

**RESOLUTION NO. R-2024-115**

**APPROVING A RENEWAL OF A PROPERTY USE LICENSE AGREEMENT WITH THE 1832 FARMER'S MARKET**

**A RESOLUTION OF THE CITY OF BASTROP, TEXAS, APPROVING AND AUTHORIZING THE EXECUTION OF A PROPERTY USE LICENSE AGREEMENT BETWEEN THE CITY OF BASTROP AND THE 1832 FARMER'S MARKET, LOCATED AT 1302 CHESTNUT STREET, BASTROP, TEXAS; PROVIDING FOR FINDING OF FACTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETING.**

**WHEREAS,** the City owns the property located at 1302 Chestnut Street; and

**WHEREAS,** the 1832 Farmer's Market, operated by the nonprofit known as the Bastrop Sustainable Agricultural Community ("Nonprofit"), desires to continue to use a lot on the property for conducting and operating a community farmer's market; and

**WHEREAS,** having a farmer's market in the Main Street Program Area benefits the public and fulfills one of the goals/objectives of the City of Bastrop Main Street Program; and

**WHEREAS,** the Nonprofit agrees to pay the City of Bastrop \$350 per month for use of the lot for the renewal of its license to use the lot for the Farmer's Market; and

**WHEREAS,** the City Council has reviewed and desires to enter into the Property Use License Agreement for the 1832 Farmers Market ("Agreement"), which is attached hereto and incorporated herein as **Exhibit A**.

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

**Section 1. Finding of Facts:** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Bastrop, Texas, and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

**Section 2. Approval & Execution:** The City Council of the City of Bastrop hereby approves the Agreement (attached hereto and incorporated herein as Exhibit A) and authorizes the execution of the Agreement.

**Section 3. Severability:** Should any portion or part of this Resolution be held for any reason invalid or unenforceable by a court of competent jurisdiction, the same shall not be construed to affect any other valid portion hereof, but all valid portions hereof shall remain in full force and effect.

**Section 4. Effective Date:** This Resolution shall be in full force and effect from and after its passage.

**Section 5. Proper Notice & Meeting:** The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered, and formally acted upon, all as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

**DULY RESOLVED & ADOPTED** by the City Council of the City of Bastrop, Texas, on this, the 1<sup>st</sup> day of October 2024.

THE CITY OF BASTROP, TEXAS:



Lyle Nelson, Mayor

ATTEST:



Irma Parker, City Secretary



APPROVED AS TO FORM:



Alan Bojorquez, City Attorney  
Rezzin Pullum, Assistant City Attorney

**PROPERTY USE LICENSE AGREEMENT  
BETWEEN THE CITY OF BASTROP, TEXAS, AND  
BASTROP 1832 FARMER'S MARKET**

This Property Use License Agreement (the "Agreement") is made by and between the City of Bastrop, Texas, a municipal corporation (the "City"), and the Bastrop Sustainable Agricultural Community, also known as the Bastrop 1832 Farmer's Market, a Texas nonprofit corporation (the "Nonprofit").

**WHEREAS,** the City is the owner of certain property located at 1302 Chestnut Street, Bastrop, Texas, as shown on the map attached as Exhibit "A" (the "Property"); and

**WHEREAS,** the Nonprofit desires to use a portion of the Property for conducting and operating a farmer's market to provide a local market space for small family farmers, ranchers, producers, and artisans, including those who are economically disadvantaged, to sell and promote their own farm and ranch products, artisan wares, ready-to-eat foods, and other homemade products in a family-oriented environment (the "Farmer's Market"); and

**WHEREAS,** the City finds that having a Farmer's Market in the City's Main Street Program Area benefits the public and fulfills one of the goals of the City's Main Street Program and Culinary District; and

**WHEREAS,** the Nonprofit agrees to pay the City a monthly fee for a license to use a portion of the Property as set forth in this Agreement.

**NOW, THEREFORE,** in consideration of the recitals and mutual covenants and agreements contained herein, the parties hereto agree as follows:

**ARTICLE 1  
PREMISES AND PRIVILEGES**

- A. The portion of Property subject to this Property Use License Agreement is shown as the area within the blue boundary on Exhibit "A" (the "Premises").
- B. For and in consideration of the terms, conditions and covenants of this Agreement to be performed by the Nonprofit, all of which the Nonprofit hereby accepts, the City hereby grants to the Nonprofit a license to authorize and permit the Nonprofit to operate the Farmer's Market on the Premises on the following days and times during

the term of this Agreement:

- 1) Saturdays, 8:00 A.M. to 3:00 P.M.;
  - 2) Tuesdays, 1:00 P.M. to 7:00 P.M., provided that to exercise its option to operate a weekly Farmer's Market on Tuesdays, the Nonprofit must submit a written notice to the City's Main Street Director stating the Nonprofit is exercising its option to operate a weekly Farmer's Market on Tuesdays at least fourteen (14) days in advance of the first such Tuesday event; and
  - 3) Special holiday markets or other special events on specific dates and times as permitted in writing by the City's Main Street Director, provided that the Nonprofit must submit a written request for permission for such special events at least fourteen (14) days in advance, if such special events are to occur outside of the normal operation hours in subsections 1 & 2 above.
- C. This Agreement grants only a license to the Nonprofit to use the Premises for the purposes and under the terms and conditions set forth herein. This Agreement shall not be deemed to be a lease or deemed to grant any estate or interest in the Premises or any other part of the Property.

## **ARTICLE 2**

### **TERM**

- A. The initial term of this Agreement shall be for a period, beginning on the Effective Date of this Agreement and ending on September 30, 2025, unless otherwise terminated as provided for under other provisions of this Agreement.
- B. Thereafter, this Agreement shall automatically renew for a maximum of five subsequent one year terms from October 1 through September 30 of the following year, unless otherwise terminated as provided for under other provisions of this Agreement. (For clarity, the initial term plus five renewal terms would allow this Agreement to be in effect through September 30, 2030, unless otherwise terminated earlier.)

## **ARTICLE 3**

### **OBLIGATIONS OF THE NONPROFIT**

- A. **FEE.** The Nonprofit shall pay to the City \$350.00 per month for the license to use the Premises as set forth in this Agreement. Payment shall be due by or before the first day of each month.

- B. CONDITION OF PREMISES. The Nonprofit accepts the Premises in the Premises' condition as of the date of this Agreement in accordance with terms of this Agreement.
- C. USE OF PREMISES. The Nonprofit shall use the Premises only for conducting and operating the Farmer's Market in a manner as set forth in this Agreement and in the Nonprofit's Vendor Rules & Regulations. The Nonprofit shall provide the City with a copy of its Vendor Rules & Regulations upon request. If there is a conflict between this Agreement and the Nonprofit's Vendor Rules & Regulations regarding the use of the Premises, this Agreement shall control.
- D. STRUCTURES; DAMAGES TO THE PROPERTY. Without obtaining prior written permission from the City's Main Street Director in conjunction with the City's Development Office, the Nonprofit shall not:
- 1) Construct or permit any permanent or additional buildings or structures to be located on the Property by the Nonprofit or its vendors; or
  - 2) Make any alterations to existing structures; or
  - 3) Anchor and/or attach any temporary structures to the Property, or permit its vendors to do so.

If any permanent buildings or structures are located on the Property or temporary structures anchored and/or attached to the Property without obtaining prior written permission from the City, then upon notice by the City of such a violation, the Nonprofit shall be responsible for promptly removing such unauthorized structures from the Property and repairing any damages to the Property, or reimbursing the City for the costs incurred by the City to remove such unauthorized structures and repairing any damages to the Property.

- E. TRASH. The Nonprofit shall dispose of all trash, garbage, and other refuse generated by the operation of Farmer's Market at the end of each day of Farmer's Market operations. The refuse shall be disposed of in the dumpster provided on the Property by the City or its contractor.
- F. WASTE AND NUISANCE PROHIBITED. The Nonprofit shall not commit or maintain, nor permit its vendors to permit or maintain, any waste or nuisance on the Property.

G. ITEMS LEFT ON PROPERTY; STORAGE.

- 1) The City may remove any items of personal property remaining on the Premises after a Farmer's Market and place them in the storage shed when the Nonprofit is not using the Premises, to ensure the Property is available for other uses and users.
- 2) The City shall not be responsible or liable to the Nonprofit or its vendors for any damages resulting from the loss or theft of authorized temporary structures, equipment, accessories, materials or other items of personal property left on the Property when the Farmer's Market is not in session.
- 3) The Nonprofit shall have access to the storage shed on the Property when the Farmer's Market is in session.
- 4) The City retains the right to allow third parties to use the storage shed. In the event City permits a third party to use the storage shed, the City shall notify the Nonprofit at least fourteen (14) days in advance, and the Nonprofit must promptly remove the Nonprofit's property from the storage shed.

H. COMPLIANCE WITH LAWS. The Nonprofit shall comply with all applicable federal, state, and municipal laws, ordinances, standards, codes, and other regulatory measures now in existence, or as may be hereafter modified or amended, in regard to operating the Farmer's Market.

**ARTICLE 4**  
**INSURANCE**

A. ACQUISITION AND MAINTENANCE OF INSURANCE. The Nonprofit shall obtain insurance coverage at its sole expense, to be maintained in full force and effect for the duration of this Agreement, for the coverage written on an occurrence basis in the following types and amounts:

<b>Type</b>	<b>Amount</b>
Comprehensive General Liability, including: <ul style="list-style-type: none"><li>• Premises/Operations;</li><li>• Personal &amp; Advertising Injury;</li></ul>	<i>For Bodily Injury:</i> \$25,000 per occurrence; and \$500,000 General Aggregate or its equivalent in umbrella or excess coverage.

<ul style="list-style-type: none"> <li>• Explosion, Collapse, Underground; and</li> <li>• Broad form property damage, to include fire liability.</li> </ul>	<p><i>For Property Damage:</i> \$100,000 per occurrence; and \$100,000 aggregate.</p>
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B. TERM OF POLICY. The required coverage must remain in effect for the effective period of this Agreement.

C. PROOF OF INSURANCE REQUIRED.

- 1) Examination & Approval. All insurance policies shall be subject to the examination and approval of the City as to their adequacy as to form, content, coverage types and amounts, and insurance company.
- 2) When to Submit. Within ten (10) days after execution of this Agreement, the Nonprofit shall: (i) furnish to the City's Main Street Director all required certificates of insurance, including policy endorsements, exclusions, and/or relevant extracts from the insurance policy; or (ii) copies of the policies, plainly and clearly evidencing such insurance. Thereafter, new certificates, policy endorsements, exclusions, and/or relevant extracts from insurance policies, shall be provided prior to the expiration date of any prior certificate, endorsement, or policy.
- 3) Insurers. The Nonprofit shall maintain said insurance with insurance underwriters authorized to do business in the State of Texas, and which are satisfactory to the City.
- 4) Additional Insured Parties. The City of Bastrop, its elected officials, officers, servants, agents, volunteers, and employees shall be named as additional insured parties.
- 5) Other-Insurance Endorsements. Where the City is an additional insured shown on the policy, there shall be a provision or endorsement stating that any "other insurance" clause shall not apply to the City.
- 6) Agent Information. The insurance certificates must be completed by an agent authorized to bind the named underwriter and their company to the coverage, limits, and termination provisions shown thereon, and contain all required information referenced or indicated thereon. The certificate or form must have the agent's signature, including the signer's company affiliation, title, and phone

number. The certificate must be provided directly from the agent to the City.

- 7) Notice Of Cancellation, Non-Renewal, Material Change. If a cancellation, non-renewal, or material change in insurance coverage occurs (and such change was not made at the request of the City), the Nonprofit shall notify the City not less than thirty (30) days prior to the change in coverage. If the Nonprofit does not know of the change thirty (30) days in advance, then the Nonprofit shall notify the City no later than ten (10) days after the change occurs. Such notice must be accompanied by a replacement certificate of insurance, including all required policy endorsements, exclusions, and/or relevant extracts from the insurance policy.

**ARTICLE 5**  
**RETENTION OF RIGHTS BY CITY & CITY'S OBLIGATIONS**

- A. The City hereby retains the right of access on, over, and across the Property for itself and the public.
- B. The City reserves the right to allow use of the Property by the City or other third parties at any times not assigned to the Nonprofit under Section 1.B. of this Agreement.

If a third party requests use of the Property during a time assigned to the Nonprofit under Section 1.B. of this Agreement, the City shall provide the Nonprofit with notice of such request, and the City shall offer the Nonprofit the first right to reserve and use the Property pursuant to this Agreement. If the Nonprofit does not elect to actively use the Premises during the requested time, or if the Nonprofit does not respond to the City's notice of the third party's request within three (3) business days, then the City retains the right to allow the use of the Property by the requesting third party.

- C. The City retains the right to access the Property for necessary maintenance, replacement, relocation, repair, and all other rights incidental to, and necessary in connection with, any utility lines or facilities which may be located on or under the Property.
- D. The City will perform ordinary maintenance related to the Property at its discretion, such as landscaping, resurfacing of gravel or paved driveway or parking areas, utility maintenance, and other related maintenance activities.
- E. The City shall be responsible for electric, sewer, and water utility fees for the Property.
- F. The City shall provide a dumpster on site at the Property and the City shall be



responsible for any and all fees associated with emptying said dumpster.

**ARTICLE 6**  
**ASSIGNMENT**

- A. The Nonprofit shall not assign this agreement without the prior consent of the City in writing. The Nonprofit shall not enter any agreement allowing any third party to use the Property other than the vendors participating in the Farmer's Market, special holiday markets, and special events as permitted by the City's Main Street Director under this Agreement.

**ARTICLE 7**  
**TERMINATION**

- A. TERMINATION BY CITY, DUE TO DEFAULT BY NONPROFIT. If the Nonprofit defaults in the performance of any of the covenants or conditions required herein to be kept and performed by the Nonprofit, and such default continues for a period of ten (10) days after the receipt of written notice from the City of said default, then the City may terminate this Agreement immediately.

Failure of the City to declare this Agreement terminated upon a particular default of the Nonprofit shall not operate to bar or waive the right of the City to terminate this Agreement upon any subsequent violation of the terms hereof.

- B. TERMINATION BY EITHER PARTY. Either the City or the Nonprofit may terminate this Agreement by giving written notice to the other party at least ninety (90) days prior to the date of such termination.
- C. NONPROFIT REQUIREMENTS UPON TERMINATION. Upon termination of this Agreement, the Nonprofit shall, within five (5) business days:
- 1) Remove all temporary structures, equipment, and materials brought to the Premises by the Nonprofit or its vendors, including any items remaining in the storage shed; and
  - 2) Restore the Premises as nearly as practicable to the condition the Premises were in prior to the granting of this Agreement (except for normal wear and tear due to the passage of time).

**ARTICLE 8**  
**GENERAL PROVISIONS**

- A. ATTORNEY'S FEES. In any action brought for the enforcement of the obligations hereunder, the prevailing party shall be entitled to recover interest and reasonable attorney's fees.
- B. PARAGRAPH HEADINGS. The paragraph headings contained herein are for convenience and reference. They are not intended to define or limit the scope of any provision of this Agreement.
- C. NOTICES. Notices provided herein shall be sufficient if sent by electronic mail or by certified mail, postage prepaid, addressed to the parties as follows:

The City of Bastrop,  
ATTN : Main Street Program Director  
1311 Chestnut Street  
Bastrop, TX 78602  
Email: mjoyce@cityofbastrop.org

Bastrop 1832 Farmer's Market  
ATTN: President  
1302 Chestnut Street  
Bastrop, TX 78602  
Email: twoheartsonearth@gmail.com

- D. CHOICE OF LAW AND VENUE. This Agreement is made and entered into in Bastrop County, Texas. This Agreement shall be construed in accordance with the laws of the State of Texas. The venue for any suits arising hereunder shall be Bastrop County, Texas.
- E. ENTIRE AGREEMENT; AMENDMENT. This Agreement, including all 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 signed by both parties.
- F. RIGHTS AND REMEDIES CUMULATIVE. The rights and remedies provided by this Agreement are cumulative; the use of any one right or remedy by either party shall

not preclude either party from asserting, nor shall waive, such party's right to use any or all other remedies available under the law. 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.

- G. 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.

IN WITNESS, WHEREOF, the parties have executed this Agreement to be effective as of the latter of the dates signed below.


*[Signatures on following page.]*

**City of Bastrop, Texas**

By:   
Sylvia Carrillo-Trevino, City Manager

Date: 10/1/2024

**Bastrop 1832 Farmer's Market**

By: 

Name: Shawn McDaniel

Title: Market President

Date: 10/12/24



## EXHIBIT A The Property and the Premises

The Property is 1302 Chestnut Street, Bastrop, Texas (Bastrop County Appraisal District Parcel 36249). The Premises are the area within the blue boundary.

