

**RESOLUTION NO. R-2019-87**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS  
APPROVING A LICENSE TO ENCROACH AT 702 AND 704 MAIN STREET;  
AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Bastrop City Council understands the benefit of having viable, on-going commercial enterprises operated in its downtown; and

**WHEREAS**, the City of Bastrop City Council understands particularly on Main Street, that sales tax revenue provides a direct, financial benefit to City; and

**WHEREAS**, the City of Bastrop understands such commercial activities attract visitors and shoppers to the downtown area, thereby increasing commerce overall; and

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

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

**Section 1.** That the City Council has found this agreement to be mutually beneficial to the City of Bastrop, Texas.

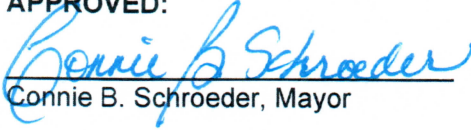
**Section 2.** The City Manager is hereby authorized to execute a contract between the City of Bastrop and Baham Interest Limited Partnership, Texas (attached as Exhibit A) as well as all other necessary documents.

**Section 3.** All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

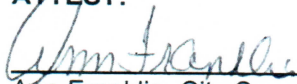
**Section 4.** This resolution shall take effect immediately from and after its passage, and it is duly resolved.

**DULY RESOLVED AND ADOPTED** by the City Council of the City of Bastrop, Texas this  
10<sup>th</sup> day of September 2019.

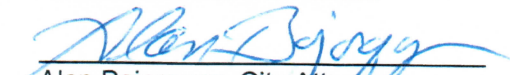
**APPROVED:**

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

**ATTEST:**

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

**APPROVED AS TO FORM:**

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

## **LICENSE TO ENCROACH AGREEMENT**

This is a license agreement for the use of certain Right of Way ("ROW") along Main Street also known as 702 & 704 Main Street for parking between the City of Bastrop, acting by and through its City Manager (hereinafter "City") and Baham Interest Limited Partnership (hereinafter "Licensee"). Either may herein be referred to individually as "Party"; collectively, City and Licensee will be referred to as the "Parties."

### **RECITALS**

The Parties acknowledge and agree on the following:

1. City is the owner of certain real property as described on Exhibit A ("the Property").
2. The Property is located immediately in front of a building in which Licensee conducts commercial activities.
3. Without this Agreement, parking would be required along the length of the roadway.
4. It is in the best interests of City and the public to have viable, on-going commercial enterprises operated in its downtown, particularly on Main Street, not only because of sales tax revenue that provides a direct, financial benefit to City, but also because such commercial activities attract visitors and shoppers to the downtown area, thereby increasing commerce overall.
5. The benefits to be derived by City and the public from this Agreement far outweigh the negligible negative impact this Agreement will have on the public's use of City's right of way in which the parking is located.
6. This Agreement is supported by full and adequate consideration.

### **TERMS OF THE AGREEMENT**

In consideration of the recitals and mutual covenants and agreements contained in this Agreement, the Parties agree to the following terms:

#### **ARTICLE 1**

##### **PREMISES AND PRIVILEGES**

For and in consideration of the terms, conditions and covenants of this Agreement to be performed by Licensee, all of which Licensee accepts, City authorizes and permits Licensee to have the non-exclusive use of the Right of Way for its parking. The herein described privileges are non-transferable and shall not convey with the sale of the property for the term of the agreement described in Article 2 Licensee accepts the condition of the Property as is, where is, in its condition as of the effective date of this Agreement with no expectation that City will incur any expense in connection with the Property, including expenses for the repair of the Property necessitated by any damage that might occur to the Property under the use and scope of this Agreement by Licensee for commercial enterprises.



## ARTICLE 2

### TERM

The term of this Agreement shall be for a period of one (1) year, beginning on the effective date of this Agreement. Unless and until the Agreement is terminated, this Agreement will renew itself automatically on each anniversary of the Agreement for an additional one (1) year term.

## ARTICLE 3

### OBLIGATIONS OF LICENSEE

In addition to any other obligations imposed by this Agreement, Licensee accepts and will perform the following obligations:

1. Licensee shall not deny parking to the public.
2. Licensee shall neither construct nor permit any buildings or structures located on the Property without the written approval of the City of Bastrop.
3. Licensee shall be responsible for the enforcement and removal of unauthorized vehicles.
4. Licensee shall maintain the Property and keep it clear of trash and other debris.
5. Licensee shall not use the Property for storage.
6. Licensee agrees to remove all other obstructions out of the Right of Way.
7. Licensee agrees all future work within the right of way will require a request in writing by Licensee answered with written approval by the City Manager.
8. Licensee acknowledges that City may desire to repair, repave, or otherwise improve the Right of Way on which the parking is located. In this event, Licensee shall remove any vehicles parked on the Property for such amount of time as is necessary for the City to perform such repairs, repaving, or improvements. The City also retains the right to access the property for all other rights incidental to and necessary in connection with any utility lines or facilities which may be located on or under the Property. The City will perform all ordinary maintenance related to the Property, and it shall be noted that the following improvements are located within the City's Right of Way of the Property:
  - Parking spaces
  - A 5' and 6' sidewalk
  - Lamp posts
  - A 12" culvert pipe
  - A drainage grate
  - An irrigation system

## ARTICLE 4

### NOT A CONVEYANCE OF REAL PROPERTY INTEREST

The Parties agree and acknowledge that this Agreement is not a conveyance or transfer of any tenancy, leasehold or ownership interest of any kind in the Property or the Right of Way.



## ARTICLE 5

### NO LIABILITY FOR CITY

The Parties agree that the City shall have no liability for any losses or damages, neither direct nor consequential, resulting from the loss of any things on the Property, real or personal, whether by theft, vandalism, negligence, act of God, or other event or occurrence.

## ARTICLE 6

### NO ASSIGNMENT

Licensee shall not assign this Agreement without the prior written consent of the City.

## ARTICLE 7

### TERMINATION

This Agreement shall terminate upon the occurrence of any of the following:

1. Either the City or the Licensee may terminate this Agreement without cause by submitting 30 (thirty) days written notice of such to the other Party.
2. Licensee defaults in the performance of its obligations under this Agreement, if such default continues for a period of ten (10) days after written notice to Licensee by the City of the default.

Upon termination of this Agreement, Licensee shall remove all things placed within the Right of Way by Licensee or its agents, servants or employees. Licensee shall restore the right of way as nearly as practical to its condition prior to the initial execution of this Agreement.

The failure of the City to declare this Agreement in default shall not operate to bar or waive the right of the City to terminate this Agreement because of any subsequent violation of the Agreement.

## ARTICLE 8

### MISCELLANEOUS GENERAL PROVISIONS

1. Attorney's Fees. In any action brought for the enforcement of the obligations in this Agreement, the prevailing party shall be entitled to recover interest and reasonable attorney's fees.
2. Misrepresentation. All terms and conditions with respect to this Agreement are expressly contained in this document. Licensee agrees that no representative or agent of the City has made any representation or promise with respect to this Agreement not expressly contained in the Agreement.
3. Paragraph Headings. The paragraph headings are for convenience and reference and are not intended to define or limit the scope of any provision of this Agreement.
4. Notices. Notices that are sent pursuant to any provision of this Agreement, at a minimum, shall be sent to the following:

5. Choice of Law and Venue. This Agreement is made and entered into by the Parties in the City of Bastrop, Bastrop County, Texas. This Agreement shall be construed in accordance with the laws of the State of Texas and the venue of any suits arising from this Agreement shall be Bastrop County, Texas.
6. Entire Agreement Amendment: This Agreement including any exhibits constitutes the full and entire understanding and agreement between the Parties and supersedes any prior or contemporaneous written or oral agreements between the Parties. This Agreement may not be amended except by a written instrument agreed to and signed by both Parties.
7. Rights and Remedies Cumulative: The rights and remedies provided by this Agreement are cumulative; and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. The rights and remedies provided in this Agreement are given in addition to any other rights the Parties may have by law, statute, ordinance, or otherwise.
8. Agreement Approval: Each Party represents and warrants that all necessary approvals for this Agreement have been obtained, and the persons whose signatures appear below have the authority necessary to execute this Agreement on behalf of the Parties indicated.
9. Originals: This Agreement may be executed in multiple or duplicate originals. A duplicate original or copy of this Agreement is as fully enforceable as an Original, whether the document is a "hard copy" or an electronic copy. This Agreement may be signed and a .pdf copy of the document transmitted electronically which shall then constitute an original signature on the document.
10. Effective Date: This Agreement shall become effective and enforceable upon the date on which both Parties signatures are collected and so attested.

**SIGNATURE PAGE TO FOLLOW.**



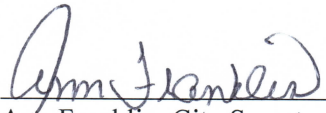
**AGREED:**

City of Bastrop, Texas

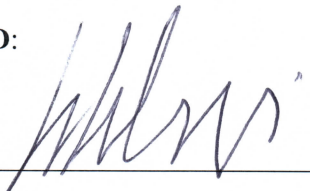
By:   
Lynda Humble, City Manager

Date Signed: 9-11-19

**ATTEST:**


  
Ann Franklin, City Secretary for Bastrop, Texas

**AGREED:**

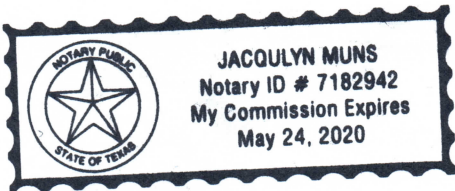
By:   
Title: Baham Interest Limited Partnership

Date Signed: 10-4-19

**ATTEST:**

By: 

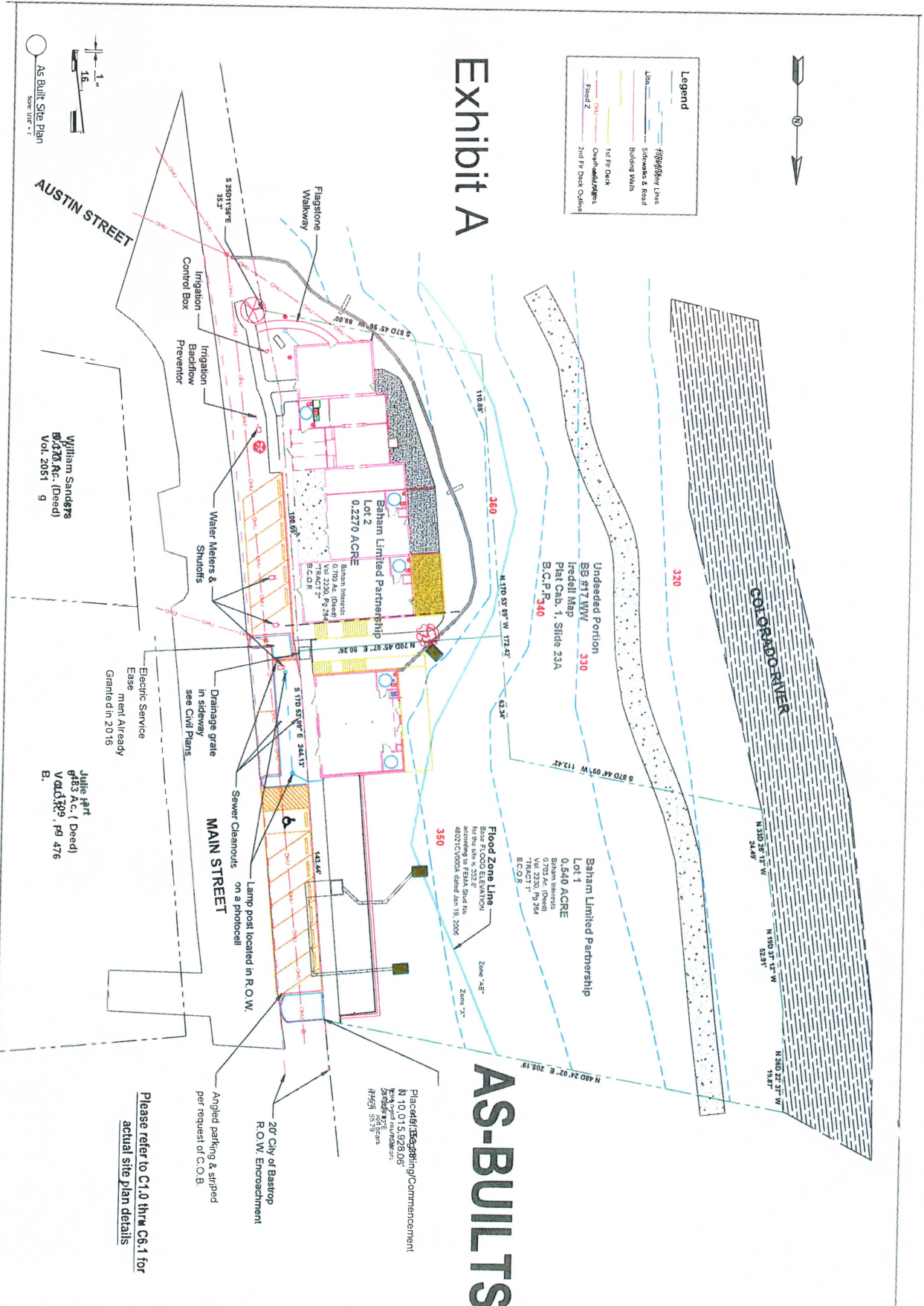
Date Signed: 10/4/19





| Legend            |                      |
|-------------------|----------------------|
| --- (dashed line) | Right-of-Way Lines   |
| --- (dashed line) | Sidewalk & Road      |
| --- (dashed line) | Building Walls       |
| --- (dashed line) | Building Voids       |
| --- (dashed line) | 1st Flr Deck         |
| --- (dashed line) | Overhead Pipes       |
| --- (dashed line) | Flood Z              |
| --- (dashed line) | 2nd Flr Deck Outline |

# Exhibit A



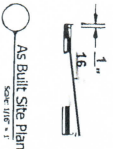
# AS-BUILTS

Placed/Re-opening/Commencement  
 N 10.015.928.06  
 5/14/2017  
 17459 5/14/17

20' City of Bastrop  
 R.O.W. Encroachment  
 Angled parking & striped  
 per request of C.O.B.  
 Please refer to C1.0 thru C6.1 for  
 actual site plan details

|           |           |           |                   |       |          |                  |
|-----------|-----------|-----------|-------------------|-------|----------|------------------|
| AS-BUILTS | 9/11/2017 | Baham LLC | 407 1/2 Laurel Dr | 77546 | 702 Main | Bastrop TX 78602 |
| REV3      |           |           |                   |       |          |                  |
| REV2      |           |           |                   |       |          |                  |
| PCM3      | 5/11      |           |                   |       |          |                  |
| REV       |           |           |                   |       |          |                  |
| LDA       |           |           |                   |       |          |                  |
| SHEET     |           |           |                   |       |          |                  |

Site Plan



AUSTIN STREET

William Sanders  
 6/2/06 Ac. (Deed)  
 Vol. 2051 9

Julie Hart  
 6/8/03 Ac. (Deed)  
 Vol. 1929 P9 476  
 B.

## Old Bastrop Museum Remodel