

**RESOLUTION NO. R-2018-43**

**A RESOLUTION OF THE CITY OF BASTROP, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENTS ON BEHALF OF THE CITY MODIFYING THE DEADLINES FOR CONSTRUCTION FOR PROJECTS FUNDED BY THE 2013 FUNDING AGREEMENT AND THE 2015 380 AGREEMENT WITH THE BASTROP FINE ARTS GUILD; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Bastrop ("City") and the Board of Directors of the Bastrop Fine Arts Guild ("Guild") entered into a Funding Agreement on May 22, 2013; and

**WHEREAS**, the City and the Guild entered into a 380 Agreement on February 18, 2015; and

**WHEREAS**, partial progress has been made toward the completion of construction of the facilities, but additional time is necessary; and

**WHEREAS**, the City Council finds it to be reasonable, prudent and in the public interest to modify the two contracts.

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

**Section 1:** The City Council hereby approve Amendment #1 to the Funding Agreement.

**Section 2:** The City Council hereby approve Amendment #1 to the 380 Agreement.

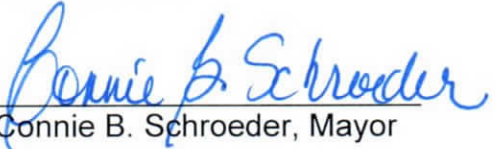
**Section 3:** The City Council hereby authorizes the City Manager to execute both documents on behalf of the City of Bastrop.

**Section 4:** The meeting at which this Resolution was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Texas Open Meetings Act.


**Section 5:** This Resolution becomes effective immediately.

**DULY RESOLVED & ADOPTED** by the City Council of the City of Bastrop, TX, on this, the 12<sup>th</sup> day of June, 2018.

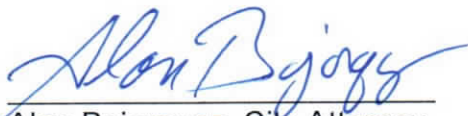
**APPROVED:**

  
\_\_\_\_\_  
Connie B. Schroeder, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Alan Bojorquez, City Attorney

**Amendment #1 to the  
Funding Agreement  
between the City of Bastrop  
and the Bastrop Fine Arts Guild**

This Amendment #1 to the Funding Agreement between the City of Bastrop, an incorporated municipality ("City"), and the Bastrop Fine Arts Guild, a nonprofit corporation ("Guild"), the Agreement finally executed on May 22, 2013.

**WHEREAS**, the City and the Guild entered into a Funding Agreement on or about May 22, 2013;  
and

**WHEREAS**, the Guild has received the funding provided as consideration under the Agreement, but has only made partial progress toward completion of the Project; and

**WHEREAS**, the Guild has committed an Act of Default, as defined by Section 2.1 of the Agreement, through the Guild's failure to timely, fully, and completely comply with one or more of the requirements of the Agreement, that being completion of portions of the Project, as defined by Section 2.11 of the Agreement; and

**WHEREAS**, the City has provided the Guild with Notice of Default by the Guild, in accordance with the Agreement; and

**WHEREAS**, City and the Guild seek to modify the Agreement in a manner that enables the Guild to continue construction and complete the Project, albeit in accordance with a modified timeline; and

**WHEREAS**, this Amendment is consistent with Section 9.1 of the Agreement.

**NOW, THEREFORE**, in consideration of the mutual benefits described in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Guild agree as follows:

1. **Amendment.** Conflicting deadlines or current defaults notwithstanding, Article 4 [Construction Plan and Phasing] of the Agreement is hereby amended by adding Section 4.4 as follows:

**4.4. Phase IV.** September 30, 2018, shall be the deadline for completion of construction of all buildings and facilities of Project described in Section 2.11 of the Agreement, that being:

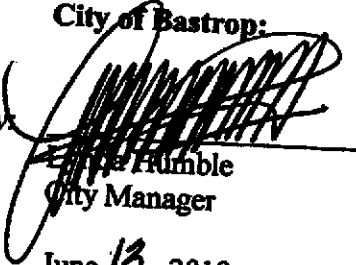
The exterior of the four silos will be refurbished. Walls and roofs will be patched and doors will function. One silo will be equipped with glass blowing equipment and an outside bleacher, covered by an awning, for purposes of viewing the glass blowing production. The other three silos will be useable as unconditioned space for art

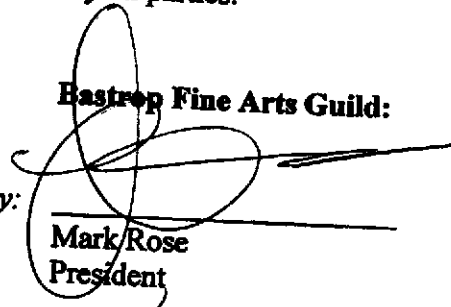


demonstrations and classes suitable for unconditioned space such as, but not limited to, sculpture, wood working, ceramics, alcohol inks. TCEQ requirements will be met in the reconditioning of silo space. Interior silo space use will change over time as programs develop and needs change, but the exterior of the silos will maintain their historical look to compliment the outdoor space and the modern design of the Art Center. The sculpture garden is substantially complete. The stage will be covered and minor landscaping, such as plantings along the sidewalk, will be installed.

2. **Substantial Compliance.** Nothing herein shall be construed as the City's acceptance of substantial compliance in lieu of full compliance of default by the Guild.
3. **Reservation of Remedies.** Nothing herein shall be construed as waiving or modifying the remedies available to the City under the Agreement, including repayment of the funding by the Guild.
4. **Additional Public Money.** The Guild will not be eligible for additional funding with public money until the purpose of this agreement has been met.

This Amendment #1 shall be effective immediately upon execution by all parties.

City of Bastrop:  
by:   
Eric Humble  
City Manager  
June 13, 2018

Bastrop Fine Arts Guild:  
by:   
Mark/Rose  
President  
June 8, 2018

**Amendment #1 to the  
380 Agreement  
between the Bastrop Fine Arts Guild  
and the City of Bastrop**

This Amendment #1 to the Funding Agreement between the City of Bastrop, an incorporated municipality ("City"), and the Bastrop Fine Arts Guild, a nonprofit corporation ("Guild"), the Agreement finally executed on February 18, 2015.

**WHEREAS**, the City and the Guild entered into a "Second Funding Agreement" on or about February 18, 2015 ("380 Agreement"); and

**WHEREAS**, the Guild has received local Hotel Occupancy Tax funding provided as consideration under the 380 Agreement, but has only made partial progress toward completion of the Project; and

**WHEREAS**, the Guild has committed an Act of Default, as defined by Section 7 of the 380 Agreement, through the Guild's failure to comply with one or more of the requirements of the 380 Agreement, that being completion of portions of the Project, as defined by Section 2.11 of the Agreement; and

**WHEREAS**, the City has provided the Guild with Notice of Default by the Guild, in accordance with the 380 Agreement; and

**WHEREAS**, City and the Guild seek to modify the 380 Agreement in a manner that enables the Guild to continue construction and complete the Project, albeit in accordance with a modified timeline; and

**WHEREAS**, this Amendment is consistent with Section 9.15 of the 380 Agreement.

**NOW, THEREFORE**, in consideration of the mutual benefits described in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Guild agree as follows:

1. **Amendment.** Conflicting deadlines or current defaults notwithstanding, Article 4 [Construction Plan and Phasing] of the Agreement is hereby amended by adding Section 4.3.1 as follows:

**4.3.1 Phase IV.** September 30, 2018, shall be the deadline for completion of construction of all buildings and facilities of Project described in Section 2.11 of the Agreement, that being:

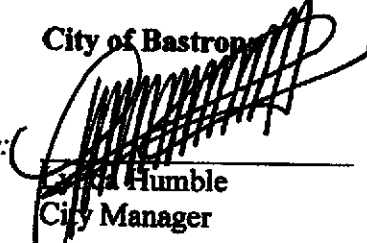
The exterior of the four silos will be refurbished. Walls and roofs will be patched and doors will function. One silo will be equipped with glass blowing equipment and an outside bleacher, covered by an awning, for purposes of viewing the glass blowing

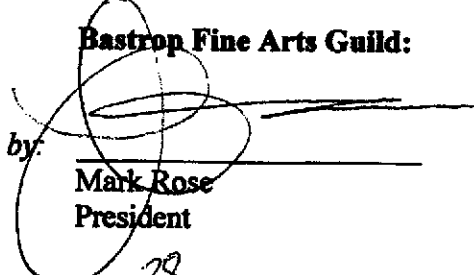


production. The other three silos will be useable as unconditioned space for art demonstrations and classes suitable for unconditioned space such as, but not limited to, sculpture, wood working, ceramics, alcohol inks. TCEQ requirements will be met in the reconditioning of silo space. Interior silo space use will change over time as programs develop and needs change, but the exterior of the silos will maintain their historical look to compliment the outdoor space and the modern design of the Art Center. The sculpture garden is substantially complete. The stage will be covered and minor landscaping, such as plantings along the sidewalk, will be installed.

2. **Substantial Compliance.** Nothing herein shall be construed as the City's acceptance of substantial compliance in lieu of full compliance of default by the Guild.
3. **Reservation of Remedies.** Nothing herein shall be construed as waiving or modifying the remedies available to the City under the 380 Agreement, including repayment of the funding by the Guild.
4. **Additional Public Money.** The Guild will not be eligible for additional funding with public money until the purpose of this agreement has been met.

This Amendment #1 shall be effective immediately upon execution by all parties.

City of Bastrop  
by:   
Krista Humble  
City Manager  
June 13, 2018

Bastrop Fine Arts Guild:  
by:   
Mark Rose  
President  
June 28, 2018