includes:
 - Court Collections and their corresponding expenses
 - Sanitation Revenue and its corresponding expense (move from Sanitation fund into GF)
 - Sales Tax Collections and their corresponding expense within the City's 380 agreements
 - BEDC donation of land revenue and expense amounts
 - BEDC Reimbursement to City for Housing Study retainage approved by Council
 - BEDC transfer for Park Truck revenue and expense
 - Insurance proceeds and their corresponding expenses
 - WCID reimbursement for street improvement revenue and expense
 - Transfer from Hotel/Motel for Bastrop Art Guild grant funds revenue and expense
 - Increase Professional Services for unanticipated costs
 - Increase Legal Services for unanticipated costs for outside attorney representation.
 - Increase City Manager salaries for coverage of City Secretary department during transition
 - Increase insurance due to higher premiums than budgeted
 - Increase in Property Tax Collection, was higher than initially budgeted
 - Increase Contractual Services for City's portion of Bastrop Art Guild grant
 - Increase Engineering & Consulting for unanticipated costs
 - Increase in Court professional fees for unanticipated costs
 - Increase in Public Works engineering for Gills Branch Grant (25% match)
- Debt Service includes:
 - Record bond proceeds and related expenses
 - Record BEDC capital contributions for Bond payments and related expenses
- Hotel/Motel Tax Fund includes:
 - Neutral Increase of Bastrop Marketing Corp. with related Increase in revenue
 - Increase DBA funding budget for additional Tier III funding Council approved

Increase Transfer to General Fund for Bastrop Art Guild grant

- Impact Fee Fund includes:
This is a new fund created to separate old Impact Fees from current Impact Fees
- Bastrop Power & Light includes:
Electric sales and the corresponding expense
Customer Credit Rebate approved by Council
- Main Street Fund includes:
Increase related salary expenses due to previous Director retiring, unanticipated costs

STANDARDIZED AGENDA RECOMMENDATION FORM

CITY COUNCIL

DATE SUBMITTED: October 20, 2015

MEETING DATE: October 27, 2015

1. Agenda Item: **Approval of the statutory denial, for a period of 180 days from the date of Council action on a request for the Final Plat of Magnolia Gardens, creating three residential lots on Water and Magnolia Street, within the City limits of Bastrop, Texas.**

2. Party Making Request: **Melissa McCollum, Director of Planning and Development**

3. Nature of Request: (Brief Overview) Attachments: Yes X No

A city must take action on a plat within 30 days or the plat is automatically approved.

4. Policy Implication: _____

5. Budgeted: _____ Yes _____ No N/A

Bid Amount: _____ Budgeted Amount: _____

Under Budget: _____ Over Budget: _____

Amount Remaining: _____

6. Alternate Option/Costs: _____

7. Routing: **NAME/TITLE** **INITIAL** **DATE** **CONCURRENCE**

a) _____

b) _____

c) _____

8. Staff Recommendation: **Staff recommends approval of the statutory denial.**

9. Advisory Board: _____ Approved _____ Disapproved _____ None

10. Manager's Recommendation: _____ Approved _____ Disapproved _____ None

11. Action Taken: _____

STANDARDIZED AGENDA RECOMMENDATION FORM

CITY COUNCIL

DATE SUBMITTED: October 20, 2015

MEETING DATE: October 27, 2015

1. Agenda Item: **APPROVAL OF THE SECOND READING OF AN ORDINANCE ANNEXING A SPARSLEY OCCUPIED 16.21 (+/-) ACRE TRACT OF LAND WITHIN BASTROP TOWN TRACT A-11 ON PETITION OF DAVID SINGLETON ON BEHALF OF AREA LANDOWNER, RON HEALY, REDHAWK ADVISORS, PURSUANT TO SECTION 43.028 OF THE LOCAL GOVERNMENT CODE, AND PROVIDING FOR AN EFFECTIVE DATE.**

2. Party Making Request: **Michael H. Talbot, City Manager**

3. Nature of Request: (Brief Overview) Attachments: Yes XXX No

August 3, 2015 Request and Petition filed with the City Secretary for voluntary annexation of approximately 16.21 acres within Town Tract of Bastrop, Abstract 11. The first public hearing was conducted August 25, 2015 and the second of the two required public hearings was conducted September 8, 2015.

4. Policy Implication: _____

5. Budgeted: _____ Yes _____ No N/A
 Bid Amount: _____ Budgeted Amount: _____
 Under Budget: _____ Over Budget: _____
 Amount Remaining: _____

6. Alternate Option/Costs: _____

- | 7. Routing: | <u>NAME/TITLE</u> | <u>INITIAL</u> | <u>DATE</u> | <u>CONCURRENCE</u> |
|-------------|-------------------|----------------|-------------|--------------------|
| a) | | | | |

8. Staff Recommendation:

9. Advisory Board: _____ Approved _____ Recommended Denial _____ None

10. Manager's Recommendation: _____ Approved _____ Disapproved _____ None

11. Action Taken: _____

ORDINANCE NO. 2015 - 22

AN ORDINANCE ANNEXING A SPARSELY OCCUPIED 16.21 (+/-) ACRE TRACT OF LAND WITHIN BASTROP TOWN TRACT A-11 ON PETITION OF DAVID SINGLETON ON BEHALF AREA OF LANDOWNER, RON HEALY, REDHAWK ADVISORS, PURSUANT TO SECTION 43.028 OF THE LOCAL GOVERNMENT CODE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Bastrop, Texas, finds that the requirements of Section 43.028 of the Local Government Code have been met to-wit; that the area to be annexed is:

1. Less than one-half mile in width; and
2. Continuous to the existing City limits of Bastrop; and
3. Has less than three (3) qualified voters residing thereon; and
4. That the owners have properly petitioned the City Council in writing, to annex the 16.21 (+/-) acre area described by metes and bounds in Exhibit "A" and by sketches in Exhibit "B", attached hereto and made a part hereof, and

WHEREAS, the City staff has prepared a Service Plan for the area to be annexed, and said Service Plan is attached hereto as Exhibit "C"; and

WHEREAS, the City Council of the City of Bastrop further finds that the required notices have been given and the required public hearings held, pursuant to Section 43.052 of the Local Government Code:

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

PART 1: That the 16.21 (+/-) acre real property area described in Exhibits "A" and "B" attached hereto and made a part hereof, and it is hereby annexed and the City limits of the City of Bastrop are hereby extended so as to include said tracts of land.

PART 2: The service plan for the annexed area attached hereto as Exhibit "C" are approved as part of this Ordinance.

PART 3: That this Ordinance shall take full force and effect immediately upon passage and approval and in accordance with the laws of the State of Texas.

PART 4: The City Secretary is hereby directed to file a certified copy of this Ordinance, together with a copy of the Owner's Petition, in the office of the

Bastrop County Clerk and to file a certified copy of this Ordinance with appropriate officials and agencies, as required by state and federal law.

READ and APPROVED on First Reading on the 13th day of October, 2015.

READ and ADOPTED on Second Reading on the 27th day of October, 2015.

APPROVED:

ATTEST:

Ken Kesselus
Mayor

Ann Franklin
City Secretary

EXHIBIT "A"

Legal Description

BEING A 16.21 ACRE TRACT FOR ANNEXATION INTO THE CITY OF BASTROP, TEXAS, SITUATED IN THE TOWN TRACT OF BASTROP, ABSTRACT 11, BASTROP COUNTY, TEXAS, AND BEING OUT OF A CALLED 90.91 ACRE TRACT CONVEYED TO RON HEALY AS RECORDED IN VOLUME 1766, PAGE 165 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS (OPRBCT), SAID 16.21 ACRES BEING MORE PARTICULARLY DESCRIBED, IN TWO PARTS, BY METES AND BOUNDS AS FOLLOWS:

PART ONE – 12.977 ACRES

BEGINNING at a ½-inch iron rod found at a concrete monument lying at the base of a railroad tie fence corner post, said ½-inch iron rod marking the called northwest corner of a called 90.91 acre tract of land described in said Volume 1766, Page 165 (V1766/P165, OPRBCT), and the called northeast corner of a called 58.74 acre tract of land, described as Tract One, in a deed recorded in Volume 1924, Page 521, OPRBCT;

THENCE N 90°00'00" E (V1766/P165, OPRBCT), with the north line of said 90.91 acre tract, for a distance of 378.88' to a point in the center of Piney Creek, said center of Piney Creek being the purported current City Limits of Bastrop, Texas;

THENCE with the centerline of Piney Creek, and said purported current City Limits for the following thirteen (13) courses and distances:

1. S 19°10'59" W a distance of 213.41' to a point,
2. S 03°11'13" W a distance of 109.56' to a point,
3. S 09°06'27" W a distance of 467.31' to a point,
4. S 05°21'21" W a distance of 274.13' to a point,
5. S 15°04'58" W a distance of 62.87' to a point,
6. S 36°40'09" W a distance of 81.17' to a point,
7. S 19°34'20" W a distance of 243.09' to a point,
8. S 06°32'05" W a distance of 112.62' to a point,
9. S 12°56'23" E a distance of 119.08' to a point,
10. S 47°33'29" E a distance of 212.22' to a point,
11. S 42°11'34" E a distance of 227.62' to a point,
12. S 41°22'36" E a distance of 193.12' to a point, and
13. S 22°54'09" E a distance of 168.78' to a point on the common line being the north right-of-way line of the Missouri, Kansas and Texas Railroad (MK&T RR), and a south line of said 90.91 acre tract;

THENCE S 88°57'39" W (V1766/P165, OPRBCT), with said common line of the MK&T RR and said 90.91 acre tract for a distance of 573.60' (V1766/P165, OPRBCT) to a point being the

called southwest corner of said 90.91 acre tract and the called southeast corner of said 58.74 acre tract of land;

THENCE N 00°00'00" W (V1766/P165, OPRBCT), with the common line of said 90.91 acre tract and said 58.74 acre tract, for a distance of 2250.76' (V1766/P165, OPRBCT), to the **POINT OF BEGINNING** and containing 12.977 acres of land, more or less.

PART TWO – 3.234 ACRES

COMMENCING at a ½-inch iron rod found at a concrete monument lying at the base of a railroad tie fence corner post, said ½-inch iron rod marking the called northwest corner of a called 90.91 acre tract of land described in a deed recorded in Volume 1766, Page 165, OPRBCT (V1766/P165, OPRBCT), and the called northeast corner of a called 58.74 acre tract of land, described as Tract One, in a deed recorded in Volume 1924, Page 521, OPRBCT;

THENCE N 90°00'00" E (V1766/P165, OPRBCT), with the north line of said 90.91 acre tract, at a distance of 378.88', crossing the center of Piney Creek, and continuing for a distance of 338.78', being a total distance of 717.66' to a point in the center of Piney Creek, same being the purported current City Limits of Bastrop, Texas, said point being the **POINT OF BEGINNING** hereof;

THENCE N 90°00'00" E (V1766/P165, OPRBCT) with a north line of said 90.91 acre tract, for a distance of 463.45' to a point being an ell corner (V1766/P165, OPRBCT) in the north line of said 90.91 acre tract;

THENCE S 00°00'00" E (V1766/P165, OPRBCT) with a north line of said 90.91 acre tract, for a distance of 25.26' (V1766/P165, OPRBCT) to a point being an interior angle point (V1766/P165, OPRBCT) in the north line of said 90.91 acre tract;

THENCE S 83°00'34" E (V1766/P165, OPRBCT) with a north line of said 90.91 acre tract, for a distance of 125.78' (V1766/P165, OPRBCT) to a point being an interior angle point (V1766/P165, OPRBCT) in the north line of said 90.91 acre tract;

THENCE N 90°00'00" E (V1766/P165, OPRBCT) with a north line of said 90.91 acre tract, for a distance of 135.58' (V1766/P165, OPRBCT) to a point in the center of Piney Creek, same being an interior angle point (V1766/P165, OPRBCT) in the north line of said 90.91 acre tract, said center of Piney Creek being the purported current City Limits of Bastrop, Texas;

THENCE with the centerline of Piney Creek, and said purported current City Limits for the following fifteen (15) courses and distances:

1. S 22°16'34" W a distance of 47.25' to a point,
2. S 06°50'58" W a distance of 46.03' to a point,
3. S 42°26'31" W a distance of 31.78' to a point,
4. S 43°54'44" W a distance of 117.50' to a point,
5. S 57°48'09" W a distance of 115.62' to a point,

6. N 70°04'56" W a distance of 108.45' to a point,
7. N 42°26'50" W a distance of 72.59' to a point,
8. N 69°47'02" W a distance of 31.34' to a point,
9. S 88°01'54" W a distance of 44.28' to a point,
10. N 85°10'23" W a distance of 146.22' to a point,
11. N 80°25'58" W a distance of 61.18' to a point,
12. N 63°26'21" W a distance of 42.73' to a point,
13. N 15°26'10" W a distance of 80.95' to a point,
14. N 02°12'00" W a distance of 57.62' to a point, and
15. N 17°16'52" W a distance of 23.77' to the **POINT OF BEGINNING** and containing 3.234 acres of land, more or less.

AREA SUMMARY:

PART ONE 12.977 acres

PART TWO 3.234 acres

TOTAL 16.211 acres

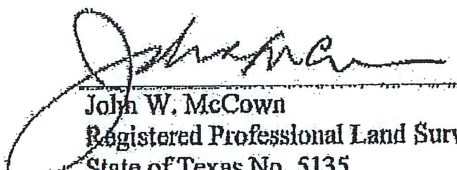
With respect to the north, west and south lines of the aforementioned, called 90.91 acre tract, all courses and distances cited herein are from record information (V1766/P165, OPRBCT). Courses and distances locating the centerline of Piney Creek are from on the ground survey of the centerline of Piney Creek, using the western line of said 90.91 acre tract as a basis of bearings (N 00°00'00" W).

As of this writing, the best information available, from any source, is that the center of Piney Creek, in the area of this description, is the western City Limits of Bastrop, Texas.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

8-3-15
Date

SURVTEX, LLC
600 W. Whitestone Blvd.
Cedar Park, TX 78613
(512) 249-8875 Fax (512) 249-5040
TBPLS Firm No. 10084600


John W. McCown
Registered Professional Land Surveyor
State of Texas No. 5135

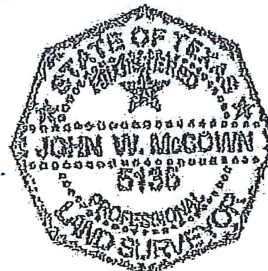
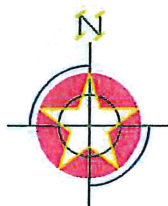


EXHIBIT
OF
16.21 ACRES FOR ANNEXATION INTO THE CITY OF BASTROP, TEXAS



SURVOTEX LLC
PROFESSIONAL SURVEYING AND MAPPING SERVICES

600 W. Whitestone Blvd.
Cedar Park, Texas 78613
(512) 249-8875
Fax (512) 249-5040
TBPI S Firm No. 10084600



SCALE: 1" = 400'

SHEET: 1 OF 1

DESCRIPTION

The City of Bastrop has initiated annexation of 16.21 (+/-) acres of land out of the Bastrop Town Tract A-11 on petition of David Singleton on behalf area landowner, Ron Healy, Bastrop County (see attached legal description) at the request of the owner. The Bastrop City limits currently abuts the property along Carter Street.

SCHEDULE OF MUNICIPAL SERVICES

Public Safety – Police, Animal Control, Fire

Current services provided	None
Service availability	All service can be provided with existing staff
Project demand	As it will be zoned A/OS no significant increase in service demand is anticipated from this annexation

Public Health – Solid Waste Service, Sanitary Sewer Service, Water Service, Health Code Enforcement

Current services provided	None
Service availability	Solid waste, water, wastewater and health code services can be provided at this time by extension of service lines from city. This site will be serviced by the city sewer plant.
Projected demand	As it will be zoned A/OS no significant increase in service demand is anticipated from this annexation

Public Welfare – Planning and Zoning, Traffic Engineering, Building Inspection, Storm Drainage, Street Lighting, Road Maintenance, Other Capital Improvements

Current services provided	The City of Bastrop provides planning and zoning services for the surrounding properties
Service availability	There is current capacity to provide services to this area
Project demand	The proposed annexation will be zoned A/OS which does not entail any review or hearings at Planning and Zoning or City Council. Ultimately, This tract should be developed under a planned development zoning district Due to its size and location.

Public Services – Library Services, Parks and Recreation Services, Code Enforcement, Miscellaneous Services

Current services provided	Access to library and park services is not limited to the citizen's of and are currently available to this area.
Service availability	There is current capacity to provide services to this area
Project demand	As the property is being zoned A/OS no increase demand for library or recreational services is foreseen at this time.

FISCAL ANALYSIS

There will be little or no near term costs to the City from the proposed annexation of the property.

STANDARDIZED AGENDA RECOMMENDATION FORM

CITY COUNCIL

DATE SUBMITTED: October 22, 2015MEETING DATE: October 27, 2015

1. Agenda Item: **CONSIDERATION, DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST BY THE BASTROP COUNTY HISTORICAL SOCIETY TO CARRY FORWARD AS OF OCTOBER 1, 2015 A FUND BALANCE OF HOTEL/MOTEL FUNDS IN EXCESS OF THE AMOUNT AS SET FORTH BY THE POLICY OF CITY OF BASTROP.**

2. Party Making Request: **Michael H. Talbot**

3. Nature of Request: (Brief Overview) Attachments: Yes x No

Attached is a letter received by the City Manager from the "Bastrop County Historical Society" (BCHS) requesting a variance to the "City of Bastrop's Policy" that all entities who receive funding from the City spend those funds by September 30, 2015. As explained by the BCHS the reason this problem is created for the BCHS is that the BCHS operates on a "Calendar Year Basis" and the City Operates on FY basis of October 1, 2015. This issue has arisen in the past two (2) years and the Council has granted the variance.

4. Policy Implication: _____

5. Budgeted: _____ Yes _____ No _____ N/A

Bid Amount: _____

Budgeted Amount: _____

Under Budget: _____

Over Budget: _____

Amount Remaining: _____

6. Alternate Option/Costs: _____

7. Routing: NAME/TITLE INITIAL DATE CONCURRENCE

a) _____

b) _____

c) _____

8. Staff Recommendation:

9. Advisory Board: _____ Approved _____ Disapproved _____ None

10. Manager's Recommendation: _____ Approved _____ Disapproved _____ None

11. Action Taken: _____

BASTROP COUNTY HISTORICAL SOCIETY

904 MAIN STREET
BASTROP, TEXAS 78602
(512) 303-0057

RECEIVED
10-20-15

October 6, 2015

Tracy Waldron
Chief Financial Officer
City of Bastrop

Dear Tracy,

As we have discussed with the Karla Stovall and the City of Bastrop in previous years, the way that HOT funds are distributed annually and the rule which requires a limited balance in the Visitor Center checking account on the October 1, 2015 "true up" report causes a problem for the Visitor Center since we use our HOT Funds to fund monthly operations.

By way of explanation for you, our funds are used primarily for general operations versus a one-time project like other recipients of these funds. We operate on a calendar year vs. the City's fiscal year, but we begin spending the HOT funds when they are received, typically at the end of October. Any policy of having a limited remainder (\$100 or \$1000) doesn't work when our salaries and operational expenses are \$5235.00 per month. Annually the Visitor Center spends all of our HOT funds to keep the doors open, and usually the BCHS subsidizes the Visitor Center during the last months of the City's fiscal year.

When the \$100 rule began a couple of years ago, we met in person with Karla to discuss the problem. She suggested that we document the situation each year with a letter for her files and assured us that we could retain the funds for the remainder of the year as long as we properly documented our expenditures. We have been operating under the arrangement we made with Karla this year and had not been informed of any change in our arrangements until we recently called you to discuss the true up report.

As we understand it, HOT monies will be paid to the various recipients upon receipt of all required documentation. If we followed the rule and distributed all of the HOT Funds received late last October by the end of September this year, the Visitor Center would not be able to meet its payroll or operating expenses for the month of October. This is a serious hardship for our organization and contrary to our common agreement on how HOT Funds will be used to operate the Visitor Center. We hope the City will continue to make an exception for us considering our operations model. Furthermore, it is highly unfair to change an arrangement that has been in force for several years at the end of a year without informing us.

Our Mission:

To preserve and promote the history of Bastrop County

BASTROP COUNTY HISTORICAL SOCIETY

904 MAIN STREET
BASTROP, TEXAS 78602
(512) 303-0057

We also respectfully request that the Visitor Center be allowed to continue the arrangement we made with Karla Stovall a few years ago in 2016 and beyond, or that we craft a new arrangement with you, that allows us to operate on a calendar basis using the HOT Funds as they were intended.

The following are the anticipated expenses for the Visitor Center for the month of October, along with items that have been committed to but not yet paid:

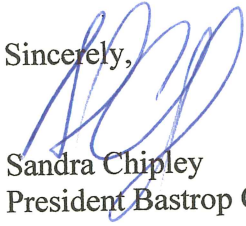
Payroll	\$ 1532
Cabinet	\$ 1517
CPA	\$ 150
Four Winds	\$ 66
Housekeeping	\$ 200
Utilities	\$ 600
Telephone	\$ 172
<u>Insurance</u>	<u>\$ 196</u>
Total	\$ 4433

October Operating Expenses + Accruals

As you can see from this list, the Visitor Center HOT fund account will need a minimum of approximately \$4433 to operate in October based on known expenses.

Please let me know if I can provide any further information. We are very concerned about this problem and hope the City will be able to find a workable solution for us.

Sincerely,



Sandra Chipley
President Bastrop County Historical Society

cc: Ken Kesselus, Mayor
Mike Talbot, City Manager

Our Mission:

To preserve and promote the history of Bastrop County

STANDARDIZED AGENDA RECOMMENDATION FORM

CITY COUNCIL

DATE SUBMITTED: October 22, 2015MEETING DATE: October 27, 2015

1. Agenda Item: **CONSIDERATION, DISCUSSION AND POSSIBLE ACTION REGARDING APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF BASTROP, TEXAS, SUBMITTING THE CITY OF BASTROP'S NOMINEE TO FILL A RECENTLY CREATED VACANCY ON THE BASTROP CENTRAL APPRAISAL DISTRICT, UPON THE RESIGNATION OF ELAINE SEIDEL.**

2. Party Making Request: **Michael H. Talbot**

3. Nature of Request: (Brief Overview) Attachments: Yes x No

Attached is a letter received by the City Manager from the Bastrop Central Appraisal District (BCAD) advising that BCAD Board of Director's has a vacancy on the Board resulting from the resignation of "Board member Ms. Elaine Seidel". Also enclosed are the procedures set forth by the BCAD to fill the vacancy created by the resignation of Ms. Seidel.

4. Policy Implication: _____

5. Budgeted: _____ Yes _____ No N/A

Bid Amount: _____

Budgeted Amount: _____

Under Budget: _____

Over Budget: _____

Amount Remaining: _____

6. Alternate Option/Costs: _____

7. Routing: NAME/TITLE INITIAL DATE CONCURRENCE

a) _____

b) _____

c) _____

8. Staff Recommendation:

9. Advisory Board: _____ Approved _____ Disapproved _____ None

10. Manager's Recommendation: _____ Approved _____ Disapproved _____ None

11. Action Taken: _____

RESOLUTION NO. R-2015-22

**A RESOLUTION OF THE CITY COUNCIL OF BASTROP, TEXAS,
SUBMITTING THE CITY OF BASTROP'S NOMINEE TO FILL A RECENTLY CREATED
VACANCY ON THE BASTROP CENTRAL APPRAISAL DISTRICT, UPON THE
RESIGNATION OF ELAINE SEIDEL**

WHEREAS, on or about October 20, 2015, the City of Bastrop received formal notice that Ms. Elaine Seidel, Chair of the Bastrop Central Appraisal District ("BCAD"), had submitted a letter of resignation from her position as Chair on or about October 9, 2015, and

WHEREAS, due to the resignation of Seidel, the BCAD requested that, on or before November 30, 2015, the City Council consider and formally provide, by Council Resolution, the name of the City's nominee to fill the vacancy on the BCAD; and

WHEREAS, the City Council has considered the request from BCAD and hereby provides the name of the City of Bastrop's nominee to fill the vacancy on the BCAD Board of Directors, as set forth herein below.

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

PART 1: The City Council of the City of Bastrop hereby formally nominates _____, as the individual who is the City's nominee to fill the vacancy on the BCAD Board of Directors, resulting from the resignation of Elaine Seidel, former Chair of the Board of BCAD.

PART 2: The City Council directs City Manager Michael H. Talbot and/or Ann Franklin, City Secretary, to provide a copy of this Resolution of the City Council of Bastrop Texas, to Bastrop County Appraisal District, on or before November 30, 2015, as per the request of Ms. Leslie Muller, Interim Chief Appraiser of BCAD.

PASSED, ADOPTED AND APPROVED this ____ day of _____, 2015, in open meeting, duly held and notice of which was given in accordance with Chapter 551, Texas Government Code, the Texas Open Meetings Act.

By: _____
Ken Kesselus, Mayor
On Behalf of the City Council

ATTEST:

Ann Franklin, City Secretary



BASTROP CENTRAL APPRAISAL DISTRICT

P.O. DRAWER 578 • BASTROP, TEXAS 78602-0578
PHONE (512) 303-1930 • FAX (512) 303-4805

BOARD OF DIRECTORS

ELAINE SEIDEL
Chairman

October 16, 2015

DAVID REDD
Secretary

BRYAN BRACEWELL
RODERICK EMANUEL
BILL HECTOR
LINDA HARMON

Mr. Mike Talbot, City Manager
City of Bastrop
P. O. Box 427
Bastrop TX 78602

Chief Appraiser
MARK BOEHNKE
RPA/RTA

Re: Bastrop CAD Board of Directors Vacancy

Dear Mr. Talbot:

I am writing to notify you of a vacancy on our Board of Directors. On October 9, 2015, Ms. Elaine Seidel of Smithville submitted her resignation as a Chairman of the Bastrop Central Appraisal District Board of Directors. Please see enclosed letter.

Also enclosed are the procedures for filling a Board vacancy. In accordance with the property tax code, each eligible entity has 45 days from the date of this notice to submit a nominee for the vacancy. Please submit your nominee by resolution adopted by your governing body by November 30, 2015.

I will deliver the list of nominees to our Board by December 4, 2015. The Board will then elect one of the nominees by majority vote. The new Board member will serve the remaining term until December 31, 2015.

Please let me know if you have any questions. You can contact me at 512-303-1930 or via email at lesliem@bastropcad.org.

Sincerely,

Leslie Muller
Interim Chief Appraiser

Enclosures

PROCEDURES TO FILL BOARD VACANCY

Excerpt from Texas Property Tax Code re Board Vacancy:

§ 6.03. Board of Directors

(1) If a vacancy occurs on the board of directors other than a vacancy in the position held by a county assessor-collector serving as a nonvoting director, each taxing unit that is entitled to vote by this section may nominate by resolution adopted by its governing body a candidate to fill the vacancy.

The unit shall submit the name of its nominee to the chief appraiser within 45 days after notification from the board of directors of the existence of the vacancy, and the chief appraiser shall prepare and deliver to the board of directors within the next five days a list of the nominees.

The board of directors shall elect by majority vote of its members one of the nominees to fill the vacancy.

~~~~~  
BCAD Entities entitled to vote:

- Bastrop County
- Bastrop ISD
- Bastrop City
- Elgin ISD
- Elgin City
- Lexington ISD
- McDade ISD
- Smithville ISD
- Smithville City

~~~~~  
10/16/2015 Send notice of vacancy to above entities

11/30/2015 Deadline to submit nominees to interim chief appraiser by resolution

12/04/2015 Deadline for interim chief appraiser to deliver nominees to Board of Directors

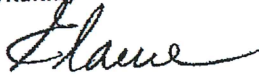
October 9, 2015

TO: Mr. Paul Pape, Bastrop County Judge and Bastrop County Commissioners

FROM: Elaine Seidel

I would like to sincerely thank the Bastrop County Commissioner's Court for appointing me to the Bastrop County Central Appraisal District Board as a director. Thank you for the 10 years of support on the board, during this time I served 5 years as Chairman, 3 years as Secretary and 2 years as a Director. Due to the changes of Bastrop County and growth, it is time for a change on the board. As of October 31, 2015, I am resigning from the Bastrop County Central Appraisal District Board.

Thanks,



Elaine Seidel

STANDARDIZED AGENDA RECOMMENDATION FORM

CITY COUNCIL

DATE SUBMITTED: October 22, 2015MEETING DATE: October 27, 2015

1. Agenda Item: **CONSIDERATION, DISCUSSION AND POSSIBLE ACTION REGARDING APPROVAL OF AN ORDINANCE AMENDING CITY CODE SECTION 12.06.002, IMPLEMENTING A PARALLEL PARKING ZONE IN THE CENTRAL BUSINESS DISTRICT OF THE CITY, ALONG THE EAST SIDE OF MAIN STREET [BETWEEN PINE STREET AND CHESTNUT STREET]; PROVIDING ENFORCEMENT AUTHORITY RELATED TO SAME; CONTAINING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

2. Party Making Request: Michael H. Talbot3. Nature of Request: (Brief Overview) Attachments: Yes x No _____

At the September 22, 2015 City Council meeting, the City Council directed that the attached ordinance be created which calls for the parking alignment on South Main Street from Pine Street to Chestnut Street to be as follows: (1) Head-In Parking on the west side of the Street will remain as it's currently aligned. (2) On the east-side of the street the parking alignment will be changed to the 2x1 "Parallel Parking Space" for the large trucks. (3) The north and south bound travel lanes will remain eleven feet wide.

4. Policy Implication: _____

5. Budgeted: _____ Yes _____ No N/A

Bid Amount: _____

Budgeted Amount: _____

Under Budget: _____

Over Budget: _____

Amount Remaining: _____

6. Alternate Option/Costs: _____

7. Routing:

	<u>NAME/TITLE</u>	<u>INITIAL</u>	<u>DATE</u>	<u>CONCURRENCE</u>
--	-------------------	----------------	-------------	--------------------

a) _____

b) _____

c) _____

8. Staff Recommendation:

9. Advisory Board: _____ Approved _____ Disapproved _____ None

10. Manager's Recommendation: _____ Approved _____ Disapproved _____ None

11. Action Taken: _____

ORDINANCE NO. 2015 - 24

Deleted: _____

AN ORDINANCE AMENDING CITY CODE SECTION 12.06.002, IMPLEMENTING A PARALLEL PARKING ZONE IN THE CENTRAL BUSINESS DISTRICT OF THE CITY, ALONG THE EAST SIDE OF MAIN STREET [BETWEEN PINE STREET AND CHESTNUT STREET]; PROVIDING ENFORCEMENT AUTHORITY RELATED TO SAME; CONTAINING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Section 542.202 of the Texas Transportation Code authorizes a city to regulate the stopping, standing, or parking of a vehicle; and

WHEREAS, following careful evaluation, study and analysis, the City of Bastrop finds that it is necessary for the health, safety and welfare of the citizens of Bastrop and the traveling public, and in the best interest of the City and its citizens to implement a parallel parking zone in the Central Business District, along the east side of Main Street, running north and south from Pine Street to Chestnut Street.

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

PART 1: That Chapter 12 of the City Code of Bastrop is hereby amended as follows:

Sec. 12.06.002 *Diagonal Parking/Parallel Parking*

(a) Where lines are painted on the streets giving notice thereof, all vehicle shall be parked within the white lines and not more than eighteen inches (18") from the curb, in the following areas:

(1) Main Street in all of business district.

(b) Where lines are painted on the streets giving notice thereof, all vehicles shall parallel park, within the marked lines, in the following areas:

(1) East side of Main Street, between Pine Street and Chestnut Street, in the Central Business District.

PART 2: All other provisions of Article 12.06.002 that are not amended hereby shall remain in full force and effect. This Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Bastrop, and this Ordinance shall not operate to repeal or affect any of such other Ordinances, except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of

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DRAFT 10.22.15

this Ordinance, in which event such conflicting provisions, if any in such other Ordinance or Ordinances are superseded.

PART 3: 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.

PART 4: The Mayor is hereby authorized to sign this Ordinance and the City Secretary to attest. The Council Directs the City Manager and his designees to take any actions necessary to implement the actions noted herein. This Ordinance shall become effective and be in full force and effect in accordance with the provisions of the Charter of the City of Bastrop and the laws of Texas.

READ AND APPROVED ON FIRST READING ON THIS 27th DAY OF October, 2015.

READ AND ADOPTED ON SECOND READING ON THE ____ DAY OF _____, 2015.

Deleted: ____

Deleted: _____,

APPROVED:

Mayor Ken Kesselus

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Jo-Christy Brown, City Attorney

STANDARDIZED AGENDA RECOMMENDATION FORM

CITY COUNCIL

DATE SUBMITTED: October 22, 2015MEETING DATE: October 27, 2015

1. Agenda Item: CONSIDERATION, DISCUSSION AND POSSIBLE ACTION REGARDING INSTRUCTING THE CITY MANAGER TO PREPARE THE NECESSARY DOCUMENTS TO RENT OUT THE VACANT LOT AT 1307 CHESTNUT STREET OR GENERALLY LOCATED BETWEEN FAYETTE STREET AND THE CITY OF BASTROP CONVENTION CENTER TO POTENTIAL VENUES AND/OR VENDORS.

2. Party Making Request: Mayor Kesselus

3. Nature of Request: (Brief Overview) Attachments: Yes x No _____

At the October 13, 2015 City Council meeting under "Citizens Comments" several citizens commented that activity had dropped-off at the 1832 Farmers Market located at 1307 Chestnut Street. This lot is owned by the City of Bastrop and is currently leased to the 1832 Farmer's Market. I think we should have the City Manager investigate potential options of increasing revenue from this lot for the City.

4. Policy Implication: _____

5. Budgeted: _____ Yes _____ No N/A

Bid Amount: _____ Budgeted Amount: _____

Under Budget: _____ Over Budget: _____

Amount Remaining: _____

6. Alternate Option/Costs: _____

7. Routing: NAME/TITLE INITIAL DATE CONCURRENCE

a) _____

b) _____

c) _____

8. Staff Recommendation: _____

9. Advisory Board: _____ Approved _____ Disapproved _____ None

10. Manager's Recommendation: _____ Approved _____ Disapproved _____ None

11. Action Taken: _____

LEASE AGREEMENT

COPY

THE STATE OF TEXAS

§

§ KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF BASTROP

§

This "Lease Agreement" is made and executed by and between the City of Bastrop, a Texas home-rule municipality duly formed and operating in Bastrop County, Texas ("Lessor"), and 1832 Farmers Market, a Sole Proprietorship (e.g. corporation operating under Texas law) ("Lessee"), hereinafter to be collectively known as the "Parties," and singularly as "Party".

SECTION 1. PREMISES

- 1.1 Description. Lessor hereby leases to Lessee the following real property generally located at 1307 Chestnut Street Bastrop, Texas 78601, Bastrop County, Texas, and the building, structures, and improvements located thereon, as more particularly illustrated in Exhibit "A," attached hereto and made a part hereof (hereinafter "Leased Premises").
- 1.2 Use. The Leased Premises shall be used by Lessee for the sole purpose of Operating a Farmers & Artisans Market, to offer for sale to the general public fresh, local products such as produce, meats, eggs, canned and baked goods etc. as well as locally produced artisan products and art. The property shall not be used for any purpose without first obtaining the Lessor or its authorized agent's consent, in writing. Within ten (10) days of executing this "Lease Agreement" the Lessee shall provide the Lessor in writing, details of the proposed operation, including the days of weeks and times that the Farmers & Artisans Market will be open to the public and a diagram representing the proposed arrangement of booths, vendor areas, parking, etc. on the Leased premises. The Lessor reserves the right to require revision to the proposed operation at its discretion to enhance and/or protect the public use, safety and enjoyment of the Leased premises.
- 1.3 Compliance with the Law. Lessee shall at all times observe the laws, rules and regulations of the State of Texas and other governmental entities. Lessee shall not conduct any activities which would cause the Lessor to be in violation of any state or federal laws, rules, or regulations or for a purpose in violation of applicable covenants and restrictions. Lessee shall not, nor allow to be committed, any waste or nuisance on the Leased Premises or harm the Leased Premises in any way that may reduce, harm or diminish the value or marketability of same. Lessee shall promptly advise Lessor of any litigation, alternative dispute resolution procedure, or administrative hearing concerning the premises as soon as same arises.

- 1.4 Storage of Materials on Premises Lessee acknowledges and agrees that it will only store materials on the property that are consistent with the operation of the "Farmers & Artisans Market". Lessee shall, at all times, keep and maintain the Leased Premises in neat and orderly manner and in full compliance with all applicable Federal, State and local laws, rules and ordinances. Any failure to comply with the provisions noted in this subsection shall be grounds for immediate termination of the Lease.
- 1.5 Non-Interference with Lessor's Use. Lessee shall not conduct any activity which interferes, or could interfere, thwart, delay or hinder the Lessor's present or future use of the Leased Premises or surrounding land owned or controlled by the Lessor for a public purpose. Lessee shall permit the Lessor the right to enter the Leased Premises at any time to inspect and/or repair the Leased Premises, at Lessor's sole discretion.

SECTION 2. TERM

- 2.1 Term. The term of this Lease Agreement shall commence on the 1st day of May, 2008, and shall be continued on a month-to-month basis at the sole discretion of the Lessor. No extensions or renewals of the term of this Lease Agreement are authorized without the prior written consent of the Lessor.
- 2.2 Cancellation Privileges. Either the Lessor or the Lessee shall have the right to cancel this Agreement upon giving thirty (30) days written notice to the other Party.

SECTION 3. HOLDING-OVER

Should Lessee remain in possession of the Leased Premises after the termination of this Lease Agreement, whether such termination occurs by the lapse of time or otherwise, without a written execution by Lessor and Lessee of a new lease, Lessee shall be deemed to be occupying the Leased Premises as a tenant at sufferance, subject to all the covenants and obligations of this Lease Agreement, and at a daily Rental Rate of 1.25 times the per-day Rent provided hereunder, computed on the basis of a thirty (30) day month. *The Lessee expressly agrees that such (25%) additional charge is reasonable, will fairly adjust the rent in the event of holding over, and that the additional charge is not intended by the Parties as a penalty.*

SECTION 4. RENT

- 4.1 Rent. Lessee shall pay Lessor Rent, without deduction or offset and subject to adjustments as hereinafter provided, in monthly installments, payable at The City Manager's Office located at 904 Main Street, Bastrop, Texas 78602 (or such other address as Lessor may specify in a written notice delivered to Lessee) in the amount of \$1.00 per month (to be set by the City Council), on a month-to-month basis. Rent shall be due to Lessor and paid by Lessee beginning on the commencement date of the Term and shall continue to be paid on the first day of each month, thereafter. Rent for any fractional month at the beginning or end of the lease term shall be prorated on a *per diem* basis.

- 4.2 Late Charges. Lessee acknowledges that late payments of Rent by Lessee to Lessor, or any other sum due under this Agreement, shall cause Lessor to incur costs not contemplated herein, the exact amount of which would be difficult or impossible to ascertain. Such costs may include processing, legal, and accounting charges, as well as late charges that may be imposed upon Lessor by the terms of separate agreements with third parties. Accordingly, should Lessee fail to pay any installment of Rent, or any other sum due under this Agreement, within fifteen (15) calendar days after such sum is due (on or after the sixteenth (16) of each month), Lessee shall pay to Lessor, as additional Rent, a late charge equal to five percent (5%) of each such installment or sum due. Waiver of the late charge with respect to any installment or sum due shall not be deemed to constitute a waiver with respect to any subsequent installment or sum due. A charge of Seventy-Five and 00/100 Dollars (\$75.00) shall be paid by Lessee to Lessor for each returned check or payment instruments.

SECTION 5. TAXES AND ASSESSMENTS

- 5.1 Taxes. "Taxes" as used in this Lease Agreement shall include all real property taxes on the Leased Premises, as depicted on Bastrop County Tax Appraisal map, if applicable to the Lessee. Taxes shall also include all personal property taxes levied on the Leased Premises, if any, as well as taxes of every kind and nature levied and assessed in lieu of, in substitution for, or in addition to existing or additional real or personal property taxes on the Leased Premises, including the land, building, improvements, or structures thereon, whether or not now customary or within the contemplation of the Parties. Lessee shall be wholly and completely responsible for reimbursement to the Lessor of costs or expenses expended by the Lessor contesting the amount, the validity, or the applicability of any taxes mentioned in this section.
- 5.2 Payment Obligation. Lessee, (if applicable), shall pay and discharge when due, as part of the Rent of the Leased Premises, all state, municipal, and local taxes (except gift, estate, inheritance, succession, and income taxes, if any, on interest of Lessor), fees, assessments, levies and other charges, whether general, special, ordinary, or extraordinary, of whatever name, nature, and kind (except as specified above) that are levied, assessed, imposed, or charged on the Leased Premises, whether now existing or arising during the Term of this Agreement, beginning on the commencement date hereof.
- 5.3 Paid in the Name of the Lessor. All Taxes, assessments, levies, fees and other charges (if applicable) shall be paid by Lessee shall be paid in the name of Lessor, whether such Taxes and other charges become due and payable during the term of this Lease Agreement, or any renewal of same, or subsequent to the expiration or earlier termination of the Lease Term of this Agreement. ~~No agreements, acts or omissions shall alter or negate Lessee's duty for such sums due.~~
- 5.4 Production of Receipts. Within fifteen (15) calendar days of payment by Lessee (if applicable) of any state, municipal, or local tax, assessment, levy, or other charge and/or fee, whether general, special ordinary, or extraordinary, of whatever name, nature, or kind (unless otherwise excluded by provisions contained herein), upon demand by

Lessor, Lessee shall produce and exhibit to Lessor receipts by proper officials showing the payment paid in full.

- 5.5 Deferment. Lessee shall have the right to defer the payment of any tax, assessment or other charge so long as the validity of such item is to be contested by Lessee in good faith and by appropriate legal proceedings, provided, however, that Lessee has furnished to Lessor a bond of a surety company, or other security satisfactory to Lessor, in an amount satisfactory to Lessor, securing Lessor against the payment of such tax, assessments or other contested charge against any loss, damage, or penalty whatsoever in any way arising from the failure of Lessee to pay such amount.

- 5.6 Conclusive Evidence. For purposes of this Agreement, and in the event of a dispute between the Parties, a receipt showing the payment of a tax, assessment, fee or other charge signed by a public official authorized to give such a receipt shall be conclusive evidence that the amount of the payment was due and payable and that the assessment or other charge was a valid and existing lien on the Leased Premises at the time of payment.

SECTION 6. LANDLORD'S LIEN

As security for the performance by the Lessee of all covenants to be paid, kept, and performed, the Lessor shall have the benefit of a statutory landlord's preference lien upon all property, fixtures, goods, materials, wares, and merchandise of the Lessee which may be placed in or upon the leased premises during the term hereof. In addition, the Lessee herein grants to Lessor an express security interest in all goods, materials, wares, merchandise, fixtures, and other personal property of the Lessee which may be placed in or upon the Leased Premises during the Term of this Lease Agreement, or any extension hereof, which security interest shall be second and inferior to any purchase money security interest of any third party, as to any such personal property, and which security interest herein granted unto Lessor shall not be applicable to Lessee's goods, materials, wares, and merchandise daily exposed to sale in the ordinary course of business. Lessor and Lessee mutually covenant and agree that this Agreement shall act as a security agreement as between Lessee, as debtor, and Lessor, as secured party, *only to be exercised in the event of Lessee's non-payment.*

SECTION 7. ABANDONED PROPERTY

All goods, effects, materials, remains, or temporary improvements of whatever kind or nature and/or alleged value to Lessee not removed by Lessee within fifteen (15) calendar days after the natural expiration of this Lease Agreement, or any extension hereto, or within seventy-two (72) hours after termination by the Lessor by reason of Lessee's default, shall be considered ~~abandoned and Lessor shall have the right and the authority to dispose of same, as it deems~~ expedient, including but not limited to storing, selling and/or destroying such items at the cost and expense of Lessee with no further act or notice required. Lessee shall reimburse Lessor for any expenses incurred by Lessor in connection with this paragraph including legal fees and court costs. Lessor shall not be liable or responsible for damage, theft or otherwise to any property abandoned on the Leased Premises by Lessee. The Lessee specifically consents and

agrees that by entering into this Lease, it waives all rights to make claims against Lessor related to any item remaining on the Leased Premises after any termination of this Lease Agreement.

SECTION 8. DELIVERY, ACCEPTANCE, AND SURRENDER OF PREMISES

Lessor makes no representations or warranties regarding the condition or fitness of the Leased Premises, including any building, structure or improvement thereon for any particular purpose. By taking possession of the Leased Premises pursuant to this Lease Agreement, Lessee conclusively accepts the Leased Premises as fit for Lessee's purpose and use and in good and sanitary order, condition, and repair. Lessee further warrants that all matters related to or arising out of the construction of any building, structure or improvement on the Leased Premises were approved by, and have been accepted by, Lessee in an "AS IS" condition. Lessee herein agrees and covenants to accept all faults, deficiencies, defects, whether known or unknown to Lessor and/or Lessee at the commencement of the Term which warranty by Lessee shall survive the term of this Lease Agreement, or any extension thereto, in perpetuity. Lessee shall, on the expiration or termination of this Agreement, surrender the Leased Premises to Lessor in the same condition as when received, reasonable wear and tear accepted. Lessee agrees to remove all business or other signs, markers or symbols placed on the Leased Premises, by it, before redelivery of the Leased Premises to the Lessor, and to restore the Leased Premises to the same condition before the execution of this Lease Agreement.

SECTION 9. POSTING OF SIGNS, AWNINGS, OR MARQUEES BY LESSEE

Lessee agrees that it will not construct or place, or permit to be constructed or placed, signs, awnings, marquees, or other structures and/or improvements on or projecting from any portion of the Leased Premises without Lessor's prior written consent. Lessee further agrees to remove signs, displays, advertisements or decorations it has placed, or permitted to be placed, on the Leased Premises, which, in Lessor's opinion, are in ill repair, do not comply with City Codes, are offensive or are otherwise objectionable. If Lessee fails to remove such signs, displays, advertisements, or decorations within ten (10) days after receiving written notice from Lessor to remove same, Lessor reserves the right to enter the Leased Premises and remove such items, at Lessee's sole cost and expense, and shall have the right to place a lien on Lessor's property to recover such expenses, without further action or notice due to Lessee from Lessor.

SECTION 10. "QUITTING BUSINESS," "BANKRUPTCY," OR "LOST OUR LEASE" SALE

Lessee agrees not to conduct or advertise "Quitting Business," "Lost Our Lease," "Bankruptcy," or other such types of sales on the Leased Premises without Lessor's prior written consent.

SECTION 11. UTILITIES

- 11.1. **Utility Service.** Lessee, shall obtain, in its name, all "Utility Services" necessary for the public health and safety of the operations of a Farmers & Artisans Market on the Leased Premises. Utilities may include, as determined by the Lessee, to include gas, electricity,

telephone, water, and sewer and Lessee shall pay all charges for those services as they come due. All Utilities obtained by the Lessee on the Leased Premises shall be from the City of Bastrop's Utility Services. Should Lessee fail or refuse to pay a charge for any City Utility Service assessed or incurred, Lessor may elect to forfeit or terminate this Lease without further action or notice to Lessee.

- 11.2. Utility Release. Lessor shall not be liable for any personal injury, property damage, consequential damages, claims or assessments that may result from the operation, service and/or faulty installation of Utility Services on the Leased Premises, whether through negligence, fault or no fault, nor shall Lessor be liable for any injury or damage suffered by Lessee or any third-party as a result of the failure to make repairs to utility facilities.

SECTION 12. REPAIRS AND MAINTENANCE

- 12.1 Lessee's Obligations. Lessee shall have the duty, at its sole cost and expense, to keep, maintain, and preserve the Leased Premises, including any buildings, structures or improvements thereon, in good order and repair which reflects credit upon the Lessee.

- 12.2 Lessor's Right of Inspection/Repair. Lessor reserves the right, but has no duty, to enter the Leased Premises at any time to inspect the Leased Premises, including any buildings, structures, or improvements thereon, to perform required maintenance and repair and/or to make additions or alterations to any part of the Leased Premises that are necessary to keep, maintain, or preserve same in a reasonable state, at the sole cost and expense of the Lessee. Lessor may, in connection with such alterations, additions, or repairs, erect scaffolding, fences, and similar structures, post relevant notices, and place movable equipment on the Leased Premises, as Lessor deems necessary, without any obligation to reduce Lessee's Rent for the Leased Premises during such period, and without incurring any liability to Lessee for disturbing quiet enjoyment of the Leased Premises, or loss of occupation thereof. Lessor shall have sole discretion as to any work to be completed on the Leased Premises pursuant to this Section, including but not limited to plans, specifications, materials, design, and contractors. The Parties acknowledge and agree, however, that the Lessor shall have no duty, responsibility or obligation to inspect, repair, remodel, improve, decorate, paint or replace any part or component of the Leased Premises, specifically including any building, structure or improvement thereon, at any time following the Effective Date of this Lease Agreement. Any interference by the Lessee related to arising out of this paragraph shall constitute a breach of this Agreement entitling Lessor to any remedy provided herein or at common law.

- ~~12.3 Access. Lessee agrees to permit Lessor unfettered and undelayed access and opportunity to perform all actions as stated in Section 12.2. Any interference by Lessee of Lessor's rights hereunder shall be a material breach of the Lease Agreement.~~

SECTION 13. PARTIAL DESTRUCTION OF PREMISES; ARBITRATION PROVISIONS

Unless otherwise agreed to between the Parties in writing and attached hereto, should the Leased Premises, including any building, structure or improvement thereon, be destroyed in whole or in part by fire or other casualty, or by Lessee's want of ordinary care, Lessee shall promptly rebuild or restore the Leased Premises to its condition at the start of this Lease Agreement. Any rebuilding or restoration to the Leased Premises shall be at Lessee's sole cost and expense and Lessee shall remain liable for any Rent. If Lessee fails to rebuild or repair, as set forth herein, Lessee shall be liable to Lessor for all amounts remaining due

SECTION 14. INSURANCE

Lessee agrees to procure and maintain in full force and effect, at all times during the Lease Term, and any extension thereof at Lessee's sole cost and expense, the following:

- 14.1 Standard Property Insurance. Standard property insurance insuring the Leased Premises against the perils of fire, extended coverage, vandalism, environmental damage, malicious mischief, special extended coverage ("all risk"), and sprinkler coverage. The policy shall additionally included all personal property owned by Lessee for which Lessee is legally liable, including without limitation furniture, fittings, fixtures, and raw materials. Such insurance shall be no less than One Million and 00/100 U.S. Dollars (\$1, 000, 00.00), or an amount equal to the Leased Premises, and any personal property located thereon, full replacement value, whichever is greater. Any policy shall specifically identify and name the City of Bastrop as a "loss payee".
- 14.2 Comprehensive General Liability Insurance. Comprehensive general liability insurance insuring Lessee against any/and all liability that could arise out of this Lease Agreement, or the use, occupancy, or maintenance of the Leased Premises and all appurtenances thereto by any person, entity, or occupant. Such insurance shall be in the amount of not less than One Million and 00/100 U.S. Dollars (\$1,000,000.00) dollars combined single limit for injury to, or death of one or more persons in a single occurrence, and for damage to tangible property (including loss of use and loss of income) in any one occurrence. The policy shall insure the hazards of the Leased Premises, the operations conducted in and on the Leased Premises, independent contractors, and contractual liability (covering in full the indemnity to the Lessor contained in this Agreement), and shall name Lessor and any mortgagee(s) as 'additionally insured' parties, as their respective interests may appear. Lessor and any named mortgagee shall be furnished with a copy of the certificate of insurance. Such coverage shall be primary and noncontributing with any insurance carried by Lessor.
- 14.3 Workers Compensation. In the event Lessee hires individuals to work at the Farmers & Artisans Market on behalf of the Lessee, then the Lessee shall maintain worker's compensation and employer's liability insurance as required by the State of Texas.
- 14.4 Supplemental Insurance. The Lessee shall obtain any supplemental insurance that either Party may determine is necessary to protect the Lessee and/or Lessor during the

term of this Lease Agreement, or any extension thereof.

- 14.5 Authorized Companies. All insurance policies related to the Leased Premises shall be written by companies authorized to do business in Texas and shall be in a form reasonably satisfactory to Lessor. Lessor and any named mortgagee(s) shall be furnished with a copy of each certificate of insurance, and each policy shall require thirty (30) days written notice to Lessor and any named mortgagee(s) prior to cancellation, change or reduction in the amount and/or type of coverage.
- 14.6 Right of Lessor to Obtain Insurance. Lessee covenants and agrees that if all necessary insurance policies are not kept in force during the entire Term of this Lease Agreement, including any extension thereof, Lessor may procure the necessary insurance and pay the premium, which premium shall be repaid to Lessor as an additional Rent installment during the month(s) following the date on which such premiums are paid. Further, Lessee acknowledges and agrees that the insurance policies referenced herein are material inducements to Lessor to enter into this lease and any failure of Lessee to comply with these requirements shall constitute an acknowledged breach by Lessee.
- 14.7 Increasing Risk. Lessee agrees and covenants not to use the Leased Premises in any manner, even though it may be for the purposes for which the Leased Premises was leased, that may increase risks covered by insurance on the Leased Premises, increase the rate of insurance on the Leased Premises, or cause cancellation of any insurance policy covering the Leased Premises. Lessee further agrees not to keep, use, sell or store on/in the Leased Premises, or permit to be kept, used, or sold thereon, anything prohibited by any policy covering the Leased Premises. Lessee agrees to comply, at Lessee's own expense, with all requirements of all insurers as necessary to keep in force the required insurance coverage noted herein.

SECTION 15. RELEASE, HOLD HARMLESS & INDEMNITY

- 15.1. LESSEE HEREBY HOLDS HARMLESS, RELEASES AND WAIVES ANY AND ALL CLAIMS AND CAUSES AGAINST LESSOR AND LESSOR'S OFFICERS, REPRESENTATIVES, AGENTS AND/OR EMPLOYEES FOR ANY AND ALL CLAIMS, INJURY OR DAMAGE TO THE PERSON, PROPERTY, OR BUSINESS SUSTAINED IN OR ABOUT THE BUILDING OR THE LEASED PREMISES BY (1) LESSEE, ITS AGENTS, REPRESENTATIVES, OWNERS, EMPLOYEES, INVITEES, CLIENTS OR CUSTOMERS, AND (2) BY OTHER TENANTS OR OCCUPANTS OF THE LEASED PREMISES, AND (3) BY ANY THIRD-PARTY PRESENT ON THE ~~LEASED PROPERTY WHETHER SUCH INJURY OR DAMAGE RESULTS~~ FROM ANY ACT, OMISSION, NEGLECT, OCCURRENCE, OR CONDITION IN OR ABOUT THE LEASED PREMISES OR FROM ANY OTHER CAUSE OR CONDITION, WHETHER SUCH DAMAGE(S) ALLEGED OR ACTUAL, ARE CAUSED BY LESSOR, OR ANY OTHER PERSON. BY WAY OF EXAMPLE ONLY, AND NOT BY WAY OF LIMITATION, THIS PARAGRAPH SHALL APPLY TO DAMAGE OR

INJURY CAUSED BY LOADING APPARATUS, AWNINGS, DISPLAY FIXTURES, AND ALL PRODUCTS OF LESSEE'S BUSINESS.

15.2. IF ANY SUCH INJURY OR DAMAGE DESCRIBED IN THE ABOVE PARAGRAPH RESULTS FROM ANY ACT OR NEGLIGENCE OF LESSEE, ITS EMPLOYEES, OWNERS, REPRESENTATIVES, AGENTS, INVITEES, CLIENTS OR CUSTOMERS, LESSOR MAY, AT LESSOR'S OPTION, REPAIR SUCH INJURY OR DAMAGE. LESSEE SHALL, UPON DEMAND BY LESSOR, PROMPTLY AND FULLY REIMBURSE LESSOR FOR THE TOTAL COST THEREOF, PROVIDED THAT LESSEE SHALL NOT BE RESPONSIBLE FOR THAT PART OF THE COST FOR WHICH LESSOR HAS BEEN COMPENSATED BY INSURANCE PROCEEDS IF ANY, SO LONG AS IF THE INSURANCE CARRIER HAS WAIVED ITS RIGHT OF SUBROGATION AGAINST LESSEE,

15.3 LESSEE AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS LESSOR, ITS OFFICERS, AGENTS AND EMPLOYEES AGAINST ANY AND ALL CLAIMS, DEMANDS, COSTS, CAUSES, DAMAGES, AND EXPENSES OF EVERY KIND AND NATURE, INCLUDING REASONABLE ATTORNEYS' FEES FOR THE DEFENSE THEREOF, ARISING FROM: (1) THIS AGREEMENT, (2) THE CONSTRUCTION OR CONDITION OF THE LEASED PREMISES, AND/OR LESSEE'S OCCUPANCY OF THE LEASED PREMISES, INCLUDING ANY BUILDING, STRUCTURE, OR IMPROVEMENT THEREON, AND/OR (3) FROM ANY BREACH OR DEFAULT ON THE PART OF LESSEE IN THE PERFORMANCE OF ANY AGREEMENT OF LESSEE TO BE PERFORMED PURSUANT TO THE TERMS OF THIS LEASE AGREEMENT, AND/OR FROM ANY ACT OR NEGLIGENCE OF LESSEE, ITS EMPLOYEES, REPRESENTATIVES, AGENTS, INVITEES, CUSTOMERS, OR THIRD-PARTIES, ON OR ABOUT THE LEASED PREMISES. IN THE EVENT ANY SUCH PROCEEDINGS ARE BROUGHT AGAINST ANY OF SUCH PERSONS, LESSEE COVENANTS TO DEFEND THE PROCEEDING AT ITS SOLE COST AND EXPENSE BY LEGAL COUNSEL REASONABLY SATISFACTORY TO LESSOR, IF REQUESTED BY LESSOR.

SECTION 16. ASSIGNMENT OR SUBLEASE

Lessee hereby agrees to sublease only areas or stalls on the property as reflected in Exhibit "A" to groups, individuals and vendors who sell products and goods consistent with the Farmers & Artisans Market Operation. A representative of the lessee shall be present at all times on the property when individuals, vendors or groups are subleasing areas/stalls on the property and are present to display, unload, load, convey and/or sell products and goods associated with the Farmers & Artisans Market. Otherwise Lessee will not assign or sublease the Leased Premises, or any part thereof, or any right or privilege connected therewith, or to allow any person, except Lessee's agents, vendors and employees, to occupy the Leased Premises without first obtaining Lessor's written consent, which may be denied by Lessor at its sole discretion. A single consent to assignment or sublease by Lessor shall not be consent to a subsequent assignment,

sublease or occupation by other persons or entities. Lessee's unauthorized assignment, sublease, or license to occupy shall be void, and shall immediately terminate the Lease at Lessor's option. Lessee's interest in this Lease is not assignable by operation of law, nor is any assignment of any interest therein, without Lessor's prior written consent. Lessee shall be responsible for all acts, omissions and conditions created by its sublessees on the Leases Premises and further, all reference to the obligations of Lessees in this Lease shall include any subleases of Lessee. [Does City want a periodic report on identification and goods sold by subleases/vendors?]

SECTION 17. LESSEE'S BANKRUPTCY

Notwithstanding any other provisions herein, if a petition in bankruptcy is filed, or is threatened to be filed by or against Lessee in any court of competent jurisdiction, Lessee shall have the duty to immediately notify the Lessor of same and Lessor shall have the right, at its sole discretion, to terminate this Lease by giving notice in writing, by registered or certified mail, to the receiver or trustee in bankruptcy.

SECTION 18. EVENTS OF DEFAULT

18.1. Default by Lessee. Each of the following events shall be deemed to be an event of material breach and default of this Lease Agreement:

- A. Lessee's failure to pay any installment of Rent in advance on the first day of the month or shall fail to perform or discharge any other obligation or liability under this Lease Agreement requiring the payment of money when any such payment is due.
- B. Default by Lessee in performance of, or in violation of, any other term or provision of this Lease Agreement other than that stated in Section 18.1(A), if such default is not cured within three (3) days after written notice of default is provided by Lessor.
- C. Lessee's failure to cooperate with Lessor, as determined necessary by Lessor, to resolve any disputes with third-parties, related in any manner to the Leased Premises.
- D. The filing or execution or occurrence of a petition in bankruptcy or other insolvency proceeding by or against Lessee, or a petition or answer seeking relief under any provision of the Bankruptcy Act, or an assignment for the benefit of creditors, or a petition or other proceeding by or against Lessee for the appointment of a trustee, receiver or liquidator of the Lessee or any of Lessee's properties, or a proceeding by a governmental authority for the dissolution or liquidation of the Lessee, or the levying of a writ of execution or attachment on or against Lessee's property, or the creation of a mechanic's lien or claim therefore against the Leased Premises or any improvements thereon caused by or resulting from any work performed, materials furnished, or obligation incurred by or at the request of Lessee; and

- E. The abandonment, misuse or vacating of the Leased Premises, or any substantial portion thereof by Lessee.
- F. Lessee is found to be in violation of any federal, state or city law, regulation, ordinance or policy.
- G. Lessee fails to timely provide any requested information or documents to Lessor.
- H. Lessee uses the Leased premises in any manner that creates a nuisance, ~~interferes with lawful use of adjacent property or poses a danger to the public.~~

18.2. Remedies of the Lessor. Upon the occurrence of any events and/or defaults by the Lessee, (and including Lessee's sublessees/vendors) the Lessor shall have the option to pursue any one or more of the following remedies upon ten (10) days written notice to Lessee:

- A. Terminate this Agreement, in which event Lessee shall immediately surrender the Leased Premises to the Lessor. In the event the Lessee fails to immediately surrender the Leased Premises to the Lessor the Lessor may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Leased Premises and remove Lessee and any other person who may be occupying said Leased Premises or any part thereof.
- B. Re-enter and resume possession of the Leased Premises, alter locks and other security devices at the Leased Premises, remove all personal property of the Lessee, using whatever force as may be reasonably necessary, at the sole cost of the Lessee and re-let the Leased Premises on such terms as are reasonable and as the Lessor may deem advisable. Lessee agrees to pay to the Lessor on demand any costs and/or deficiencies that may arise by reason of such reletting due to default or breach.
- C. Remedy the default for the account of Lessee, which Lessee shall be obligated to pay to Lessor, including all costs, expenses, and disbursements incurred by Lessor in taking such remedial action.
- D. In the event that Lessee's use of the Leased Premises creates a condition that Lessor deems to be dangerous, Lessor reserves the right to immediately terminate the Lease, with no advance notice or opportunity to cure prior to termination.

SECTION 19. DEFAULT BY LESSOR

In the event of an alleged act or omission by Lessor, Lessee shall not exercise any right to which it may be entitled until Lessee has given notice in writing to the Lessor of such act or omission at which time the Lessor shall have thirty (30) days to cure same.

SECTION 20. INTEREST AND ATTORNEY'S FEES

Any sum which the Lessee may become obligated to pay to the Lessee shall bear interest at the maximum rate of allowed by law, per annum from the date due until paid, it being understood that interest in excess of the maximum permitted by law shall never be collected under this Lease Agreement. In the event Lessor should find it necessary to employ an attorney and initiate mediation or litigation for the purpose of collecting any sum due or enforcing any right hereunder or pursuant to any other agreement by and between the Parties, Lessee agrees to pay Lessor reasonable attorneys' fees for the services of Lessor's attorney in such actions or activities, including all mediation or court costs incurred by the Lessor, thereby.

SECTION 21. MISCELLANEOUS

21.1. Notice. Notice arising out of or pursuant to the provisions of this Lease Agreement shall be in writing and delivered by hand or certified postage prepaid, addressed to the person authorized to receive such notice. Notices shall be delivered to the Parties at the addresses set forth below or to such other addresses as the Parties designate in writing.

A. Notice to Lessor:

City of Bastrop
Attn: City Manager
904 Main Street
Bastrop, Texas 78602

B. Notice to Lessee

Erika Bradshaw
220 Zapalac Road
Smithville, Texas 78957

21.2. No Waiver. A delay by Lessor in enforcing any part of this Lease Agreement shall not be deemed a waiver of any of Lessor's rights or remedies, and shall not be deemed a waiver of any subsequent breach or default by Lessee. If Lessor accepts any Rent payment after its due date, the acceptance shall not be construed as a waiver of the breach, shall not change any other due date, and shall not waive any of Lessor's rights or remedies. No term or provision of this Lease Agreement is intended to or shall have the affect of altering in any way Lessor's rights to sovereign immunity, as pursuant to State law.

21.3. Severability. Each and every covenant and obligation contained in this Lease Agreement is and shall be construed to be a separate and independent covenant and obligation. If any term or provision of this Lease Agreement, or its application to any person or circumstances, shall be held invalid, illegal or unenforceable, the remainder of this Lease Agreement shall be unaffected, and each and every other term and provision shall be enforced to the fullest extent permitted by law.

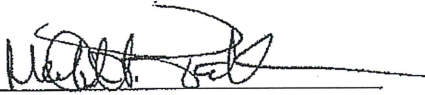
- 21.4. Venue and Applicable Law. The Parties hereto agree that the laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this lease. Venue for any action involving this lease shall be in the state courts of Bastrop County, Texas.
- 21.5. Interpretation. Time is of the essence in this Lease Agreement. Each Party has read and understands the meaning and effect of this Lease and has been allowed opportunity and time to confer with their respective attorneys and advisors.
- ~~21.6. Construction. The Parties agree that the Lease Agreement shall be construed fairly and simply and not strictly against either Party.~~
- 21.7. Lease Control. If any provisions in this Lease Agreement conflict with any provision in any other instrument, those herein shall control.
- 21.8. Binding Effect. All of the terms, covenants, and conditions contained within this Lease Agreement shall apply to, bind, inure to the benefit of, and be exercised by the heirs, executors, administrators, successors in interest and assigns of all Parties, except as otherwise expressly provided herein.
- 21.9. Headings. Headings used throughout this Lease Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, restrict, modify, amplify or aid in the interpretation or construction of the meaning of the provisions of this Lease Agreement. The terms "hereof," "hereunder" and "herein" shall refer to this Commercial Lease as a whole, inclusive of all exhibits, except as otherwise expressly provided. The use of the masculine or neuter genders herein shall include the masculine, feminine and neuter genders. The singular form shall include the plural when the context requires.
- 21.10. Entire Agreement. This Lease Agreement is the entire agreement between Lessee and Lessor related to the Leased Premises, and it incorporates all other written, verbal, express, and implied agreements made between any Party or any agent of any Party to this Lease in connection with this transaction.
- 21.11. Amendment. No Amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

(Remainder of Page Intentionally Left Blank)

21.12. Good Faith. If any provision of this Agreement is found to be unlawful or unenforceable, the Parties will negotiate in good faith so that it shall be in compliance with applicable laws and consistent to the extent possible with the original intent of this Agreement.

EXECUTED this 1st day of May 2008 ("Effective Date")

City of Bastrop, Lessor

By: 
Michael H. Talbot, City Manager

1832 Farmers Market, Lessee

By: 
Erika Brashaw

STATE OF TEXAS

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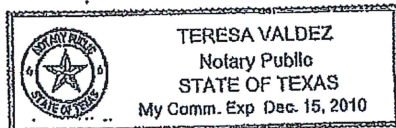
COUNTY OF BASTROP

§

§

BEFORE ME, the undersigned authority, on this day personally appeared Michael H. Talbot, known to me to be the City Manager of the City of Bastrop, and the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purposes and consideration therein expressed, as the act and deed of the said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this the 1st day of May, 2008.



Teresa Valdez
Notary Public, State of Texas

STATE OF TEXAS

§

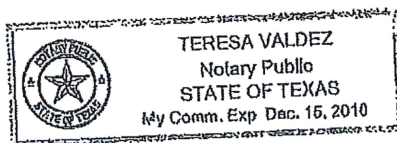
COUNTY OF BASTROP

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BEFORE ME, the undersigned authority, on this day personally appeared Erika Bradshaw, as authorized representative of 1832 Farmers Market, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same as the act and deed of and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this the 1st day of May, 2008.

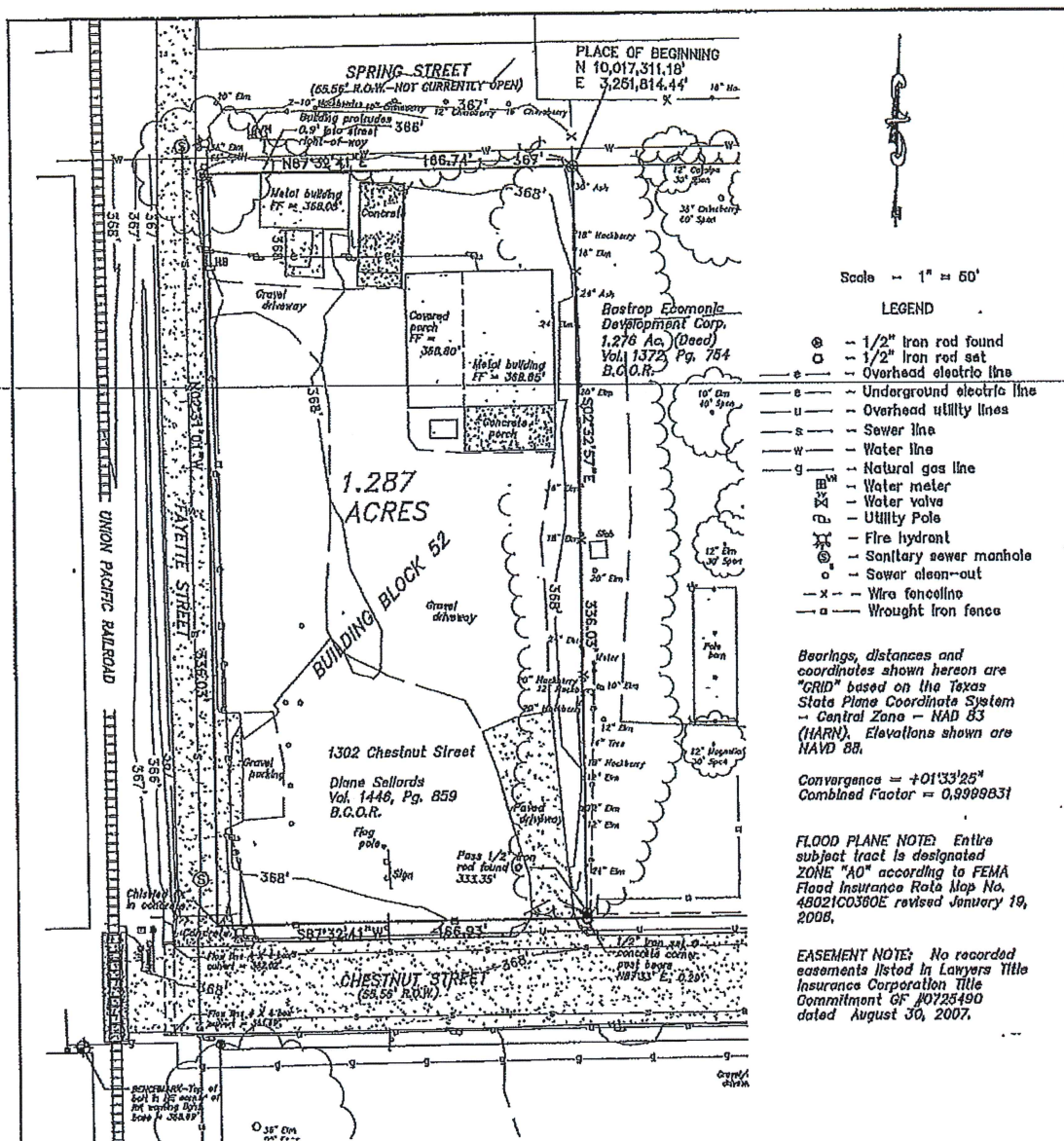


Teresa Valdez
Notary Public, State of Texas

EXHIBIT A

[MAP]

A tract of land in Bastrop County, Texas, identified as 1.287 acre tract and according to the map or plat thereof, recorded in, Plat Records, Bastrop County, Texas.



PLAT SHOWING THE SURVEY OF A 1.287 ACRE TRACT, BEING A PART OF BUILDING BLOCK 52 EAST OF WATER STREET ACCORDING TO THE PLAT OF THE CITY OF BASTROP RECORDED IN PLAT CABINET 1, SLIDE 23A OF THE PLAT RECORDS OF BASTROP COUNTY, AND BEING THAT SAME TRACT DESCRIBED AS 1.275 ACRES IN A DEED FROM WOODROW FROELICH TO DIANE C. SELLARDS DATED JUNE 16, 2004 AND RECORDED IN VOLUME 1446, PAGE 859 OF THE OFFICIAL RECORDS OF BASTROP COUNTY

STATE OF TEXAS

COUNTY OF BASTROP

I, Kevin Von Minden, a Registered Professional Land Surveyor, do hereby certify that this survey was made on the ground, that this plat correctly represents the facts found at the time of the survey, and that this professional service conforms to the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1A, Condition 1 Land Title Survey.

Kevin Von Minden, R.P.L.S.
Registration No. 4438
BEFCO ENGINEERING, INC.
La Grange, Texas
979-988-6474
August 4, 2007



10-27-15

F:\Kevin\Land Projects 3\07-4499\dwg\07-4648a

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