

RESOLUTION NO. R-2022-56

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS APPROVING THE FIRST AMENDMENT TO THE DEVELOPMENT AND ANNEXATION AGREEMENT BETWEEN THE CITY OF BASTROP A HOME RULE CITY, AND BASTROP COLORADO BEND, LLC, A TEXAS LIMITED LIABILITY COMPANY FOR 546.364+/- ACRES OF LAND OUT OF THE A2 STEPHEN F. AUSTIN, TO THE WEST OF LOVERS LANE, LOCATED WITHIN THE CITY OF BASTROP EXTRATERRITORIAL JURISDICTION, AS ATTACHED IN EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Owner owns approximately 546.36 acres of land, more or less, located in Bastrop County, Texas, described in the attached Exhibit "A" (the "Property"). The Property is located within the City's extraterritorial jurisdiction ("ETJ") and not within the ETJ or corporate limits of any other municipality; and

WHEREAS, Owner, or its successors, will develop the Property as a high-quality, mixed commercial development project that will include a multi-faceted film studio, lodging, restaurants, event space, recreational facilities, parks and greenbelt areas, as provided in this Agreement, and in accordance with the Concept Plan attached hereto as Exhibit "B", which shows the general locations of the land use areas as currently configured, a permitted land use chart, a table establishing development standards, and cross-section of proposed roadways; and

WHEREAS, the City and the Owner executed a Development and Annexation Agreement Bastrop Colorado Bend on July 2, 2021 as approved by City Council in Resolution No. R-2021-57; and

WHEREAS, The Parties desire to establish certain restrictions and commitments to be imposed and made in connection with the development of the Property; to provide increased certainty to the City and Owner concerning development rights, entitlements, arrangements, and commitments, including the obligations and duties of the Owner and the City, for a period of years; and to identify planned land uses and permitted intensity of development of the Property before and after annexation as provided in this Agreement, which is promulgated under the City of Bastrop's Home Rule Charter ("City Charter"), and state law, including, but not limited to Section 212.172 of the Texas Local Government Code.

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

Section 1: That the City Manager will execute the First Amendment to the Development and Annexation Agreement between the City of Bastrop a Home Rule City and Bastrop Colorado Bend, LLC, a Texas limited liability company for 546.364+/- acres of land out of the A2 Stephen F. Austin, to the west of Lovers Lane, located within the City of Bastrop Extraterritorial Jurisdiction, attached as Exhibit A.

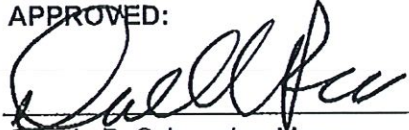
Section 2: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of

such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 3: That this Resolution shall take effect immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 12th day of July, 2022.

APPROVED:



Connie B. Schroeder, Mayor

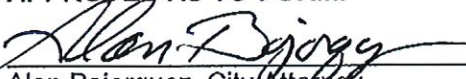
Drusilla Rogers, Mayor Pro
Temp for

ATTEST:



Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney

**FIRST AMENDMENT TO THE
DEVELOPMENT AND ANNEXATION AGREEMENT**

This First Amendment to the Development and Annexation Agreement (this “**Amendment**”) is made, entered into, and effective as of the 12th day of July, 2022 (the “**Effective Date**”) by and between the City of Bastrop, a Texas home-rule municipal corporation (the “**City**”), and Bastrop Colorado Bend, LLC, a Texas limited liability company (“**Owner**”). The City and Owner are sometimes referred to herein collectively as the “**Parties**” or individually as a “**Party**.” The Parties hereby contract, covenant, and agree as follows.

RECITALS

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

WHEREAS, the City and Owner desire to amend the Agreement in certain respects to account for changes in circumstances related to phasing of development and traffic infrastructure and mitigation, as set forth in this Amendment, and for additional clarification; and

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

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

1. **Definitions**. All capitalized terms used in this Amendment shall have the meaning ascribed to them in the Agreement, unless otherwise defined herein.

2. **Contemplated Sequence of Events**. Section 3.02 of the Agreement is hereby amended to clarify that the sequence of events is related to annexation and zoning and to delete subsection (b) related to timing of the final plat.

3. **Contemplated Sequence of Events Related to Public Improvements and Platting**. Article III of the Agreement is hereby amended and modified to renumber the sections of Article III and incorporate new Section 3.03 as follows:

3.03 Contemplated Sequence of Events Related to Public Improvements and Platting. The sequence of events related to public improvements and platting contemplated by this Agreement is as follows:

1. Conceptual Drainage Plan
2. Preliminary Infrastructure Plan

3. Preliminary Drainage Plan
4. Preliminary Plat
5. Final Drainage Plan
6. Public Improvement Plan
7. Public Improvement Plan Agreement
8. Final Plat
9. Site Development Plan
10. Building Permits

Development Applications may be submitted for review on any Monday on which City offices are open for business (non-holidays). The Parties agree to utilize an alternate application review process, and Owner agrees to waive any state mandated processes or timelines in order to proceed with the process as follows:

- (a) Concurrent review of (1) Conceptual Drainage Plan, (2) Preliminary Infrastructure Plan, (3) Preliminary Drainage Plan, and (4) Preliminary Plat.
- (b) Concurrent review of (5) Final Drainage Plan, (6) Public Improvement Plan, and (7) Public Improvement Plan Agreement.
- (c) Execution of the Public Improvement Plan Agreement.
- (d) Concurrent review of (8) Final Plat and (9) Site Development.

Owner acknowledges that applications may have to be revised based upon the City's review of the preceding development application. To expedite the development process, the City agrees to accept the required land development applications in the groupings ("**Set of Development Applications**") and order provided in the list above, along with all necessary supporting documentation. A subsequent Set of Development Applications may be submitted prior to final approval of the preceding Set of Development Applications and review initiated to the extent possible as long as the preceding Set of Development Applications has been scheduled for consideration by the Planning and Zoning Commission or City Council.

4. Initial Structures. Section 3.03 of the Agreement is hereby deleted and replaced as Section 3.04 with the following:

3.04 Initial Structures. Notwithstanding the foregoing, City acknowledges that Owner intends to build a metal building of up to 40,000 square feet and a barn with stables, a 2,500-3,000 square-foot private residence for Owner's use along with accompanying OSSF and water well improvements, and two (2) one acre (1-acre) Backlots (as defined in Section 4.05(c)) (collectively referred to herein as the "**Initial Improvements**") for purposes of storage, property management and maintenance, the existing farm/ranch operation, residential (private), and Backlots for temporary props and sets. Construction of the Initial Improvements described above are contingent on prior negotiation and execution by Owner of a separate, related agreement with the Bastrop Economic Development Corporation regarding funding of the South Street Improvements, approved by the City Council. Owner intends to continue farm and ranch activities on the Property until such time as the Project is fully built out. Provided that the Initial Improvements are related to such provided purposes, some or all of the Initial Improvements may be constructed on the Property through the appropriate permit process and will not require an

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

5. **Approval of the Concept Plan.** Section 4.03(b) of the Agreement is hereby deleted and replaced with the following:

(b) The Concept Plan hereby approved by the City is also approved for use as an exhibit for the Zoning Concept Scheme required by the City Code. To complete the zoning application to be submitted to the City for final zoning of the Property upon annexation, the Zoning Concept Scheme shall include details regarding the public frontage plan along the Perimeter Roadway, defined in Section 4.12(b) below, and Lovers Lane (“**Public Frontage Plan**”). When determining the base standards, the Public Frontage Plan shall align with the intent of the City Code and B3 Technical Manual Standards and include the proposed privacy fencing to be constructed adjacent to the Perimeter Roadway as shown on **Exhibit “B”**. The Public Frontage Plan, in detailing the privacy fencing, shall describe the extent that native stone materials and landscaping will be incorporated into the design. Installation of the frontage improvements identified in the Public Frontage Plan are not required until such time as the public roadway adjacent to such portion of the Public Frontage Plan is fully constructed. Specifically, public improvements identified in any approved Public Frontage Plan along Segment 2 (as defined below) are not required to be constructed until or unless Segment 2 is built. Until such time as Segment 2 is constructed, Owner intends to erect an eight to ten foot “game-fence” or similar fencing along the boundary of the Property within the future location of Segment 2. Owner agrees to remove, at Owner’s sole expense, the fencing from the dedicated right of way for Segment 2 immediately following notice from the City of the intent to initiate construction of Segment 2.

6. **Land Uses and Densities.** Section 4.05 of the Agreement is hereby amended and modified to incorporate new subsections (b), (c), and (d) as follows:

(b) Except as provided for the Backlot as Initial Improvements, in any area of the Property that is part of an approved site plan (“**Site Plan**”), non-permanent and non-habitable improvements or structures to be used solely as props, sets, and for filming purposes (“**Temporary Structures**”) may be constructed, assembled, installed, disassembled, and removed in an expedited manner through a temporary permit and safety inspection process established by the City. Such Temporary Structures shall (i) be restricted to filming and shooting purposes only

(residential or commercial use is prohibited), and (ii) not involve the extension of public roads or domestic water or wastewater utilities. Examples include, but are not limited to, sets or props that contain non-habitable buildings or streetscapes (i.e., a film set that simulates a city scene), Backlots (as defined below), green screen structures and stages, water features, water tanks, large temporary tents, canopies, portable kitchens, bleachers, stages, portable flooring or Astro Turf, and non-permanent roads for use in filming only, as further illustrated by **Exhibit “I”**. A Temporary Permit will expire after one hundred eighty (180) days of issuance. The Site Plan will include all known permanent structures and buildings, utility infrastructure, the private internal roadway system, and shall establish the allowable impervious cover, the drainage improvements necessary to handle the impervious cover and land disturbance, emergency fire flow for permanent structures, and a note stating that no habitable structures are allowed without a revision to the Site Plan. Vertical structures used for props and sets (non-habitable) that will be temporarily occupied during filming will require an expedited permitting and inspection by the City, by a process and procedure to be established by the City, to ensure the structure is safely designed by a registered engineer and erected to meet wind loads (i.e., anchored correctly). For purposes of this Agreement, “**expedited**” shall mean completed within two (2) business days of application submittal, fee payment, and inspection request, and “**non-habitable**” shall mean a structure not intended for human occupancy for living, sleeping, eating, or cooking purposes.

(c) The use of “**Backlot**” is permitted in all general use categories in the Concept Plan. Backlot shall mean a permanent foundation, with or without electrical utilities, for use in erecting Temporary Structures, such as sets, props, or exterior buildings for outdoor scenes in filmmaking or television productions. Examples of a Backlot are depicted in **Exhibit “J”**. A permanent foundation, designed by a registered engineer, for a Backlot may be installed with the approval of a modified flatwork permit to be created by the City and an electrical permit (as may be required). The modified flatwork permit will allow for expedited approval by the City Building Official and will create a running total of impervious cover to ensure that the constructed Backlots do not exceed the impervious cover and drainage limitations established in the Site Plan. A revision to the Site Plan is not required unless the City’s water and wastewater lines are extended to service a Backlot. The installation or erection of Temporary Structures on a Backlot may be constructed, assembled, installed, disassembled, and removed with an expedited temporary permit issued by the City as provided in Section 4.05(b).

(d) Portable, pre-manufactured, accommodation structures used for short-term lodging, such as tiny homes, shipping container homes, or similar pre-built structures (“**Prefab Lodging**”), are permitted in the Recreation and Hybrid land use categories established in the Concept Plan. The proposed location(s) of the Prefab Lodging must be included on the approved Site Plan. Prior to placement of Prefab Lodging or other accommodation structures used for short-term lodging, sufficient fire flow must be readily available. The City agrees to consider fire flow alternatives such as a storage tank. Owner will be required to obtain all appropriate permits and meet applicable International Building Code and other applicable requirements. The City will not unreasonably deny the right of Owner to utilize private wells and septic systems to serve the Prefab Lodging within the City’s Certificate of Convenience and Necessity. Owner further commits to abandoning the use of private wells and septic systems associated with the Prefab Lodging once the public utility infrastructure is extended to such area of the Property and is available for use no later than ten (10) years from the approval date of this Agreement.

7. **Public Right of Way.** Section 4.12(b) of the Agreement is hereby deleted and replaced with the following:

(b) Public Right of Way.

(i) **Perimeter Roadway.** Owner shall dedicate, by final plat, (i) a fifty-five and one-half (55.5) foot wide public right of way along the boundary of the Property (“**Perimeter Roadway**”); and (ii) the width of right of way necessary to total forty (40) feet from the center line of Lovers Lane along Lovers Lane adjacent to the Property, as depicted in **Exhibit “G”** (collectively, “**Dedicated ROW**”). Owner shall construct, at Owner’s sole expense, the northern portion of the Perimeter Roadway running from Lovers Lane parallel to Margies Way as a Local Collector: Rural Street (such portion being shown on Exhibit “G” as “**Segment 1**”). Owner shall pay fee-in-lieu in the amount of \$250,000 to the City Transportation Fund (“**Segment 2 Monetary Obligation**”) for construction of two lanes of the southern portion of the Perimeter Roadway running from Margies Way to El Camino River Road (such portion being shown on **Exhibit “G”** as “**Segment 2**”), which is an amount roughly proportional to the ten percent (10%) of traffic impact identified in the Traffic Impact Analysis by BGE, Inc. dated February 2022 (“**TIA**”). The Segment 2 Monetary Obligation shall be re-calculated at the time Segment 2 is constructed to accurately determine the roughly proportional obligation of Owner at ten percent (10%) of two lanes of Segment 2 as a multi-modal arterial; however, in no event shall the Segment 2 Monetary Obligation exceed \$350,000. The re-calculation may only occur once, and Owner shall be obligated to pay any additional Segment 2 Monetary Obligation to the City Transportation Fund immediately following notification from the City of an increase in the amount. The Segment 2 Monetary Obligation shall be satisfied in phased, periodic payments with the amount paid in full no later than January 1, 2032, and with the specific terms, conditions, and other provisions related to timing of the payments negotiated and executed as a separate infrastructure agreement. Notwithstanding the forgoing, the Segment 2 Monetary Obligation shall not include any costs associated with a bridge over the Colorado River or any roadway or other infrastructure associated with such bridge, provided that that the project developed on the Property is substantially similar to that depicted on the Concept Plan. Primary access points shall be on Lovers Lane as shown on the Concept Plan. Once Segment 1 of the Perimeter Roadway is constructed, any primary access points supplemental to those on Lovers Lane shall be taken from the Perimeter Roadway. Owner further agrees to prohibit access and use of El Camino Real River Road by Owner and Owner’s affiliates and vendors until such time Segment 2 is constructed. The southern portion of the Property will be accessed by the private internal roadway system. If Segment 2 of the Perimeter Roadway is constructed, it will serve as access to the portions of the Project adjoining it. Owner reserves the right to choose the official name of the Perimeter Roadway, subject to Applicable Regulations and addressing requirements.

(ii) **South Street Monetary Obligation.** In addition to obligations related to the Perimeter Roadway, Owner shall make a fee-in-lieu payment to the City Transportation Fund in the total amount of \$1,982,800.00 (“**South Street Monetary Obligation**”) which represents the developer’s roughly proportional traffic impact in the TIA and in the BGE Financial Participation Analysis Memo dated April 18, 2022. The intent of the South Street Monetary Obligation is to contribute to the cost of constructing a new bridge across the railroad tracks in order to connect

Lovers Lane to Martin Luther King Jr Street and Technology Drive by way of South Street (“**South Street Improvements**”). The South Street Improvements shall replace the required traffic mitigation previously identified in the TIA at the intersection of Lovers Lane and SH 71. The specific terms, conditions, and other provisions related to timing of the South Street Monetary Obligation shall be the subject of a separate infrastructure agreement. The South Street Monetary Obligation is contingent on negotiation and execution of a separate, related agreement with the City of Bastrop’s Bastrop Economic Development Corporation, as approved by the City Council.

(iii) **Traffic Mitigation.** The City and Owner agree that the Dedicated ROW, construction of Segment 1, the Segment 2 Monetary Obligation, and the South Street Monetary Obligation (collectively, “Traffic Mitigation”) shall satisfy all rough proportionality requirements under City Code for Owner’s traffic mitigation or new transportation improvements that are required to accommodate the additional traffic demands created by the Project as proposed herein and in the TIA under full buildout. No additional payments or traffic improvements will be required of Owner by the City as long as there is no increase in intensity or density of the proposed Project and the Project is constructed in accordance with an approved site plan that aligns with this Agreement and the TIA. Notwithstanding the foregoing, the Traffic Mitigation shall not include any obligations or costs associated with a bridge over the Colorado River or any roadway or other infrastructure associated with such bridge, unless future development within the Project generates additional impact on the City’s transportation network.

8. **Impact Fees.** Section 7.02(f) of the Agreement is hereby amended to clarify that Impact Fees shall be paid in the amount that is established by City ordinance as of the application submittal date for the final plat.

9. **General Provisions.**

a. **Interpretation of this Amendment.** This Amendment supersedes all prior agreements and understandings (oral and written) between the Parties with respect to the subject matter hereof to the extent in conflict therewith. The provisions of this Amendment, including, without limitation, all exhibits attached to this Amendment, are hereby incorporated into and made a part of the Agreement. As modified in this Amendment, the terms and conditions of the Agreement shall continue in full force and effect.

b. **Counterparts.** This Amendment may be executed simultaneously in one or more counterparts (including, without limitation, counterparts transmitted by facsimile or other electronic means (*e.g.*, .PDF via email)), each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

c. **Exhibits.** The following exhibits to this Amendment are incorporated into and made part of the Agreement by reference for all purposes:

- | | |
|-----------|--|
| Exhibit I | Examples of Flexibility Site Plan Improvements |
| Exhibit J | Examples of Backlots |

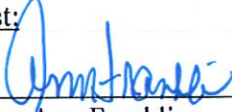
[Signature pages follow]


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

CITY:

CITY OF BASTROP, TEXAS,
a Texas home-rule municipal corporation

Attest:

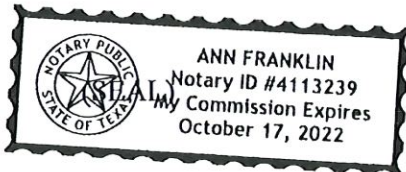
By: 
Name: Ann Franklin
Title: City Secretary


By: 
Name: Paul A. Hofmann
Title: City Manager

STATE OF TEXAS §

COUNTY OF BASTROP §

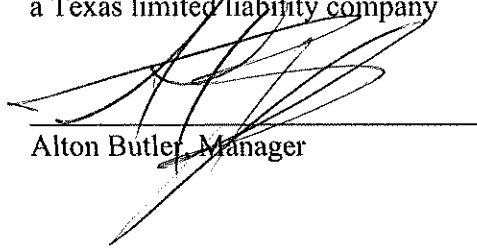
This instrument was acknowledged before me on this 19th day of July, 2022,
by Paul A. Hofmann, City Manager of the City of Bastrop, Texas, a Texas home-rule municipal
corporation, on behalf of said corporation.




Notary Public, State of Texas

OWNER:

BASTROP COLORADO BEND, LLC,
a Texas limited liability company



Alton Butler, Manager

STATE OF California §

COUNTY OF Los Angeles §

This instrument was acknowledged before me on the 12th day of August 2022,
by Alton Butler, Manager of Bastrop Colorado Bend, LLC, a Texas limited liability company, on
behalf of said limited liability company for the purposes set forth herein.

(SEAL)

Tina Marie Rosas
Notary Public, State of California



EXHIBIT I
EXAMPLES OF
FLEXIBILITY SITE PLAN IMPROVEMENTS

FLEXIBILITY ZONE IMPROVEMENTS

Exhibit "I"

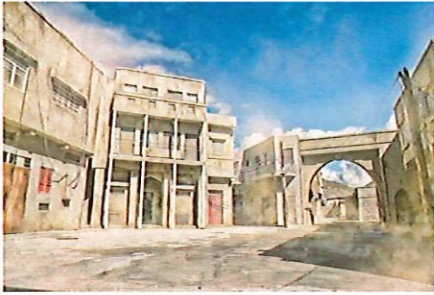


EXHIBIT J
EXAMPLES OF BACKLOTS

BACKLOT

Exhibit "J"

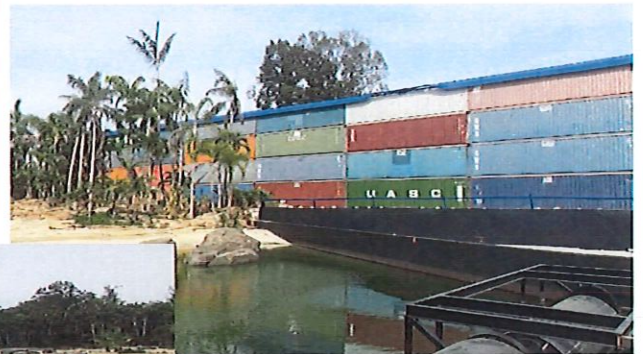


Exhibit "J"

