

**Joint Workshop with Bastrop, TX City Council
and Bastrop Economic Development Corporation**

Bastrop City Hall City Council Chambers

1311 Chestnut Street

Bastrop, TX 78602

(512) 332-8800

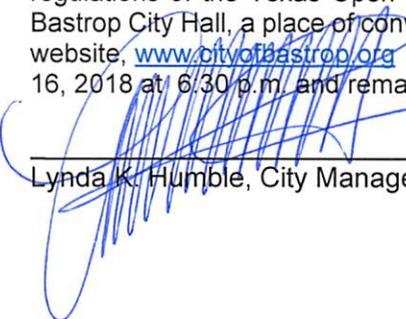


Special Workshop Agenda – March 22, 2018 at 6:30 P.M.

City of Bastrop City Council meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary at (512) 332-8800 or write 1311 Chestnut Street, 78602, or by calling through a T.D.D. (Telecommunication Device for the Deaf) to Relay Texas at 1-800-735-2989 at least 48 hours in advance of the meeting.

1. Call to Order
 - a. City of Bastrop City Council – Mayor Connie Schroeder
 - b. Bastrop Economic Development Corporation – Chair Camillo Chavez
2. **WORK SESSION**
 - 2A. Discuss default and possible remedy of two (2) agreements between the City of Bastrop and Bastrop Fine Arts Guild and one (1) agreement between the Bastrop Economic Development Corporation and Bastrop Fine Arts Guild.
 - 2B. Review and discuss the Bastrop EDC Strategic Plan, Updates, and Supplements.
 - 2C. Discuss other economic development related issues or concerns and next steps.
3. **ADJOURNMENT**
 - a. City of Bastrop City Council – Mayor Schroeder
 - b. Bastrop Economic Development Corporation – Chair Camillo Chavez

I, the undersigned authority, do hereby certify that this Notice of Meeting as posted in accordance with the regulations of the Texas Open Meetings Act on the bulletin board located at the entrance to the City of Bastrop City Hall, a place of convenient and readily accessible to the general public, as well as to the City's website, www.cityofbastrop.org and said Notice was posted on the following date and time: Friday, March 16, 2018 at 6:30 p.m. and remained posted for at least two hours after said meeting was convened.


Lynda K. Humble, City Manager



STAFF REPORT

MEETING DATE: March 22, 2018

AGENDA ITEM: 2A

TITLE:

Discuss default and possible remedy of two (2) agreements between the City of Bastrop and Bastrop Fine Arts Guild and one (1) agreement between the Bastrop Economic Development Corporation and Bastrop Fine Arts Guild.

STAFF REPRESENTATIVE:

Lynda K. Humble, City Manager
 Shawn Kirkpatrick, BEDC Executive Director

BACKGROUND/HISTORY:

For purposes of this discussion, there are three (3) funding agreements with the Bastrop Fine Arts Guild summarized as follows:

	Funding Agreement (City)	Second Funding Agreement - 380 (City)	Economic Dev. Agreement (BEDC)
Execution Date	11/22/2011 <i>but actually signed on 5/16/2013 – see Section 2.7</i>	2/18/2015	7/20/2011
Agreement Amount	\$100,000	\$300,000	\$100,000
Source of Funds	Hotel Occupancy Tax	General Fund	Economic Development
Project Scope	Section 2.11	Section 2.11	Section 2.12 & Section 6
Breach of Contract	Sections 2.11 & 4.3	Section 5.9	Sections 2.12 & 6.1
Default Date	12/31/2017	12/31/2017	1/31/2015

The Bastrop Fine Arts Guild is in default on all three (3) funding agreements. The language, which constitutes a breach, is highlighted in yellow for easy reference.

Funding Agreement (City):

The City entered into a grant of \$100,000 in Hotel Occupancy Tax (HOT) funds to the Guild to enable the Guild to purchase real property and improve same as the “Lost Pines Art Center Project”, and to operate the Center according to the details and specifications set forth in the Guild concept and Operations plan, included as Exhibit A of the agreement.

There are several notable terms of this contract:

2.1 - Act of Default: means failure to timely, fully, and completely comply with one or more requirements, obligations, Conditions Precedent, duties, terms, conditions or warranties, as

stated in this Agreement. City may accept substantial compliance in lieu of full compliance by waiving such Act of default. Default by the Guild may subject the Guild to the conditions set forth in Section 7.

2.2 - City Project Funds: means the \$100,000 grant of funds to the Guild for use as set forth herein.

2.3 – Certificate of Occupancy: shall mean that final document issued by the City of Bastrop, Texas, entitled “Certificate of Occupancy”, indicating that all acceptable codes, regulations, and ordinances enforced by the City of Bastrop have been unconditionally, fully and completed complied with in all respects. A Certificate of Occupancy shall not include a certificate issued in error, mistake or misrepresentation of facts, nor any temporary or conditional document authorizing temporary or conditional occupancy. ***(Please note that a Certificate of Occupancy was issued on March 1, 2017, and is attached for review.)***

2.7 – “Effective Date” means the date this agreement has been **signed** by all Parties.

2.11 – “Project”: means Guild’s planned Lost Pines Art Center to be located on approximately 1.246 acres, more particularly described in Exhibit B, attached hereto. The Project may also identified and referred to as the “Arts Guild Project”, which shall consist of a development as shown by Concept Plan attached hereto as Exhibit A. The Project shall include, at a minimum, the following uses and amenities, a ±9,000 square foot main building that will house: (a) a major art gallery, (b) a lobby/retail gift shop, (c) 1-2 classrooms, (d) multiple leasable artists’ studios, and (e) a leasable, retail specialty wine/coffee shop. **In addition, three of the four grain silos will be converted into working artist studios, and the fourth may be used as an efficiency apartment for an artist-in-residency program. The exterior grounds will be landscaped and may include an outdoor sculpture garden.**

4.3 Guild anticipates and commits to constructing the Project in Phases, as follows:

Phase I	Begins December 31, 2013	Deconstruct portions of existing facilities.
Phase II	December 31, 2015	Construction of main building.
Phase III	Begin December 31, 2016 Ends December 31, 2017	Completed construction of all buildings/facilities.

5.6 – The City’s Project Funds provide to the Guild shall be utilized solely for the purpose stated herein, related to the Property identified on Exhibit B.

5.11 – Successful Operations of Lost Pines Art Center. In addition to the terms and conditions related to employment, as set forth in Section 6 below, to avoid an Act of Default, **the Guild shall successfully operate the Lost Pines Art Center for a minimum period of two (2) years** following the Initiation of Operations. Whether the Lost Pines Art Center is successful operating shall be in the sole discretion of the City, but shall generally mean that the Lost Pines Art Center is fully functioning in a manner that reflects positively on the City of Bastrop and its community. In the event the Lost Pines Art Center fails to successfully and continually operate for two (2) years after the Initiation of Operations, the Guild shall be in breach of the Agreement and shall be subject to Section 7. ***(Initiation of Operations began on March 1, 2017 with the issuance of a Certificate of Occupancy. The facility must operation for two years until February 28, 2019.)***

7.1 – Notice of Anticipated Default. In the event that during the term of this Agreement with the Guild determines that it anticipates an Act of Default on its part, it shall notify the City, in

Anticipated Act of Default shall also request a meeting between the Guild's representatives and the Board of the City during which the Guild will provide information related to the potential or actual default, and will propose alternatives and/or options identified by it to address the default. The Board shall not be obligated to consider or adopt any proposed alternative, but may, in its sole discretion consider alternatives for addressing any Act of Default by Guild. Alternatively, the City may in its discretion, trigger the repayment obligations as set forth herein.

8.1 – City shall, upon reasonable prior written notice to Guild and during normal business hours, but in any event not more than two (2) times per calendar year, have the right to audit and inspect Guild's records and books and all other relevant records related to each of the economic development considerations and incentives and performance requirements, as stated in this Agreement, but the confidentiality of such records and information shall be maintained by City unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, or by the direction of the Office of the Texas Attorney General.

Second Funding Agreement – 380 (City):

The City entered into a grant of \$300,000 from the General Funds, authorized by Chapter 380 Texas Local Government Code, to the Guild to promote local economic development and to stimulate business and commercial activity and around the City through the Guild project and center to purchase real property and improve same as the "Lost Pines Art Center Project", and to operate the Center according to the details and specifications set forth in the Guild concept and Operations plan, included as Exhibit A of the agreement.

There are several notable terms of this contract:

2.1 - Act of Default: means failure to timely, fully, and completely comply with one or more requirements, obligations, Conditions Precedent, duties, terms, conditions or warranties, as stated in this Agreement. City may accept substantial compliance in lieu of full compliance by waiving such Act of default. Default by the Guild may subject the Guild to the conditions set forth in Section 7.

2.2 - City Project Funds: means the \$300,000 grant of funds to the Guild for use as set forth herein.

2.3 – Certificate of Occupancy: shall mean that final document issued by the City of Bastrop, Texas, entitled "Certificate of Occupancy", indicating that all acceptable codes, regulations, and ordinances enforced by the City of Bastrop have been unconditionally, fully and completed complied with in all respects. A Certificate of Occupancy shall not include a certificate issued in error, mistake or misrepresentation of facts, nor any temporary or conditional document authorizing temporary or conditional occupancy. ***(Please note that a Certificate of Occupancy was issued on March 1, 2017, and is attached for review.)***

2.7 – "Effective Date" means the date this agreement has been **signed** by all Parties.

2.11 – "Project": means Guild's planned Lost Pines Art Center to be located on approximately 1.246 acres, more particularly described in Exhibit A, attached hereto. The Project may also identified and referred to as the "Arts Guild Project", which shall consist of a development as shown by Building Plan attached hereto as Exhibit B. The Project shall include, at a minimum, the following uses and amenities, a ±9,000 square foot main building that will house: (a) a major art gallery, (b) a lobby/retail gift shop, (c) 1-2 classrooms, (d) multiple leasable artists' studios,

and (e) a leasable, retail specialty wine/coffee shop. In addition, three of the four grain silos will be converted into working artist studios, and the fourth may be used as an efficiency apartment for an artist-in-residency program. The exterior grounds will be landscaped and may include an outdoor sculpture garden.

4.3 Guild anticipates and commits to constructing the Project in Phases, as follows:

Phase I	Completed	Deconstruct portions of existing facilities.
Phase II	December 31, 2016	Construction of main building.
Phase III	Begin December 31, 2016 Ends December 31, 2017	Completed construction of all buildings/facilities.

4.4 Ownership of Project. The City acknowledges and agrees that it shall acquire no ownership interest or maintain responsibility for the City and/or any part thereof.

5.9 Completion of the Project. After Commencement, Guild shall diligently and faithfully, in good and workmanlike manner, continuously pursue the completion of the Project, which shall be completed no later than December 31, 2017, unless extended by the agreement of the City. (“Completion Deadline”) Should the Guild fail to complete construction on the Project to the reasonable satisfaction of the City, for the purposes and uses indicated herein, on or before December 31, 2017, as detailed on “Exhibit B” the Guild shall be in breach of the Second Agreement and subject to repayment of the City’s Project Funding as set forth in Section 7.

5.11 – Successful Operations of Lost Pines Art Center. In addition to the terms and conditions related to employment, as set forth in Section 6 below, to avoid an Act of Default, the Guild shall successfully operate the Lost Pines Art Center for a minimum period of ten (10) years following the Initiation of Operations. Whether the Lost Pines Art Center is successful operating shall be in the sole discretion of the City, but shall generally mean that the Lost Pines Art Center is fully functioning in a manner that reflects positively on the City of Bastrop and its community. In the event the Lost Pines Art Center fails to successfully and continually operate for ten (10) years after the Initiation of Operations, the Guild shall be in breach of the Agreement and shall be subject to Section 7. *(Initiation of Operations began on March 1, 2017 with the issuance of a Certificate of Occupancy. The facility must operation for two years until February 28, 2019.)*

7.1 – Notice of Anticipated Default. In the event that during the term of this Agreement with the Guild determines that it anticipates an Act of Default on its part, it shall notify the City, in Anticipated Act of Default shall also request a meeting between the Guild’s representatives and the Board of the City during which the Guild will provide information related to the potential or actual default, and will propose alternatives and/or options identified by it to address the default. The Board shall not be obligated to consider or adopt any proposed alternative, but may, in its sole discretion consider alternatives for addressing any Act of Default by Guild. Alternatively, the City may in its discretion, trigger the repayment obligations as set forth herein.

7.2 – Voluntary Termination by Guild. The City recognizes that, under certain circumstances, the Guild may determine that it desires to terminate its obligations under this Second Agreement, prior to the end of the ten (10) year term of this Second Agreement for various reasons, including, for example: (1) ceasing to operate the Center in the City; (2) no longer remaining a 501 (C) (3); as defined in this Second Agreement; or (3) other reasons determined by the Guild. In the event of such circumstances, the Guild may withdraw from the Second Agreement by repaying the City a pro-rata portion of the Project Funds granted by the City, as detailed in the table shown

immediately below. For purposes of calculating the amount due to the City, in the event of such a withdrawal, the date that the Center is issued a Certificate of Occupancy for the Center by the City will be the initial effective date, noted below.

Effective Dates (Original Contract)	Effective Dates (Issuance of C.O.)	End of Year Number	Percentage Due to City	Approx. Amount Due to City
February 2015 to February 2016	March 2017 to March 2018	1	100%	\$300,000
February 2016 to February 2017	March 2018 to March 2019	2	90%	\$270,000
February 2017 to February 2018	March 2019 to March 2020	3	80%	\$240,000
February 2018 to February 2019	March 2020 to March 2021	4	70%	\$210,000
February 2019 to February 2020	March 2021 to March 2022	5	60%	\$180,000
February 2020 to February 2021	March 2022 to March 2023	6	50%	\$150,000
February 2021 to February 2022	March 2023 to March 2024	7	40%	\$120,000
February 2021 to February 2022	March 2024 to March 2025	8	30%	\$90,000
February 2021 to February 2022	March 2025 to March 2026	9	20%	\$60,000
February 2021 to February 2022	March 2026 to March 2027	10	10%	\$30,000
February 2021 to February 2022	March 2027 to March 2028	11	0%	\$0

8.1 – City shall, upon reasonable prior written notice to Guild and during normal business hours, but in any event not more than one (1) times per calendar year, have the right to audit and inspect Guild’s records and books and all other relevant records related to each of the economic development considerations and incentives and performance requirements, as stated in this Agreement, but the confidentiality of such records and information shall be maintained by City unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, or by the direction of the Office of the Texas Attorney General.

Economic Development Agreement (BEDC):

The City entered into a one-time grant of \$100,000 of 4B funds, as authorized by Chapter 501, Texas Local Government Code, to purchase real property and build a Fine Arts Complex project, as shown in Exhibit A.

There are several notable terms of this contract:

1.i – Conditions Precedent: That the owner: (1) on or before December 31, 2011, acquires contractual and fully enforceable ownership rights to the Property and (2) on or before November 30, 2011, provides the BEDC with written documentation demonstrating that the Owner has

obtained sufficient funds and/or irrevocable approval for financing for the purchase of the Property.

1.ii. – Owner’s Performance Subsequent: That the Owner: (1) successfully initiates and completes development of the Project, within the timeframes stated and agreed upon herein, and (2) successfully operates the Project for the period noted herein, including continuously maintaining the employment noted herein Section 6, and (3) successfully fulfills all contractual obligations, without default, as specified herein.

2.1 - Act of Default: means failure to timely, fully, and completely comply with one or more requirements, obligations, Conditions Precedent, duties, terms, conditions or warranties, as stated in this Agreement. BEDC may accept substantial compliance in lieu of full compliance by waiving such Act of default. Default by the Guild may subject the Guild to the conditions set forth in Section 7.

2.2 – BEDC 4B Project Funds: means the one-time \$100,000 grant of funds to the Owner for use to purchase the real property for the Project, as set forth herein.

2.3 – Certificate of Occupancy: shall mean that final document issued by the City of Bastrop, Texas, entitled “Certificate of Occupancy”, indicating that all acceptable codes, regulations, and ordinances enforced by the City of Bastrop have been unconditionally, fully and completed complied with in all respects. A Certificate of Occupancy shall not include a certificate issued in error, mistake or misrepresentation of facts, nor any temporary or conditional document authorizing temporary or conditional occupancy. ***(Please note that a Certificate of Occupancy was issued on March 1, 2017, and is attached for review.)***

2.11 – “Project”: means Guild’s planned Lost Pines Art Center to be located on approximately 1.246 acres, more particularly described in Exhibit B, attached hereto. The Project may also identified and referred to as the “Arts Guild Project”, which shall consist of a development as shown by Building Plan attached hereto as Exhibit A. The Project shall include, at a minimum, the following uses and amenities, a ±9,000 square foot main building that will house: (a) a major art gallery, (b) a lobby/retail gift shop, (c) 1-2 classrooms, (d) multiple leasable artists’ studios, and (e) a leasable, retail specialty wine/coffee shop. In addition, three of the four grain silos will be converted into working artist studios, and the fourth may be used as an efficiency apartment for an artist-in-residency program. The exterior grounds will be landscaped and may include an outdoor sculpture garden.

4.3 – Owner shall prepare and provide as Exhibit “C” to this Agreement a detailed key-event timeline for the Project, which may be presented in phases, if Owner desires.

5.2 – The execution of this Agreement has been duly authorized by the board of directors of the Bastrop Fine Art Guild, and the individual signing this Agreement is the president of the Bastrop Fine Arts Guild and has been empowered, by a formal Resolution of its governing board, as shown on attached Exhibit “D,” to execute such Agreement and bind the entity, and said authorization, signing and binding effect is not in contravention of any law, rule or regulation, or of the provisions of the Bastrop Fine Art’s Guild Articles of Incorporation, or by-laws, or of any agreement or instrument to which Owner is a party or by which it may be bound.

5.10 – Completion of the Project. After Commencement, Owner shall diligently and faithfully, in good and workmanlike manner, continuously pursue the completion of the Project, which shall be completed no later than twenty-four (24) months after Commencement. (“Completion

Deadline”) Should the Owner, within twenty-four (24) months after the Commencement Deadline, fail to complete the construction on the Project to the reasonable satisfaction of the BEDC, for the purposes and uses indicated herein, and as detailed on “Exhibit A” the Owner shall be in breach of the Agreement and subject to repayment of the BEDC’s funding as set forth in Section 7. ***(This contract was extended until January 31, 2015 per BEDC minutes dated October 20, 2014.)***

5.12 – Environmental Clearance. On or before December 31, 2012, the Owner shall have completed, and shall provide to the BEDC acceptable documentation from any and all applicable governmental entities stating that the Property, including but not limited to the water, soil, buildings, and land are either: (1) free from toxins, asbestos, contaminant’s pollutants, heavy metals, or other poisons or, alternatively, (2) that an acceptable remediation plan has been approved by the controlling governmental entity and has been successfully implemented to address any identified environmental issues on the Property, and (3) that Owner has acquired and can document financing sufficient to fully complete the remediation plan implemented for the Property. When available, the Owner shall provide the City with the results of a “certified clean-up program”, if necessary. Should the Owner fail to perform the obligations set forth in this paragraph 5.12, then the Owner shall be in breach of the Agreement and subject to repayment of the BEDC’s funding as set forth in Section 7. ***(Please note that TX Commission on Environmental Quality Voluntary Cleanup Program Conditional Certificate of Completion is attached for review.)***

6.1 Project shall employ a minimum of 3 new full-time employees (i.e. 1820 hours/year) at the Fine Arts Complex on or before ninety (90) days following initiation of Operations and such employment shall be maintained for a minimum period as stated in paragraph 6.2 below. For purposes of this employment provision, two (2) new part-time positions that comprise a total of 1820 hours per year shall be deemed to be equal to one (1) new full-time employee position.

6.2 – For a period of twenty-four (24) months after initiation of Operations, Owner shall continuously employ and maintain at the Fine Art Complex the number of jobs noted in Section 6.1 above. ***(Note: Charlie Zech, EDC legal counsel, reviewed the agreement specifically related to 6.1 and 6.2, which states, “Owner shall continuously employ” and defines the jobs shall be employees of the Bastrop Fine Arts Guild.)***

7.1 – Notice of Anticipated Default. In the event that during the term of this Agreement with the Guild determines that it anticipates an Act of Default on its part, it shall notify the BEDC, in Anticipated Act of Default shall also request a meeting between the Guild’s representatives and the Board of the BEDC during which the Guild will provide information related to the potential or actual default, and will propose alternatives and/or options identified by it to address the default. The Board shall not be obligated to consider or adopt any proposed alternative, but may, in its sole discretion consider alternatives for addressing any Act of Default by Guild. Alternatively, the City may in its discretion, trigger the repayment obligations as set forth herein.

7.2 – Repayment and/or Liquidation. In the event of an Act of Default by the Owner, the Owner shall, in the sole discretion of the BEDC, and within ninety (90) days of a request by BEDC repay to the BEDC the full amount of the BEDC 4B Project Funds, plus interest thereon at a rate of 2% per annum. If, in the event of an Act of Default by the Owner, the BEDC requires that the Owner repay the full amount of the BEDC 4B Project Funds, plus interest, and the Owner does not have the required funds to make the repayment, the Owner shall be obligated to (1) Sell a portion of the Property within 180 days of BEDC’s request for payment to raise funds and make the payment to the BEDC, or (2) to borrow funds in the amount sufficient to repay the BEDC the amount noted in the Section 7.2.

8.1 – City shall, upon reasonable prior written notice to Guild and during normal business hours, but in any event not more than two (2) times per calendar year, have the right to audit and inspect Guild’s records and books and all other relevant records related to each of the economic development considerations and incentives and performance requirements, as stated in this Agreement, but the confidentiality of such records and information shall be maintained by City unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, or by the direction of the Office of the Texas Attorney General.

8.2 The Owner shall provide to the BEDC, on a quarterly basis, reports on its application of the BEDC 4B Project Funds to the purchase of the Property, until such time as all BEDC 4B Project Funds have been completely applied to the purchase of the Property.

POLICY EXPLANATION:

In early January, Mayor Schroeder and I met with Mark Rose and Patricia Rundulic about their request for Hotel Occupancy Tax (HOT) funding. At that time, the City Manager brought to their attention that the three (3) agreements between the Bastrop Fine Arts Guild, the City of Bastrop, and BEDC were in default, which would have to be cured before any additional funding would be considered. During this meeting, Mark Rose briefed them on their plans, which are currently under construction, that will cure the default. Otherwise, the City has the right to demand repayment.

At that meeting, the following agreement on how to proceed was reached:

- Mark Rose and the Art Guild Board will study the agreements and prepare a plan on how to cure the defaults, which would happen at the end of a board retreat scheduled for late January.
- Staff from the City and BEDC will meet with Mr. Rose and other board members to discuss their plan to cure to ensure it meets the intent of all three (3) contracts. This meeting occurred on February 20, 2018.
- The goal is to have a proposed plan that meets the intent of the contracts prepared and reviewed in February.
- Because both the Council and BEDC Board of Directors would have to vote to extend the contract and consider approval of the cure, Mayor Schroeder suggested a Joint Board Meeting so one cohesive conversation can occur between the two (2) policy bodies and Bastrop Fine Arts Guild. The Joint Meeting between City Council and BEDC was already scheduled for March 22nd.

A letter from Mark Rose is attached acknowledging the default and providing a plan and timetable to cure the default by early summer. Mr. Rose will be present to provide a detailed presentation and address any questions or concerns of both policy bodies.

Staff is seeking direction from both policy bodies on how they wish to proceed. Formal resolution will be placed on future agendas for Council and Board consideration.

FUNDING SOURCE: N/A

RECOMMENDATION:

Discuss default and possible remedy of two (2) agreements between the City of Bastrop and Bastrop Fine Arts Guild and one (1) agreement between the Bastrop Economic Development Corporation and Bastrop Fine Arts Guild.



ATTACHMENTS:

- Funding Agreement with Attachments – City
- Second Funding Agreement with Attachments – City
- Economic Development Agreement with Attachments – BEDC
- Certificate of Occupancy
- October 20, 2014 BEDC Board Minutes
- Mark Rose's Letter regarding default and Plan to Cure



FUNDING AGREEMENT

BETWEEN
THE
CITY OF BASTROP
AND
THE BASTROP FINE ARTS GUILD

This Funding Agreement (this "Agreement") is entered into between Bastrop Fine Arts Guild, a 501(c)(3) non-for-profit Texas corporation, (the "Guild") and the City of Bastrop, a Texas home-rule municipal corporation organized and operating under the laws of Texas. ("City") The Guild and City may be referred to jointly herein as "the Parties" and individually as a "Party."

RECITALS

WHEREAS, V.A.T.S. Tax Code, Chapter 351, entitled Local Hotel Occupancy Tax, ("Code") provides that a hotel/motel sleeping room tax may be collected by cities, and that the proceeds from such tax may be used for activities related to the promotion and enhancement of tourism, for the support of convention and visitor information centers, for the promotion and enhancement of the arts, for historical restoration and preservations, as well as for other purposes as set out in said statute, and the City of Bastrop has been and is collecting said tax; and

WHEREAS, the City, acting under the authority granted to it under state statutes and its Home-Rule Charter, has heretofore enacted a local hotel/motel occupancy tax on occupants of hotels and motels within the City of Bastrop; and

WHEREAS, the City desires to use a portion of the revenue generated from the hotel/motel occupancy tax to promote tourism in the City and to publicize activities and special events occurring in and around the City; and

WHEREAS, the Guild has expressed a desire to establish ongoing programs to promote tourism in the City, and to conduct activities that may be funded by hotel/motel occupancy tax revenues, and desires to work with the City to accomplish this goal; and

WHEREAS, the City desires to offer a grant of Hotel Occupancy Tax ("HOT) funds to the Guild to enable the Guild to purchase real property and improve same as the 'Lost Pines Art Center Project' ("Project"), and to operate the Center according to the details and specifications set forth in the Guilds concept and Operations plan(s) ("Plans") as set forth in "Exhibit "A"", attached hereto and incorporated herein for all purposes, and as set forth in more detail in this Agreement; and

WHEREAS, The City recognizes the cultural and art tourism that the Project will generate within the community, directly as a result of the Guild's efforts to develop and operate the Project, which is located in the corporate limits of the City, as more particularly described on the attached "Exhibit "B"" (the "Property"), as the Lost Pines Art Center Project; and

WHEREAS, the City has determined that development of the Property and operation of the Project will contribute to the economic development of the City by generating cultural and art tourism in the City and providing art and cultural opportunities and activities within the City, as noted herein.

NOW, THEREFORE, in consideration of the mutual benefits described in this Agreement, 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.

Authority

The City's execution of this Agreement is authorized by Chapter 351, *Texas Tax Code*, and constitutes a valid and binding obligation of the City, subject to the following:

- i. **Guild's Performance Subsequent**: That the Guild: (1) successfully initiates and completes development of the Project, within the timeframes stated and agreed upon herein, and (2) successfully operates the Project for the period noted herein, including continuously maintaining the employment noted herein in Section 6, and (3) successfully fulfills all contractual obligations, without default, as specified herein.
- ii. The Guild's execution and performance of this Agreement constitutes a valid and binding obligation of Guild, at the time that Guild accepts funding from the City for the Project. Guild acknowledges that City is acting in reliance upon Guild's full and complete performance of all stated Conditions Precedent and other Performance obligations set forth in this Agreement in making its decision to commit substantial City resources to this Project.

2.

Definitions

As used in this Agreement, the following words or phrases shall have the following meanings:

2.1 "Act of Default or Default" means failure to timely, fully, and completely comply with one or more requirements, obligations, Conditions Precedent, duties, terms, conditions or warranties, as stated in this Agreement. City may accept substantial compliance in lieu of full compliance by waiving such Act of default. Default by the Guild may subject the Guild to the conditions set forth in Section 7.

2.2 "City Project Funds" means the \$100,000 grant of funds to the Guild for use as set forth herein.

2.3 "Certificate of Occupancy" shall mean that final document issued by the City of Bastrop, Texas, entitled "Certificate of Occupancy", indicating that all applicable codes, regulations, and ordinances enforced by the City of Bastrop have been unconditionally, fully and completely complied with in all respects. A Certificate of Occupancy shall not include a

certificate issued in error, mistake or misrepresentation of facts, nor any temporary or conditional document authorizing temporary or conditional occupancy.

2.4 “City of Bastrop” or “City” means the governing municipal corporation that is legally authorized to control the area that is within the city limits of the City of Bastrop, and the area that is within the City’s ETJ and/or Bastrop County, Texas.

2.5 “Code” means the Bastrop Code of Ordinances in effect as of the Effective Date of this Agreement.

2.6 “Designated Successors and Assigns” shall mean (i) an entity to which Guild assigns (in writing) all or a portion of its rights and obligations contained in this Agreement, (ii) any entity which is the successor by merger or otherwise to all or substantially all of Guild’s assets and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital; or (iii) any entity which may have acquired all of the outstanding stock or partnership interest of Guild.

2.7 “Effective Date” means the date this Agreement has been signed by all Parties.

2.8 “Force Majeure” means any event in which any Party shall be delayed, hindered in or prevented from the performance of any act required under this Agreement by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, unavailability of any utility service, restrictive governmental laws or regulations, riots, insurrections, the act, the failure to act, or default of another Party or a material worsening of current conditions caused by acts of terrorism or war (whether or not declared), or severe weather occurring after the execution of this Agreement, which materially impair the Party’s ability to perform any act required under this Agreement.

2.9 “Guild” means the Bastrop Fine Arts Guild, a Texas not-for-profit, 501(c) (3) corporation, incorporated and authorized to do business in the State of Texas.

2.10 “Program” means the support program established by the City, pursuant to the Texas Tax Code Chapter 351, et. req., to promote and stimulate overnight tourism and hotel / motel use within the City.

2.11 “Project” means Guild’s planned Lost Pines Art Center to be located on approximately 1.246 acres, more particularly described in **Exhibit “B,”** attached hereto. The Project may also identified and referred to as the “Arts Guild Project,” which shall consist of a development as shown by the Concept Plan attached hereto as **Exhibit “A.”** The Project shall include, at a minimum, the following uses and amenities, a ±9000 square foot main building that will house: (a) a major art gallery, (b) a lobby/retail gift shop, (c) 1-2 classrooms, (d) multiple leasable artists’ studios, and (e) a leasable, retail specialty wine/coffee shop. In addition, three of the four grain silos will be converted into working artist studios, and the fourth may be used as an efficiency apartment for an artist-in-residency program. The exterior grounds will be landscaped and may include an outdoor sculpture garden.

3.

Term

This Agreement will become effective on the date that it is fully executed by all Parties ("Effective Date") and shall continue until all obligations and conditions set forth herein have been fully performed by the Parties. Notwithstanding any future expiration or termination of this Agreement, however, the conditions set forth in the sections of this Agreement which expressly provide for certain obligations of the Guild to extend beyond any stated term or event of termination or expiration shall survive, and remain enforceable, as stated in that section.

4.

Construction Plan and Phasing

4.1 Guild shall provide the City with proposed construction plans for the Project.

4.2 Guild agrees to comply with the Code, as amended or supplemented by this Agreement. Notwithstanding the foregoing, Guild, in its sole discretion, may choose to comply with any or all City rules promulgated after the date of the Code.

4.3 Guild anticipates and commits to constructing the Project in Phases, as follows:

Phase I	Begins December 31, 2013	Deconstruct portions of existing facilities.
Phase II	December 31, 2015	Construction of main building.
Phase III	Begin December 31, 2016 Ends December 31, 2017	Completed construction of all buildings/facilities.

5.

Guild's Covenants, Warranties, Obligations and Duties

Guild makes the following covenants and warranties to the City and agrees to timely and fully perform the obligations and duties, as set forth herein below. Any false or substantially misleading statement contained herein or failure to timely and fully perform, as required in this Agreement, shall be an Act of Default by Guild and may subject the Guild to the conditions set forth in Section 7.

5.1. Guild is authorized to do business and is in good standing in the State of Texas and shall remain in good standing in the State of Texas during the Term of this Agreement.

5.2. The execution of this Agreement has been duly authorized by the board of directors of the Bastrop Fine Arts Guild, and the individual signing this Agreement is the president of the Bastrop Fine Arts Guild and has been empowered, by a formal Resolution of its governing board, as shown on attached **Exhibit "D,"** to execute such Agreement and bind the entity, and said authorization, signing and binding effect is not in contravention of any law, rule or regulation, or of the provisions of the Bastrop Fine Arts Guild Articles of Incorporation, or by-laws, or of any agreement or instrument to which Guild is a party or by which it may be bound.

5.3. No litigation or governmental proceeding is pending or, to the knowledge of Guild or Guild's officers, threatened against or affecting the Guild that may result in any material adverse change in Guild's business, properties or operation. No consent, approval or

authorization of or registration or declaration within any governmental authority is required in connection with the execution of this Agreement or the transactions contemplated hereby.

5.4. There are no bankruptcy proceedings or other proceedings currently pending or contemplated, and Guild has not been informed of any potential involuntary bankruptcy proceedings.

5.5. To its current, actual knowledge, Guild has acquired and maintained all necessary rights, licenses, permits and authority to carry on its business in Bastrop, Texas, and will continue to use its best efforts to maintain all necessary rights, licenses, permits and authority.

5.6. The City's Project Funds provided to the Guild shall be utilized solely for the purpose stated herein, related to the Property identified on Exhibit "B".

5.7. **Dedicated/Insured Account.** The City 4B Project Funds shall be deposited in, and maintained in an insured and dedicated account, to be used only by the Guild for payments made to acquire the Property. On each occurrence the Guild accesses/utilizes the City 4B Project Funds held in the dedicated account, it shall provide a copy of the financial instruments memorializing such access/use to the City, contemporaneously with the execution of such instruments.

5.8. **Commencement of Construction on the Project.** Guild shall commence work on construction of the Project no later than thirty-six (36) months after the Effective Date of this Agreement. ("Commencement Deadline") Should the Guild, within thirty-six (36) months of the Effective Date, fail to Commence construction on the Project to the reasonable satisfaction of the City, for the purposes and uses indicated herein, and as detailed on Exhibit "A" the Guild shall be in breach of the Agreement and subject to repayment of the City's funding as set forth in Section 7.

5.9. **Completion of the Project.** After Commencement, Guild shall diligently and faithfully, in good and workmanlike manner, continuously pursue the completion of the Project, which shall be completed no later than twenty-four (24) months after Commencement. ("Completion Deadline") Should the Guild, within twenty-four (24) months after the Commencement Deadline, fail to complete construction on the Project to the reasonable satisfaction of the City, for the purposes and uses indicated herein, and as detailed on Exhibit "A" the Guild shall be in breach of the Agreement and subject to repayment of the City's funding as set forth in Section 7.

5.10. **Initiation of Operations.** Guild shall begin Operation of the Project, including employment of the workforce noted herein in Section 6, within ninety (90) days after the Completion Deadline. Should the Guild, within ninety (90) days after the Completion Deadline fail to initiate operations of the Project to the reasonable satisfaction of the City, for the purposes and uses indicated herein, and as detailed on Exhibit "A" the Guild shall be in breach of the Agreement and subject to repayment of the City's funding as set forth in Section 7.

5.11. **Successful Operation of Lost Pines Art Center.** In addition to the terms and conditions related to employment, as set forth in Section 6 below, to avoid an Act of Default, the Guild shall successfully operate the Lost Pines Art Center for a minimum period of two (2) years following the Initiation of Operations. Whether the Lost Pines Art Center is successfully operating shall be in the sole discretion of the City, but shall generally mean that the Lost Pines

Art Center is fully functioning in a manner that reflects positively on the City of Bastrop and its community. In the event the Lost Pines Art Center fails to successfully and continually operate for two (2) years after the Initiation of Operations, the Guild shall be in breach of the Agreement and shall be subject to Section 7.

5.12 Any utilities that are not self-generated by the Guild for use at the Project, and which are offered by and available from the City shall be purchased from the City by the Guild, at the rates in effect at the time of purchase, for a period of at least ten (10) years from the date of issuance of the Certificate of Occupancy.

6.

City Funding

6.1 The City hereby commits to provide City Project Funds, in the total amount of \$100,000, to be provided to and/or available to the Guild, as per its Project needs, in installments over a five year period, as follows:

City FY Funding Year	City Project Funds Available to Guild	Running Total of Funds Available	Dispersment Date
Year 1 - 2011-2012	\$20,000	\$20,000	March 15, 2012
Year 2 - 20120-2013	\$20,000	\$40,000	March 15, 2013
Year 3 - 2013-2014	\$20,000	\$60,000	March 15, 2014
Year 4 - 2104-2015	\$20,000	\$80,000	March 15, 2015
Year 5 - 201502106	\$20,000	\$100,000	March 15, 2016

In the event that the Guild does not request City Project Funds for any applicable period, then that year's City Project Funds will roll into the total available to the Guild for the next City Fiscal Year period. By way of example, the Guild did not request disbursement of the \$20,000 of funds that were available to it under this Agreement for FY 2011-2102. Accordingly, it may request disbursement of up to, but not exceeding, \$40,000, during FY 2012-2013. The Guild will generally provide the City Manager or the Director of Finance with its annual funding request on or before February 1st of each City Fiscal Year, and funds will be dispersed to the Guild on or around March 15th, of each Funding Year during the Term of this Agreement.

7.

Act of Default

7.1 Notice of Anticipated Default. In the event that during the term of this Agreement the Guild determines that it anticipates an Act of Default on its part, it shall notify the City, in writing, of such event and shall provide details of the Act of Default anticipated. The Notice of Anticipated Act of Default shall also request a meeting between the Guild's representatives and the Board of the City during which the Guild will provide information related to the potential or actual default, and will propose alternatives and/or options identified by it to address the default. The Board shall not be obligated to consider or adopt any proposed alternative, but may, in its

sole discretion consider alternatives for addressing any Act of Default by Guild. Alternatively, the City may in its discretion, trigger the repayment obligations as set forth herein.

8.

Reporting and Monitoring

8.1 City shall, upon reasonable prior written notice to Guild and during normal business hours, but in any event not more than two (2) times per calendar year, have the right to audit and inspect Guild's records and books and all other relevant records related to each of the economic development considerations and incentives and performance requirements, as stated in this Agreement, but the confidentiality of such records and information shall be maintained by City unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, or by the direction of the Office of the Texas Attorney General.

8.2 The Guild shall provide to the City, on a quarterly basis, reports on its application of the City 4B Project Funds to the purchase of the Property, until such time as all City 4B Project Funds have been completely applied to the purchase of the Property.

Miscellaneous Provisions

9.1 Complete Agreement/Amendment. This Agreement represents a complete agreement of the Parties and supersedes all prior written and oral matters related to this Agreement. This Agreement may be canceled, changed, modified or amended, in whole or in part, only by the written and recorded agreement of the City and the then current Guild (acting at the discretion of the Guild's Board).

9.2 Mutual Assistance/Good Faith. The City and the Guild each agree to act in Good Faith and to do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement, and to aid and assist the other in carrying out such terms and provisions in order to put the other in the same condition contemplated by this Agreement, regardless of any changes in public policy, the law or taxes or assessments attributable to the Property.

9.3 Attorney's Fees. If any legal action or proceeding is commenced between the City, City and/or the Guild to enforce the provisions of this Agreement or to recover damages for its breach, the prevailing Party in the legal action will be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action, to the extent allowed by law.

9.4 Binding Effect. This Agreement will be binding on and inure to the benefit of the Parties and their respective successors and assigns.

9.5 Termination. If the Guild elects not to proceed with the acquisition of the Property or the development of the Project as contemplated by this Agreement, the Guild will notify the City in writing, and this Agreement and the obligations of all Parties will be deemed terminated and of no further force or effect as of the date of such notice, except those that expressly survive the termination hereof, if any. If any or all of the City 4B Project Funds have been provided to the Guild, all such funds shall be remitted to the City, as set forth in Section 7.2.

9.6 Notice. Any notice or other communication ("Notice") given under this Agreement must be in writing, and may be given: (i) by depositing the Notice in the United States Mail, postage paid, certified, and addressed to the Party to be notified with return receipt requested; (ii) by personal delivery of the Notice to the Party, or an agent of the Party; or (iii) by confirmed facsimile, provided that a copy of the Notice is also given in one of the manners specified in (i) or (ii). Notice deposited in the mail in the manner specified will be effective two (2) business days after deposit. Notice given in any other manner will be effective only if and when received by the Party to be notified. For the purposes of Notice, the addresses of the Parties will, until changed as provided below, be as follows:

Guild:	Bastrop Fine Arts Guild Attn: Jeanette Condray, President 1009 Main Street Bastrop, Texas 78602 Ph: (512)576-1100 Fax: (512)321-8055 Email: jeanettecondray@att.net
--------	---

City: City of Bastrop
Attn: Michael H. Talbot, City Manager
1311 Chestnut Street
Bastrop, Texas 78602
Ph: (512) 303-7305
Fax: (512) 321-6684
Email: mtalbot@cityofbastrop.org

With a copy to: Attorney for the City
Attn: Jo-Christy Brown
1411 West Ave., Ste. 100
Austin, Texas 78701
Ph: (512) 236-1000
Fax: (512) 236-1910
Email: jcbrown@jcbrownlegal.com

All Parties may designate different contact information, at any time, by giving Notice to the other Parties.

9.7 Interpretation. Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. In the event of any dispute regarding the interpretation of this Agreement, this Agreement will be interpreted fairly and reasonably and neither more strongly for nor against any Party based on draftsmanship.

9.8 Relationship of the Parties. This Agreement will not be construed as establishing a partnership or joint venture, joint enterprise, express or implied agency, or employer-employee relationship between the parties. Neither the City or the Bastrop Economic Development Corporation, nor their past, present or future officers, elected officials, employees or agents, assumes any responsibility or liability to any third party in connection with the development of the Project or the design, construction or operation of any portion of the Project.

9.9 Applicable Law. This Agreement is made, and will be construed and interpreted, under the laws of the State of Texas and venue will lie in Bastrop County, Texas. No Party to this Agreement waives or relinquishes any immunity or defense on behalf of itself, its officers, employees, agents or representatives as a result of the approval or execution of this Agreement.

9.10 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, it is the intention of the Parties that the remainder of this Agreement not be affected and it is also the intention of the Parties that, in lieu of each provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

9.11 Paragraph / Section Headings. The paragraph/section headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the paragraphs/sections.

9.12 No Third Party Beneficiaries. This Agreement is not intended to nor shall it be interpreted to confer any rights, privileges or causes of action upon any third party.

9.13 Assignment. This Agreement may not be assigned to any other party, entity or individual without the express written consent of the City Board.

9.14 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument. A facsimile signature will be deemed to be an original signature for all purposes.

9.15 Amendments. This Agreement may only be amended by the mutual consent of the Parties, which shall be memorialized in writing and appended to the original, fully executed Agreement.

9.16 Exhibits. The following exhibits are attached to and incorporated into this Agreement for all purposes: (INSERT LIST OF EXHIBITS)

[Signature Page to Follow]

EXECUTED to be effective as of the 22nd day of November, 2011

OWNER:

By: Jeanette Condray
Jeanette Condray, President
Bastrop Fine Arts Guild

Date: 5/16, 2013

By: Karol Rice
Karol Rice, Co-Chair, Lost Pines Art Center
Project

Date: 5-16, 2013

APPROVED BY:

City OF BASTROP, TEXAS

By: Michael H. Talbot
Michael H. Talbot, City Manager

Date: 5-22-13, 2013

Approved As To Form:

Jo-Christy Brown, Attorney for the City
Date: _____, 2013



CERTIFICATE
201212412
12 PGS



**VOLUNTARY CLEANUP PROGRAM
CONDITIONAL CERTIFICATE OF COMPLETION**

This Conditional Certificate of Completion (Certificate) applies to the tract of land described in Exhibit "A", attached hereto and incorporated herein by reference. This Certificate and the related protection described herein apply solely to releases at the tract of land described in Exhibit "A" prior to the execution date of this Certificate. The continued effectiveness of this Certificate is dependent upon compliance with the conditions set forth in Exhibit "D", attached hereto and incorporated herein by reference. If there is not satisfactory compliance with these conditions, this Certificate is voidable by the Texas Commission of Environmental Quality (TCEQ). This Certificate shall be a covenant that runs with the land.

As provided in Section 361.609 of the Texas Health and Safety Code:

I, Beth Seaton, Director, Remediation Division, TCEQ, certify as follows:

Certain response actions have been completed for BSA No. G127 as of June 6, 2012, for the tract of land described in Exhibit "A" so that the tract is acceptable for residential land use.

This certification is based on the Affidavit of Implementation of Response Actions (Exhibit "B"), Restrictive Covenant (Exhibit "C"), and Conditions (Exhibit "D") attached hereto and incorporated herein by reference, and on additional site information in TCEQ files.

The following persons are qualified to obtain the protection from liability described in Section 361.610 of the Texas Health and Safety Code, provided the applicant or future owners are not in violation of the restrictive covenant in Exhibit "C" and are satisfactorily achieving and maintaining the conditions described in Exhibit "D":

- 1) An applicant who on the date of submittal of an application to the Voluntary Cleanup Program was not a responsible party under Sections 361.271 or 361.275(g) of the Texas Health and Safety Code; and
- 2) All persons (e.g., future owners, future lessees, future operators and lenders) who on the date of issuance of this Certificate were not responsible parties under Sections 361.271 or 361.275(g) of the Texas Health and Safety Code.

Further information concerning this matter may be found at the TCEQ Central File Room in Building E, Room 103, 12106 Park 35 Circle, Austin, Texas 78753 under Brownfields Site Assessment No. G127.

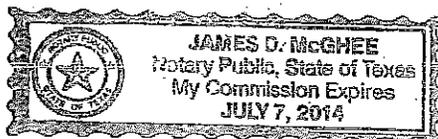
EXECUTED this the 23rd day of August, 2012

Beth Seaton
Beth Seaton, Director
Remediation Division

STATE OF TEXAS
TRAVIS COUNTY

BEFORE ME, on this the 23rd day of AUGUST 2012, personally appeared, Beth Seaton, Director, Remediation Division, of the Texas Commission on Environmental Quality, known to me to be a representative of said commission whose name is subscribed to the foregoing instrument and she acknowledged to me that she executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 23rd day of AUGUST, 2012



Notary without Bond

James D. McGhee
Notary Public in and for the State of Texas

EXHIBIT "A"
Legal Description of Site
BSA No. G127

The site is a 1.28 acre tract, more or less, located at 1204 Chestnut Street, Bastrop in the deed from Leonard Bell to Clyde E. Clardy, described as Lot #2, Block # 49, recorded in Volume 286, Page 159, Deed Records of Bastrop County, Texas, more particularly described as follows:

EXHIBIT "B"
Affidavit of Implementation of Response Actions
BSA No. G127

BEFORE ME, the undersigned authority, on this day personally appeared Ms. Jeanette Condray, as an authorized representative of Bastrop Fine Arts Guild, known to me to be the person whose name is subscribed below who being by me first duly sworn, upon their oath, stated as follows:

I am over the age of 18 and legally competent to make this affidavit. I have personal knowledge of the facts stated herein.

Bastrop Fine Arts Guild (Applicant) has implemented response actions pursuant to Chapter 361, Subchapter S, Texas Health and Safety Code, at the tract of land described in Exhibit "A" to this certificate that pertains to Chestnut Project Site (Site), BSA No. G127, located at 1204 Chestnut Street, Bastrop, Bastrop County, Texas. The Site was owned by Mr. Clyde E. Clardy at the time the application was filed to participate in the Brownfields Site Assessment Program. The Applicant has approval from the Texas Commission on Environmental Quality (TCEQ) Remediation Division on all plans and reports required by the Brownfields Site Assessment Program necessary for receipt of a Conditional Certificate of Completion (Certificate) for the tract of land in Exhibit "A". The plans and reports were prepared using a prudent degree of inquiry of the Site consistent with accepted industry standards to identify all hazardous substances, waste and contaminated media of regulatory concern. The response actions for the Site have achieved standards acceptable for residential land use as determined by the TCEQ.

As long as the restrictive covenant present in Exhibit "C" is observed and the conditions present in Exhibit "D" are maintained, the response action will sufficiently eliminate present or future risk to public health and safety and the environment from releases and threatened releases of hazardous substances and/or contaminants at or from the Site. The Applicant has not acquired this Certificate by fraud, misrepresentation or knowing failure to disclose material information. Further information concerning the response action at this site may be found in the final report at the central office of the TCEQ under BSA No. G127.

The preceding is true and correct to the best of my knowledge and belief.

Applicant

Jeanette Condray
(Signature)

Jeanette Condray
(Printed Name)

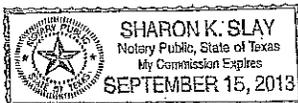
President
(Title)

STATE OF Bastrop
COUNTY OF TEXAS

SUBSCRIBED AND SWORN before me on this the 6 day of June 20 12
to which witness my hand and seal of office.

Sharon K. Slay

Notary Public in and for the State of Texas



380 AGREEMENT

BETWEEN

THE BASTROP FINE ARTS GUILD AND THE

CITY OF BASTROP

This Second Funding Agreement (this "Second Agreement") is entered into between Bastrop Fine Arts Guild, a 501(c)(3) non-for-profit Texas corporation, (the "Guild") and the City of Bastrop, a Texas home-rule municipal corporation organized and operating under the laws of Texas. ("City") The Guild and City may be referred to jointly herein as "the Parties" and individually as a "Party."

RECITALS

WHEREAS, Local Government Code, Chapter 380, *et seq.*, generally referred to as Economic Development Programs ("380 Programs") provides that the governing bodies of municipalities, such as Bastrop, may establish and provide for programs for making grants of public money and services of the municipality to promote local economic development and to stimulate business and commercial activity in the city; and

WHEREAS, the City, acting under the authority granted to it under state statutes and its Home-Rule Charter, has heretofore established such a program for the City of Bastrop; and

WHEREAS, the Guild has asked the City for a financial grant to support the Guild to improve real property located on Chestnut Street in Bastrop Texas, as the 'Lost Pines Art Center Project' ("Project" and/or "Center"), and to operate the Center according to the details and specifications set forth in the Guilds plan(s) ("Plans") as set forth in "Exhibit "A"", attached hereto and incorporated herein for all purposes, and as set forth in more detail in this Second Agreement and

WHEREAS, the City has determined that it will provide funds to the Guild, pursuant to the term of this Second Agreement, to promote local economic development and to stimulate business and commercial activity and around the City through the Guild Project and Center (City "Project Funds"); and

WHEREAS, the City has determined that development of the Property and operation of the Project will contribute to the economic development of the City by generating cultural and art tourism in the City and providing art and cultural opportunities and activities within the City, as noted herein.

NOW, THEREFORE, in consideration of the mutual benefits described in this Second Agreement, 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.

Authority

The City's execution of this Second Agreement is authorized by Chapter 380, *Texas Local Government Code*, and constitutes a valid and binding obligation of the City, subject to the following:

- i. Guild's Performance Subsequent: That the Guild: (1) successfully initiates and completes development of the Project, within the timeframes stated and agreed upon herein, and (2) successfully operates the Project for the period noted herein, and (3) successfully fulfills all contractual obligations, without default, as specified herein.
- ii. The Guild's execution and performance of this Second Agreement constitutes a valid and binding obligation of Guild, at the time that Guild accepts funding from the City for the Project. Guild acknowledges that City is acting in reliance upon Guild's full and complete performance of all stated Conditions Precedent and other Performance obligations set forth in this Second Agreement in making its decision to commit substantial City resources to this Project.

2.

Definitions

As used in this Second Agreement, the following words or phrases shall have the following meanings:

2.1 "Act of Default or Default" means failure to timely, fully, and completely comply with one or more requirements, obligations, Conditions Precedent, duties, terms, conditions or warranties, as stated in this Second Agreement. City may accept substantial compliance in lieu of full compliance by waiving such Act of default. Default by the Guild may subject the Guild to the conditions set forth in Section 7.

2.2 "City Project Funds" means the \$300,000 grant of funds (Grant) to the Guild for use as set forth herein.

2.3 "Certificate of Occupancy" shall mean that final document issued by the City of Bastrop, Texas, entitled "Certificate of Occupancy", indicating that all applicable codes, regulations, and ordinances enforced by the City of Bastrop have been unconditionally, fully and completely complied with in all respects. A Certificate of Occupancy shall not include a certificate issued in error, mistake or misrepresentation of facts, nor any temporary or conditional document authorizing temporary or conditional occupancy.

2.4 "City of Bastrop" or "City" means the governing municipal corporation that is legally authorized to control the area that is within the city limits of the City of Bastrop, and the area that is within the City's ETJ and/or Bastrop County, Texas.

2.5 "Code" means the Bastrop Code of Ordinances in effect as of the Effective Date of this Second Agreement.

2.6 “Designated Successors and Assigns” shall mean (i) an entity to which Guild assigns (in writing) all or a portion of its rights and obligations contained in this Second Agreement, (ii) any entity which is the successor by merger or otherwise to all or substantially all of Guild’s assets and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital; or (iii) any entity which may have acquired all of the outstanding stock or partnership interest of Guild.

2.7 “Effective Date” means the date this Second Agreement has been signed by all Parties.

2.8 “Force Majeure” means any event in which any Party shall be delayed, hindered in or prevented from the performance of any act required under this Second Agreement by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, unavailability of any utility service, restrictive governmental laws or regulations, riots, insurrections, the act, the failure to act, or default of another Party or a material worsening of current conditions caused by acts of terrorism or war (whether or not declared), or severe weather occurring after the execution of this Second Agreement, which materially impair the Party’s ability to perform any act required under this Second Agreement.

2.9 “Guild” means the Bastrop Fine Arts Guild, a Texas not-for-profit, 501(c)(3) corporation, incorporated and authorized to do business in the State of Texas.

2.10 “Program” means the support program established by the City, pursuant to the Texas Local Government Code, Chapter 380, et. seq., to promote and stimulate economic development within the City.

2.11 “Project” means Guild’s planned Lost Pines Art Center to be located on approximately 1.246 acres, more particularly described in **Exhibit “A,”** attached hereto. The Project may also be identified and referred to as the “Arts Guild Project,” which shall consist of a development as shown by the Building Plan attached hereto as **Exhibit “B.”** The Project shall include, at a minimum, the following uses and amenities, a ±9,000 square foot main building that will house: (a) a major art gallery, (b) a lobby/retail gift shop, (c) 1-2 classrooms, (d) multiple leasable artists’ studios, and (e) a leasable, retail specialty wine/coffee shop. In addition, three of the four grain silos will be converted into working artist studios, and the fourth may be used as an efficiency apartment for an artist-in-residency program. The exterior grounds will be landscaped and may include an outdoor sculpture garden.

3.

Term

This Second Agreement will become effective on the date that it is fully executed by all Parties (“Effective Date”) and shall continue until all obligations and conditions set forth herein have been fully performed by the Parties. Notwithstanding any future expiration or termination of this Second Agreement, however, the conditions set forth in the sections of this Second Agreement which expressly provide for certain obligations of

the Guild to extend beyond any stated term or event of termination or expiration shall survive, and remain enforceable, as stated in that section/paragraph.

4.

Construction Plan and Phasing

4.1 Guild shall provide the City with proposed construction plans for the Project.

4.2 Guild agrees to comply with the Code, as amended or supplemented by this Second Agreement. Notwithstanding the foregoing, Guild, in its sole discretion, may choose to comply with any or all City rules promulgated after the date of the Code.

4.3 Guild anticipates and commits to constructing the Project in Phases, as follows:

Phase I	Completed	Deconstruct portions of existing facilities.
Phase II	December 31, 2016	Construction of main building.
Phase III	Begin December 31, 2016 Ends December 31, 2017	Completed construction of all buildings/facilities.

4.4 Ownership Of Project

The City acknowledges and agrees that it shall acquire no ownership interest in or maintain responsibility for the Center and/or any part thereof.

5.

Guild's Covenants, Warranties, Obligations and Duties

Guild makes the following covenants and warranties to the City and agrees to timely and fully perform the obligations and duties, as set forth herein below. Any false or substantially misleading statement contained herein or failure to timely and fully perform, as required in this Second Agreement, shall be an Act of Default by Guild and may subject the Guild to the conditions set forth in Section 7.

5.1. Guild is authorized to do business and is in good standing in the State of Texas and shall remain in good standing in the State of Texas during the Term of this Second Agreement.

5.2. The execution of this Second Agreement has been duly authorized by the board of directors of the Bastrop Fine Arts Guild, and the individual signing this Second Agreement is the president of the Bastrop Fine Arts Guild and has been empowered, by a formal Resolution of its governing board, as shown on attached **Exhibit "C,"** to

execute such a Second Agreement and bind the entity, and said authorization, signing and binding effect is not in contravention of any law, rule or regulation, or of the provisions of the Bastrop Fine Arts Guild Articles of Incorporation, or by-laws, or of any agreement or instrument to which Guild is a party or by which it may be bound.

5.3. No litigation or governmental proceeding is pending or, to the knowledge of Guild or Guild's officers, threatened against or affecting the Guild that may result in any material adverse change in Guild's business, properties or operation. No consent, approval or authorization of or registration or declaration within any governmental authority is required in connection with the execution of this Second Agreement or the transactions contemplated hereby.

5.4. There are no bankruptcy proceedings or other proceedings currently pending or contemplated, and Guild has not been informed of any potential involuntary bankruptcy proceedings.

5.5. To its current, actual knowledge, Guild has acquired and maintained all necessary rights, licenses, permits and authority to carry on its business in Bastrop, Texas, and will continue to use its best efforts to maintain all necessary rights, licenses, permits and authority.

5.6. The City's Project Funds provided to the Guild shall be utilized solely for the purpose stated herein, related to the Property identified on **Exhibit "A"**.

5.7. Dedicated/Insured Account. The City Project Funds shall be deposited in, and maintained in an insured and dedicated account, to be used only by the Guild for payments made to develop the Project/Center located on the Property. On each occurrence the Guild accesses/utilizes the City Project Funds held in the dedicated account, it shall provide a copy of the financial instruments memorializing such access/use to the City, contemporaneously with the execution of such instruments.

5.8 Commencement of Construction on the Project. Guild shall commence work on construction of the Main Building no later than 12 months after the Effective Date of this Second Agreement. ("Commencement Deadline") Should the Guild fail to Commence construction on the Main Building to the reasonable satisfaction of the City, for the purposes and uses indicated herein, and as detailed on **Exhibit "B"** the Guild shall be in breach of the Second Agreement and subject to repayment of the City's funding as set forth in Section 7.

5.9 Completion of the Project. After Commencement, Guild shall diligently and faithfully, in good and workmanlike manner, continuously pursue the completion of the Project, which shall be completed no later than December 31, 2017, unless extended by the agreement of the City. ("Completion Deadline") Should the Guild fail to complete construction on the Project to the reasonable satisfaction of the City, for the purposes and uses indicated herein, on or before December 31, 2017, as detailed on **Exhibit "B"** the Guild shall be in breach of the Second Agreement and subject to repayment of the City's Project Funding as set forth in Section 7.

5.10 Initiation of Operations. Guild shall begin Operation of the Project, within ninety (90) days after the Completion Deadline. Should the Guild, within ninety

(90) days after the Completion Deadline fail to initiate operations of the Project to the reasonable satisfaction of the City, for the purposes and uses indicated herein, and as detailed on Exhibit "B" the Guild shall be in breach of the Second Agreement and subject to repayment of the City's funding as set forth in Section 7.

5.11 Successful Operation of Lost Pines Art Center. In addition to the terms and conditions, as set forth in Section 6 below, to avoid an Act of Default, the Guild shall successfully operate the Lost Pines Art Center for a minimum period of ten (10) years following the Initiation of Operations. Whether the Lost Pines Art Center is successfully operating shall be in the sole discretion of the City, but shall generally mean that the Lost Pines Art Center is fully functioning in a manner that reflects positively on the City of Bastrop and its community. In the event the Lost Pines Art Center fails to successfully and continually operate for ten (10) years after the Initiation of Operations, the Guild shall be in breach of the Second Agreement and shall be subject to repayment of the City Project Funds, to the City, as per Section 7.

5.12 Any utilities that are not self-generated by the Guild for use at the Project, and which are offered by and available from the City shall be purchased from the City by the Guild, at the rates in effect at the time of purchase, for a period of at least ten (10) years from the date of issuance of the Certificate of Occupancy.

6.

City Funding

6.1 The City hereby commits to provide City Project Funds, in the total amount of \$300,000. The Guild will provide a written request to the City for the City Project Funds within thirty (30) days of the execution of this Second Agreement. Any City Project Funds not used by the Guild within 48 months of the Execution of the Agreement shall be returned to the City.

7.

Act of Default

7.1 Notice of Anticipated Default. In the event that during the term of this Second Agreement the Guild determines that it anticipates an Act of Default on its part, it shall notify the City, in writing, of such event and shall provide details of the Act of Default anticipated. The Notice of Anticipated Act of Default shall also request a meeting between the Guild's representatives and the Board of the City during which the Guild will provide information related to the potential or actual default, and will propose alternatives and/or options identified by it to address the default. The Board shall not be obligated to consider or adopt any proposed alternative, but may, in its sole discretion consider alternatives for addressing any Act of Default by Guild. Alternatively, the City may in its discretion, trigger the repayment obligations as set forth herein.

7.2 Voluntary Termination by Guild The City recognizes that, under certain circumstances, the Guild may determine that it desires to terminate its obligations under this Second Agreement, prior to the end of the ten (10) year term of this Second

Agreement, for various reasons, including, for example: (1) ceasing to operate the Center in the City; (2) no longer remaining a 501(c)(3); as defined in this Second Agreement; or (3) other reasons determined by the Guild. In the event of such circumstances, the Guild may withdraw from the Second Agreement by repaying the City a pro-rata portion of the Project Funds granted by the City, as detailed in the table shown immediately below. For purposes of calculating the amount due to the City, in the event of such a withdrawal, the date that the Center is issued a Certificate of Occupancy for the Center by the City will be the initial effective date, noted below.

EFFECTIVE DATES	END OF YEAR NUMBER	PERCENTAGE DUE TO CITY	APPROX. AMOUNT DUE TO CITY
February 2015 to February 2016	1	100%	\$300,000.00
February 2016 to February 2017	2	90%	\$270,000.00
February 2017 to February 2018	3	80%	\$240,000.00
February 2018 to February 2019	4	70%	\$210,000.00
February 2019 to February 2020	5	60%	\$180,000.00
February 2020 to February 2021	6	50%	\$150,000.00
February 2021 to February 2022	7	40%	\$120,000.00
February 2022 to February 2023	8	30%	\$90,000.00

February 2023 to February 2024	9	20%	\$60,000.00
February 2024 to February 2025	10	10%	\$30,000.00
February 2025 to February 2026	11	0%	\$0.00

8.

Reporting and Monitoring

8.1 City shall, upon reasonable prior written notice to Guild and during normal business hours, but in any event not more than one (1) time per calendar year, have the right to audit and inspect Guild’s records and books and all other relevant records related to each of the economic development considerations and incentives and performance requirements, as stated in this Second Agreement, but the confidentiality of such records and information shall be maintained by City unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, or by the direction of the Office of the Texas Attorney General.

8.2 During the Term of this Second Agreement, the Guild shall provide to the City, on an annual basis, reports on the development of the Project, related to expenditure of the City Project Funds.

9.

Miscellaneous Provisions

9.1 **Complete Second Agreement/Amendment.** This Second Agreement represents a complete agreement of the Parties related to the 380 grant of City Project Funds, and supersedes all prior written and oral matters related to the Grant of 380 Funds. This Second Agreement may be canceled, changed, modified or amended, in whole or in part, only by the written and recorded agreement of the City and the then current Guild (acting at the discretion of the Guild’s Board).

9.2 **Mutual Assistance/Good Faith.** The City and the Guild each agree to act in Good Faith and to do all things reasonably necessary or appropriate to carry out the terms and provisions of this Second Agreement, and to aid and assist the other in carrying out such terms and provisions in order to put the other in the same condition contemplated by this Second Agreement, regardless of any changes in public policy or laws applicable to the Project.

9.3 **Attorney’s Fees.** If any legal action or proceeding is commenced between the City, City and/or the Guild to enforce the provisions of this Second

Agreement or to recover damages for its breach, the prevailing Party in the legal action will be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action, to the extent allowed by law.

9.4 Binding Effect. This Second Agreement will be binding on and inure to the benefit of the Parties and their respective successors and assigns.

9.5 Termination. If the Guild elects not to proceed with the development of and/or future operation of the Project as contemplated by this Second Agreement, the Guild will notify the City in writing, and this Second Agreement and the obligations of all Parties will be deemed terminated and of no further force or effect as of the date of such notice, except those that expressly survive the termination hereof, if any. If any or all of the City Project Funds have been provided to the Guild, applicable portions of such funds shall be remitted back to the City, as set forth in Section 7.2.

9.6 Notice. Any notice or other communication ("Notice") given under this Second Agreement must be in writing, and may be given: (i) by depositing the Notice in the United States Mail, postage paid, certified, and addressed to the Party to be notified with return receipt requested; (ii) by personal delivery of the Notice to the Party, or an agent of the Party; or (iii) by confirmed facsimile, provided that a copy of the Notice is also given in one of the manners specified in (i) or (ii). Notice deposited in the mail in the manner specified will be effective two (2) business days after deposit. Notice given in any other manner will be effective only if and when received by the Party to be notified. For the purposes of Notice, the addresses of the Parties will, until changed as provided below, be as follows:

Guild: Bastrop Fine Arts Guild
Attn: Donna Cunningham, President
815 Main Street
Bastrop, Texas 78602
Ph: (512)308-2018
Gallery: (512)321-8055
Email: donna@donnalc.com

City: City of Bastrop – City Manager's Office
Attn: City Manager
1311 Chestnut Street
Bastrop, Texas 78602
Ph: (512) 332-8800
Fax: (512) 332-8819
Email: mtalbot@cityofbastrop.org

With a copy to:

Attorney for the City
Attn: Jo-Christy Brown
1411 West Ave., Ste. 100
Austin, Texas 78701
Ph: (512) 236-1000
Fax: (512) 236-1910
Email: jcbrown@jcbrownlegal.com

All Parties may designate different contact information, at any time, by giving Notice to the other Parties.

9.7 Interpretation. Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Second Agreement. In the event of any dispute regarding the interpretation of this Second Agreement, this Second Agreement will be interpreted fairly and reasonably and neither more strongly for nor against any Party based on draftsmanship.

9.8 Relationship of the Parties. This Second Agreement will not be construed as establishing a partnership or joint venture, joint enterprise, express or implied agency, or employer-employee relationship between the parties. Neither the City or the Bastrop Economic Development Corporation, nor their past, present or future officers, elected officials, employees or agents, assumes any responsibility or liability to any third party in connection with the development of the Project or the design, construction or operation of any portion of the Project.

9.9 Applicable Law. This Second Agreement is made, and will be construed and interpreted, under the laws of the State of Texas and venue will lie in Bastrop County, Texas. No Party to this Second Agreement waives or relinquishes any immunity or defense on behalf of itself, its officers, employees, agents or representatives as a result of the approval or execution of this Second Agreement.

9.10 Severability. If any provision of this Second Agreement is held to be illegal, invalid or unenforceable under present or future laws, it is the intention of the Parties that the remainder of this Second Agreement not be affected and it is also the intention of the Parties that, in lieu of each provision that is found to be illegal, invalid or unenforceable, a provision be added to this Second Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

9.11 Paragraph / Section Headings. The paragraph/section headings contained in this Second Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the paragraphs/sections.

9.12 No Third Party Beneficiaries. This Second Agreement is not intended to nor shall it be interpreted to confer any rights, privileges or causes of action upon any third party.

9.13 Assignment. This Second Agreement may not be assigned to any other party, entity or individual without the express written consent of the City.

9.14 Counterparts. This Second Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument. A facsimile signature will be deemed to be an original signature for all purposes.

9.15 Amendments. This Second Agreement may only be amended by the mutual consent of the Parties, which shall be memorialized in writing and appended to the original, fully executed Second Agreement.

9.16 Exhibits. The following exhibits are attached to and incorporated into this Second Agreement for all purposes:

Exhibit A – Metes and Bounds

Exhibit B - Building Plans

Exhibit C – Resolution

[Signature Page to Follow]

EXECUTED to be effective as of the 18TH day of February, 2015

OWNER:

By: 
Donna Cunningham, President
Bastrop Fine Arts Guild
Date: 2-18-15, 2015

APPROVED BY:

City OF BASTROP, TEXAS

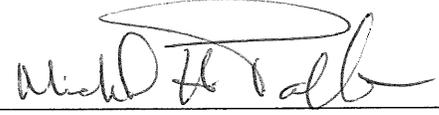
By: 
Michael H. Talbot, City Manager
Date: 2-18, 2015

EXHIBIT A - PROPERTY

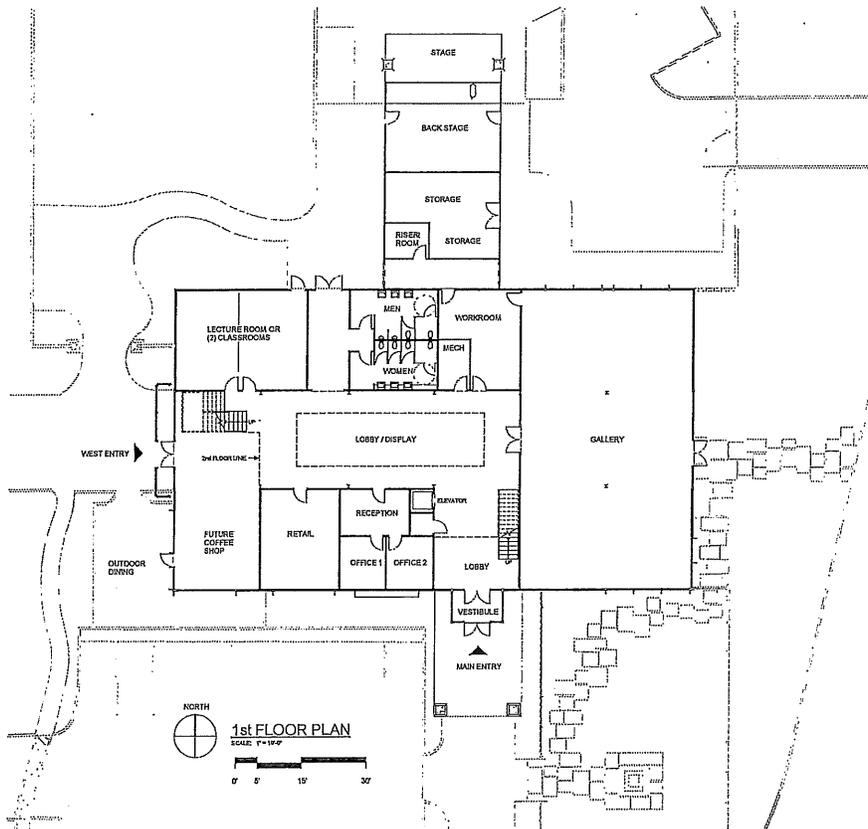
Legal Description of Lost Pines Art Center & Reflective Sculpture Garden:

1.28 acres, more or less, being a portion of Building Block 49, East of Main Street, City of Bastrop, Bastrop County, Texas.

1204 Chestnut St.

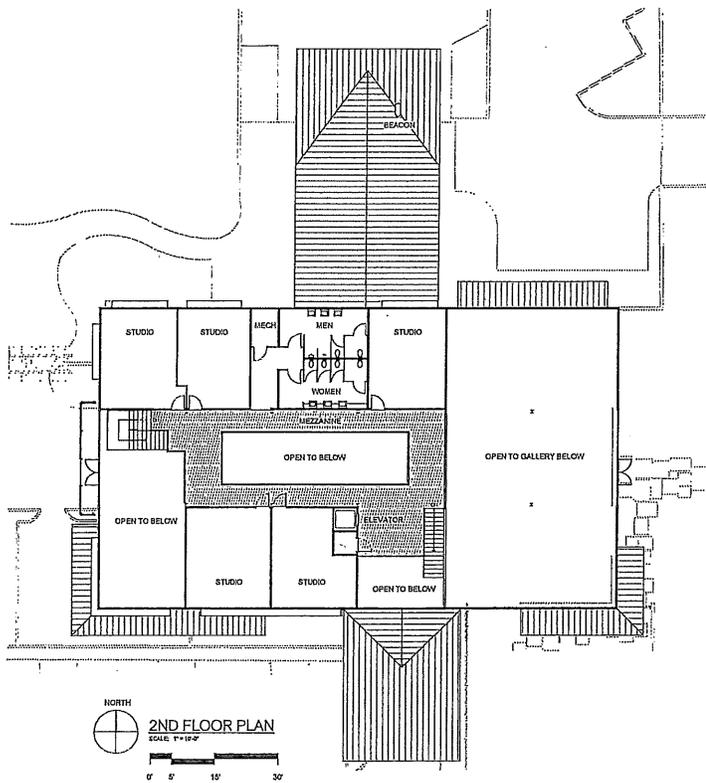
Bastrop, TX 78602

EXHIBIT B - PLANS



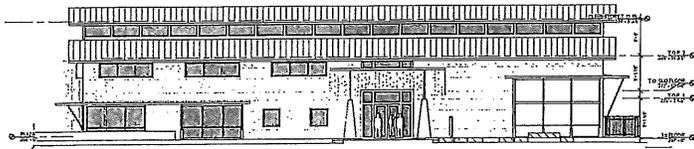
LOST PINES ART CENTER
GASTROP, TEXAS

BARLEY & PFEIFFER ARCHITECTS
COMPREHENSIVE SUSTAINABLE ARCHITECTURE, INTERIORS & CONSULTING
1808 WEST 8th ST AUSTIN, TX 78701-8210 FAX: 478-8887 www.barleypfeiffer.com

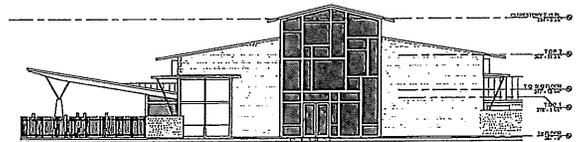


LOST PINES ART CENTER
BASTROP, TEXAS

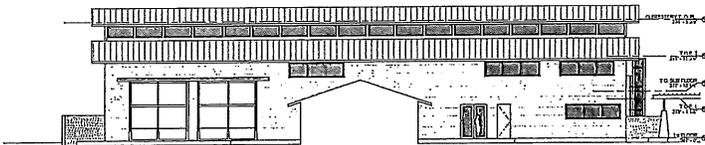
BARLEY & PFEIFFER ARCHITECTS
COMPREHENSIVE SUSTAINABLE ARCHITECTURE, INTERIORS & CONSULTING
1828 WHEELER ST. AUSTIN, TX 78701-3510 FAX: 512-452-0887 (www.barleypfeiffer.com)



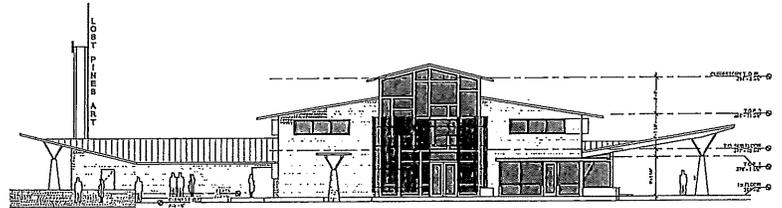
SOUTH ELEVATION - FRONT
SCALE: 1/4"=1'-0"



EAST ELEVATION - RIGHT
SCALE: 1/4"=1'-0"



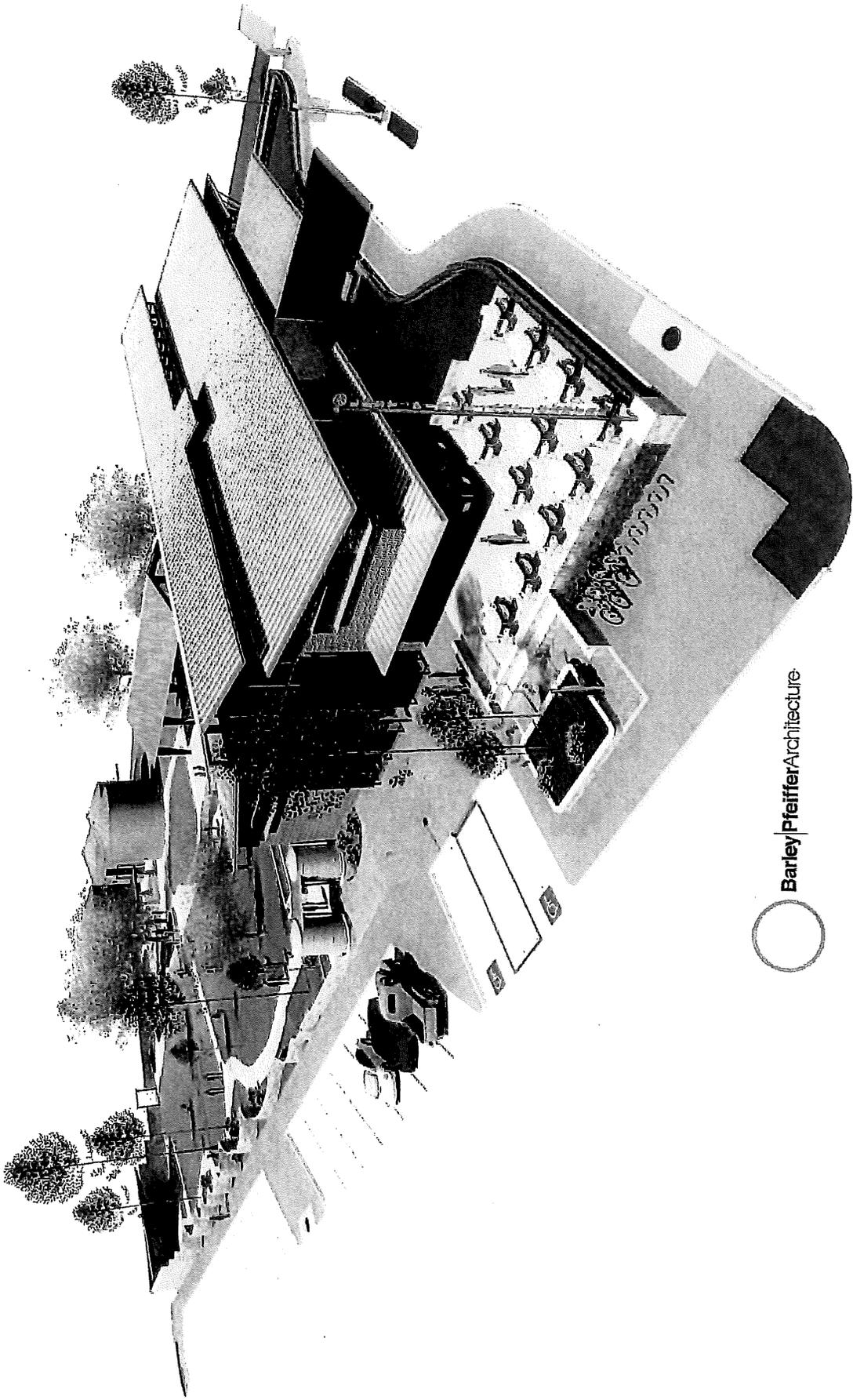
NORTH ELEVATION - BACK
SCALE: 1/4"=1'-0"



WEST ELEVATION - LEFT
SCALE: 1/4"=1'-0"

LOST PINES ART CENTER
BASTROP, TEXAS

BARLEY & PFEIFFER ARCHITECTS
COMPREHENSIVE SUSTAINABLE ARCHITECTURE, INTERIORS & CONSULTING
1225 WEST 6th ST. AUSTIN, TX | 512-476-8344 FAX: 476-8881 | www.barleypfeiffer.com



 Barley Pfeiffer Architecture

EXHIBIT C - RESOLUTION

AUTHORIZATION RESOLUTION

RESOLUTION AUTHORIZING PRESIDENT AND PROJECT CHAIR OF BASTROP FINE ARTS GUILD TO SIGN ALL LEGAL AND OTHER DOCUMENTS ON BEHALF OF BASTROP FINE ARTS GUILD

As evidenced by my signature below, I certify that the following are correct and complete copies of the resolutions duly adopted on Oct. 1, 2011 by the Board of Directors of Bastrop Fine Arts Guild, a non-profit organization, located at 1009 Main Street, Bastrop, Texas, 78602.

I also certify that such resolution has not been modified, remain in effect, and/licensing statutes or requirements:

1. RESOLVED: that the President of the Board and Co-Manager of the Building Project of Bastrop Fine Arts Guild, and each of their successors in office, are each hereby authorized to sign all legal and other documents on behalf of the Bastrop Fine Arts Guild and transact business on the organizations behalf.
2. RESOLVED: that the President and Co-Manager of the Building Project are each hereby authorized and directed to transact all business or incidental transactions authorized by the relevant resolution, or may be designed to carry out the purpose of such resolution: and that such resolution all the powers hereby granted shall continue in full force until written notice of revocation has been declared by the Bastrop Fine Arts Guild Board of Directors.
3. RESOLVED: that all prior resolutions regarding the authorizations of the organization are hereby revoked.

Janette Condray, President
Signature of Board of Director

Name and Title

Date

Linda Henderson, Secretary
Fetchen Deuble, Treasurer
Shane Hunt, Vice President

ECONOMIC DEVELOPMENT AGREEMENT

BETWEEN
THE BASTROP ECONOMIC DEVELOPMENT CORPORATION
AND
THE BASTROP FINE ARTS GUILD

This Economic Development Agreement (this "Agreement") is entered into between Bastrop Fine Arts Guild, a 501(c)(3) non-for-profit Texas corporation, (the "Owner") and the Bastrop Economic Development Corporation, a Texas non-profit economic development corporation organized and operating under the laws of Texas. ("BEDC") The Owner and BEDC may be referred to jointly herein as "the Parties" and individually as a "Party."

RECITALS

WHEREAS, the BEDC desires to offer a one-time grant of 4B funds to the Owner to enable the Owner to purchase real property and same as a Fine Arts Complex project, according to the details and specifications set forth in the concept plan ("Concept Plan") shown in "Exhibit "A"", attached hereto Attached to return e-mail and incorporated herein for all purposes, and as set forth in more detail in this Agreement. ("Project"); and

WHEREAS, the City Council of the City has authorized the BEDC to provide certain economic development incentives to the Owner in recognition of the economic benefits which will accrue to the City through the Owner's efforts to develop the Project, which is located in the corporate limits of the City, as more particularly described on the attached "Exhibit "B"" (the "Property"), as a Fine Arts Complex Project; and

WHEREAS, the BEDC has determined that development of the Property will contribute to the economic development of the City by generating sales tax and employment, as noted herein.

NOW, THEREFORE, in consideration of the mutual benefits described in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the BEDC and the Owner agree as follows:

1.

Authority

The BEDC's execution of this Agreement is authorized by Chapter 501, *Texas Local Government Code*, and constitutes a valid and binding obligation of the BEDC, subject to the following:

- i. Conditions Precedent: That the Owner: (1) on or before December 31, 2011, acquires contractual and fully enforceable ownership rights to the Property and (2) on or before November 30, 2011, provides the BEDC with written documentation demonstrating that the Owner has obtained sufficient funds and/or irrevocable approval for financing for the purchase of the Property. ("Conditions Precedent")

- ii. **Owner's Performance Subsequent:** That the Owner: (1) successfully initiates and completes development of the Project, within the timeframes stated and agreed upon herein, and (2) successfully operates the Project for the period noted herein, including continuously maintaining the employment noted herein in Section 6, and (3) successfully fulfills all contractual obligations, without default, as specified herein.
- iii. The Owner's execution and performance of this Agreement constitutes a valid and binding obligation of Owner, at the time that Owner accepts funding from the BEDC for the Project. Owner acknowledges that BEDC is acting in reliance upon Owner's full and complete performance of all stated Conditions Precedent and other Performance obligations set forth in this Agreement in making its decision to commit substantial BEDC resources to this Project.

2.

Definitions

As used in this Agreement, the following words or phrases shall have the following meanings:

2.1 "Act of Default or Default" means failure to timely, fully, and completely comply with one or more requirements, obligations, Conditions Precedent, duties, terms, conditions or warranties, as stated in this Agreement. BEDC may accept substantial compliance in lieu of full compliance by waiving such Act of default. Default by the Owner may subject the Owner to the conditions set forth in Section 7.

2.2 "BEDC 4B Project Funds" means the one-time \$100,000 grant of funds to the Owner for use to purchase the real property for the Project, as set forth herein.

2.3 "Certificate of Occupancy" shall mean that final document issued by the City of Bastrop, Texas, entitled "Certificate of Occupancy", indicating that all applicable codes, regulations, and ordinances enforced by the City of Bastrop have been unconditionally, fully and completely complied with in all respects. A Certificate of Occupancy shall not include a certificate issued in error, mistake or misrepresentation of facts, nor any temporary or conditional document authorizing temporary or conditional occupancy.

2.4 "City of Bastrop" or "City" means the governing municipal corporation that is legally authorized to control the area that is within the city limits of the City of Bastrop, and the area that is within the City's ETJ and/or Bastrop County, Texas.

2.5 "Code" means the Bastrop Code of Ordinances in effect as of the Effective Date of this Agreement.

2.6 "Designated Successors and Assigns" shall mean (i) an entity to which Owner assigns (in writing) all or a portion of its rights and obligations contained in this Agreement, (ii) any entity which is the successor by merger or otherwise to all or substantially all of Owner's assets and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital; or (iii) any entity which may have acquired all of the outstanding stock or partnership interest of Owner.

2.7 "Effective Date" means the date this Agreement has been signed by all Parties.

2.8 "Environmental Clearances" means the point in time when the Owner provides the BEDC with written documentation from any applicable entity or agency finally approving the environmental condition of the Property.

2.9 "Force Majeure" means any event in which any Party shall be delayed, hindered in or prevented from the performance of any act required under this Agreement by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, unavailability of any utility service, restrictive governmental laws or regulations, riots, insurrections, the act, the failure to act, or default of another Party or a material worsening of current conditions caused by acts of terrorism or war (whether or not declared), or severe weather occurring after the execution of this Agreement, which materially impair the Party's ability to perform any act required under this Agreement.

2.10 "Owner" means the Bastrop Fine Arts Guild, a Texas not-for-profit, 501(c) (3) corporation, incorporated and authorized to do business in the State of Texas.

2.11 "Program" means the economic development program established by the BEDC, as authorized by Chapters 501 and 505, *Texas Local Government Code*, to promote local economic development and stimulate business and commercial activity within the City.

2.12 "Project" means Owner's planned Fine Arts Complex to be located on approximately 1.246 acres, more particularly described in **Exhibit "B,"** attached hereto. The Project is also identified and referred to as the "Arts Guild Project," which shall consist of a development as shown by the Concept Plan attached hereto as **Exhibit "A."** The Project shall include, at a minimum, the following uses and amenities, a ±9000 square foot main building that will house: (a) a major art gallery, (b) a lobby/retail gift shop, (c) 1-2 classrooms, (d) multiple leasable artists' studios, and (e) a leasable, retail specialty wine/coffee shop. In addition, three of the four grain silos will be converted into working artist studios, and the fourth may be used as an efficiency apartment for an artist-in-residency program. The exterior grounds will be landscaped and may include an outdoor sculpture garden.

3.

Term

This Agreement will become effective on the date that it is fully executed by all parties ("Effective Date") and shall continue until all obligations and conditions set forth herein have been fully performed by the Parties. Notwithstanding any future expiration or termination of this Agreement, however, the conditions set forth in the sections of this Agreement which expressly provide for certain obligations of the Owner to extend beyond any stated term or event of termination or expiration shall survive, and remain enforceable, as stated in that section.

4.

Design Criteria/Construction Plan and Budget

4.1 Owner shall provide the BEDC with proposed construction plans for the Project, on or before January 1, 2012, but in no event later than ninety (90) days prior to the start of any construction activities on the Property.

4.2 Owner agrees to comply with the Code, as amended or supplemented by this Agreement. Notwithstanding the foregoing, Owner, in its sole discretion, may choose to comply with any or all City rules promulgated after the date of the Code.

4.3 Owner shall prepare, and provide as **Exhibit "C"** to this Agreement a detailed key-event timeline for the Project, which may be presented in phases, if Owner desires.

4.4 On or before March 31, 2012, Owner shall prepare and provide to the BEDC a detailed construction budget for the Project, which may be presented in phases, if Owner desires.

4.5 At the time that Owner finalizes its purchase of the Property, Owner shall provide to the BEDC fully executed and final copies of: (1) the Executed Contract of Sale, (2) the Deed identifying the Owner as owner of the real property (or similar and equivalent documentation), and (3) a Title Policy issued for the Sale, specifying any title exceptions or conditions.

5.

Owner's Covenants, Warranties, Obligations and Duties

Owner makes the following covenants and warranties to the BEDC and agrees to timely and fully perform the obligations and duties, as set forth herein below. Any false or substantially misleading statement contained herein or failure to timely and fully perform, as required in this Agreement, shall be an Act of Default by Owner and may subject the Owner to the conditions set forth in Section 7.

5.1. Owner is authorized to do business and is in good standing in the State of Texas and shall remain in good standing in the State of Texas during the Term of this Agreement.

5.2. The execution of this Agreement has been duly authorized by the board of directors of the Bastrop Fine Arts Guild, and the individual signing this Agreement is the president of the Bastrop Fine Arts Guild and has been empowered, by a formal Resolution of its governing board, as shown on attached **Exhibit "D,"** to execute such Agreement and bind the entity, and said authorization, signing and binding effect is not in contravention of any law, rule or regulation, or of the provisions of the Bastrop Fine Art's Guild Articles of Incorporation, or by-laws, or of any agreement or instrument to which Owner is a party or by which it may be bound.

5.3. No litigation or governmental proceeding is pending or, to the knowledge of Owner or Owner's officers, threatened against or affecting the Owner that may result in any material adverse change in Owner's business, properties or operation. No consent, approval or

authorization of or registration or declaration within any governmental authority is required in connection with the execution of this Agreement or the transactions contemplated hereby.

5.4. There are no bankruptcy proceedings or other proceedings currently pending or contemplated, and Owner has not been informed of any potential involuntary bankruptcy proceedings.

5.5. To its current, actual knowledge, Owner has acquired and maintained all necessary rights, licenses, permits and authority to carry on its business in Bastrop, Texas, and will continue to use its best efforts to maintain all necessary rights, licenses, permits and authority.

5.6. The BEDC 4B Project Funds provided to the Owner shall be utilized solely for the purpose of purchasing the Property, identified on **Exhibit "B"**.

5.7. Dedicated/Insured Account. The BEDC 4B Project Funds shall be deposited in, and maintained in an insured and dedicated account, to be used only by the Owner for payments made to acquire the Property. On each occurrence the Owner accesses/utilizes the BEDC 4B Project Funds held in the dedicated account, it shall provide a copy of the financial instruments memorializing such access/use to the BEDC, contemporaneously with the execution of such instruments.

5.8. Additional Funds. Without further involvement by the BEDC in the purchase of the Property, after provision of the BEDC 4B Project Funds to Owner, the Owner shall be solely responsible for obtaining all remaining financing necessary to: (1) acquire full ownership of the Property, (2) performing any environmental clean up obligations necessary to obtain Environmental Clearances, (3) complete the Project according to the Concept Plan, and (4) operate the Project, for a period of at least two (2) years following the Date of Completion, including but not limited to the financing related to design matters, improvements, construction, additional contract preparation, materials and labor. Should the Owner, within thirty (30) months of the Effective Date, fail to raise the necessary funds to repair, renovate, and/or complete the Project, the Owner shall be declared in Default and subject to Section 7.

5.9. Commencement of Construction on the Project. Owner shall commence work on construction of the Project no later than thirty-six (36) months after the Effective Date of this Agreement. ("Commencement Deadline") Should the Owner, within thirty-six (36) months of the Effective Date, fail to Commence construction on the Project to the reasonable satisfaction of the BEDC, for the purposes and uses indicated herein, and as detailed on **Exhibit "A"** the Owner shall be in breach of the Agreement and subject to repayment of the BEDC's funding as set forth in Section 7.

5.10. Completion of the Project. After Commencement, Owner shall diligently and faithfully, in good and workmanlike manner, continuously pursue the completion of the Project, which shall be completed no later than twenty-four (24) months after Commencement. ("Completion Deadline") Should the Owner, within twenty-four (24) months after the Commencement Deadline, fail to complete construction on the Project to the reasonable satisfaction of the BEDC, for the purposes and uses indicated herein, and as detailed on **Exhibit "A"** the Owner shall be in breach of the Agreement and subject to repayment of the BEDC's funding as set forth in Section 7.

5.11. Initiation of Operations. Owner shall begin Operation of the Project, including employment of the workforce noted herein in Section 6, within ninety (90) days after the Completion Deadline. Should the Owner, within ninety (90) days after the Completion Deadline fail to initiate operations of the Project to the reasonable satisfaction of the BEDC, for the purposes and uses indicated herein, and as detailed on **Exhibit "A"** the Owner shall be in breach of the Agreement and subject to repayment of the BEDC's funding as set forth in Section 7.

5.12 Environmental Clearance. On or before December 31, 2012, the Owner shall have completed, and shall provide to the BEDC acceptable documentation from any and all applicable governmental entities stating that the Property, including but not limited to the water, soil, buildings, and land are either: (1) free from toxins, asbestos, contaminant's pollutants, heavy metals, or other poisons or, alternatively, (2) that an acceptable remediation plan has been approved by the controlling governmental entity and has been successfully implemented to address any identified environmental issues on the Property, and (3) that Owner has acquired and can document financing sufficient to fully complete the remediation plan implemented for the Property. When available, the Owner shall provide the City with the results of a "certified clean-up program", if necessary. Should the Owner fail to perform the obligations set forth in this paragraph 5.12, then the Owner shall be in breach of the Agreement and subject to repayment of the BEDC's funding as set forth in Section 7.

5.13 Successful Operation of Art Complex. In addition to the terms and conditions related to employment, as set forth in Section 6 below, to avoid an Act of Default, the Owner shall successfully operate the Fine Art Complex for a minimum period of two (2) years following the Initiation of Operations. Whether the Fine Art Complex is successfully operating shall be in the sole discretion of the BEDC, but shall generally mean that the Fine Art Complex is fully functioning in a manner that reflects positively on the City of Bastrop and its community. In the event the Fine Art Complex fails to successfully and continually operate for two (2) years after the Initiation of Operations, the Owner shall be in breach of the Agreement and shall be subject to Section 7.

5.14 Any utilities that are not self-generated by the Owner for use at the Project, and which are offered by and available from the City shall be purchased from the City by the Owner, at the rates in effect at the time of purchase, for a period of at least ten (10) years from the date of issuance of the Certificate of Occupancy.

6.

Employment.

6.1 Project shall employ a minimum of 3 new full-time employees (i.e., 1820 hours/year) at the Fine Art Complex on or before ninety (90) days following Initiation of Operations and such employment shall be maintained for a minimum period as stated in paragraph 6.2, below. For purposes of this employment provision, two (2) new part-time positions, that comprise a total of 1820 hours per year) shall be deemed to be equal to one (1) new full-time employee position.

6.2 For a period of twenty-four (24) months after Initiation of Operations, Owner shall continuously employ and maintain at the Fine Art Complex the number of jobs noted in section 6.1 above.

The failure of the Owner to satisfy either section 6.1 or 6.2 shall be considered an Act of Default and shall subject the Owner to the obligations set forth in Section 7.

7.

Act of Default

7.1 Notice of Anticipated Default. In the event that during the term of this Agreement the Owner determines that it anticipates an Act of Default on its part, it shall notify the BEDC, in writing, of such event and shall provide details of the Act of Default anticipated. The Notice of Anticipated Act of Default shall also request a meeting between the Owner's representatives and the Board of the BEDC during which the Owner will provide information related to the potential or actual default, and will propose alternatives and/or options identified by it to address the default. The Board shall not be obligated to consider or adopt any proposed alternative, but may, in its sole discretion consider alternatives for addressing any Act of Default by Owner. Alternatively, the BEDC may in its discretion, trigger the repayment obligations as set forth herein.

7.2 Repayment and/or Liquidation. In the event of an Act of Default by the Owner, the Owner shall, in the sole discretion of the BEDC, and within ninety (90) days of a request by the BEDC repay to the BEDC the full amount of the BEDC 4B Project Funds, plus interest thereon at a rate of 2%, per annum. If, in the event of an Act of Default by the Owner, the BEDC requires that the Owner repay the full amount of the BEDC 4B Project Funds, plus interest, and the Owner does not have the required funds to make the repayment, the Owner shall be obligated to: (1) sell a portion of the Property within 180 days of BEDC's request for payment to raise funds and make the payment to the BEDC, or (2) to borrow funds in the amount sufficient to repay the BEDC the amount noted in this Section 7.2.

8.

Reporting and Monitoring

8.1 BEDC shall, upon reasonable prior written notice to Owner and during normal business hours, but in any event not more than two (2) times per calendar year, have the right to audit and inspect Owner's records and books and all other relevant records related to each of the economic development considerations and incentives and performance requirements, as stated in this Agreement, but the confidentiality of such records and information shall be maintained by City unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, or by the direction of the Office of the Texas Attorney General.

8.2 The Owner shall provide to the BEDC, on a quarterly basis, reports on its application of the BEDC 4B Project Funds to the purchase of the Property, until such time as all BEDC 4B Project Funds have been completely applied to the purchase of the Property.

9.

Miscellaneous Provisions

9.1 Complete Agreement/Amendment. This Agreement represents a complete agreement of the Parties and supersedes all prior written and oral matters related to this Agreement. This Agreement may be canceled, changed, modified or amended, in whole or in part, only by the written and recorded agreement of the BEDC and the then current Owner (acting at the discretion of the Owner's Board).

9.2 Mutual Assistance/Good Faith. The BEDC and the Owner each agree to act in Good Faith and to do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement, and to aid and assist the other in carrying out such terms and provisions in order to put the other in the same condition contemplated by this Agreement, regardless of any changes in public policy, the law or taxes or assessments attributable to the Property.

9.3 Attorney's Fees. If any legal action or proceeding is commenced between the BEDC, City and/or the Owner to enforce the provisions of this Agreement or to recover damages for its breach, the prevailing Party in the legal action will be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action, to the extent allowed by law.

9.4 Binding Effect. This Agreement will be binding on and inure to the benefit of the Parties and their respective successors and assigns.

9.5 Termination. If the Owner elects not to proceed with the acquisition of the Property or the development of the Project as contemplated by this Agreement, the Owner will notify the BEDC in writing, and this Agreement and the obligations of all Parties will be deemed terminated and of no further force or effect as of the date of such notice, except those that expressly survive the termination hereof, if any. If any or all of the BEDC 4B Project Funds have been provided to the Owner, all such funds shall be remitted to the BEDC, as set forth in Section 7.2.

9.6 Notice. Any notice or other communication ("Notice") given under this Agreement must be in writing, and may be given: (i) by depositing the Notice in the United States Mail, postage paid, certified, and addressed to the Party to be notified with return receipt requested; (ii) by personal delivery of the Notice to the Party, or an agent of the Party; or (iii) by confirmed facsimile, provided that a copy of the Notice is also given in one of the manners specified in (i) or (ii). Notice deposited in the mail in the manner specified will be effective two (2) business days after deposit. Notice given in any other manner will be effective only if and when received by the Party to be notified. For the purposes of Notice, the addresses of the Parties will, until changed as provided below, be as follows:

Owner:	Bastrop Fine Arts Guild Attn: Jeanette Condray, President 1009 Main Street Bastrop, Texas 78602 Ph: (512)576-1100 Fax: (512)321-8055
--------	---

Email: jeanettecondray@att.net

BEDC Bastrop Economic Development Corporation
Attn: Executive Director
903 Main Street
Bastrop, Texas 78602-3809
Phone: (512)-303-9700
FAX: (512)-321-4191

With a copy to: Attorney for the BEDC
Attn: Jo-Christy Brown
1411 West Ave., Ste. 100
Austin, Texas 78701
Ph: (512) 236-1000
Fax: (512) 236-1910
Email: jcbrown@jcbrownlegal.com

City: City of Bastrop
Attn: City Manager, Michael H. Talbot
1311 Chestnut Street
Bastrop, Texas 78602
Ph: (512) 303-7305
Fax: (512) 321-6684
Email: mtalbot@cityofbastrop.org

All Parties may designate different contact information, at any time, by giving Notice to the other Parties.

9.7 Interpretation. Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. In the event of any dispute regarding the interpretation of this Agreement, this Agreement will be interpreted fairly and reasonably and neither more strongly for nor against any Party based on draftsmanship.

9.8 Relationship of the Parties. This Agreement will not be construed as establishing a partnership or joint venture, joint enterprise, express or implied agency, or employer-employee relationship between the parties. Neither the City or the Bastrop Economic Development Corporation, nor their past, present or future officers, elected officials, employees or agents, assumes any responsibility or liability to any third party in connection with the development of the Project or the design, construction or operation of any portion of the Project.

9.9 Applicable Law. This Agreement is made, and will be construed and interpreted, under the laws of the State of Texas and venue will lie in Bastrop County, Texas. No Party to this Agreement waives or relinquishes any immunity or defense on behalf of itself, its officers, employees, agents or representatives as a result of the approval or execution of this Agreement.

9.10 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, it is the intention of the Parties that the remainder of

this Agreement not be affected and it is also the intention of the Parties that, in lieu of each provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

9.11 Paragraph / Section Headings. The paragraph/section headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the paragraphs/sections.

9.12 No Third Party Beneficiaries. This Agreement is not intended to nor shall it be interpreted to confer any rights, privileges or causes of action upon any third party.

9.13 Assignment. This Agreement may not be assigned to any other party, entity or individual without the express written consent of the BEDC Board.

9.14 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument. A facsimile signature will be deemed to be an original signature for all purposes.

9.15 Amendments. This Agreement may only be amended by the mutual consent of the Parties, which shall be memorialized in writing and appended to the original, fully executed Agreement.

9.16 Exhibits. The following exhibits are attached to and incorporated into this Agreement for all purposes.

[Signature Page to Follow]

EXECUTED to be effective as of the 20 day of July, 2011

OWNER:

By: Jeanette Condray
Jeanette Condray, President
Bastrop Fine Arts Guild

Date: 7/20, 2011

By: Karel Rice
Karel Rice, Co-Chair, Lost Pines Art Center
Project

Date: 7-20-, 2011

APPROVED BY:

**BASTROP ECONOMIC DEVELOPMENT
CORPORATION**

By: Steve Mills
Name Steve Mills
Title: Chair of the BEDC Board of Directors
On Behalf of the BEDC

APPROVED BY:

CITY OF BASTROP, TEXAS

By: Mark A. Bell
City Manager

Approved As To Form:

Jo-Christy Brown
Jo-Christy Brown, Attorney for the BEDC and City

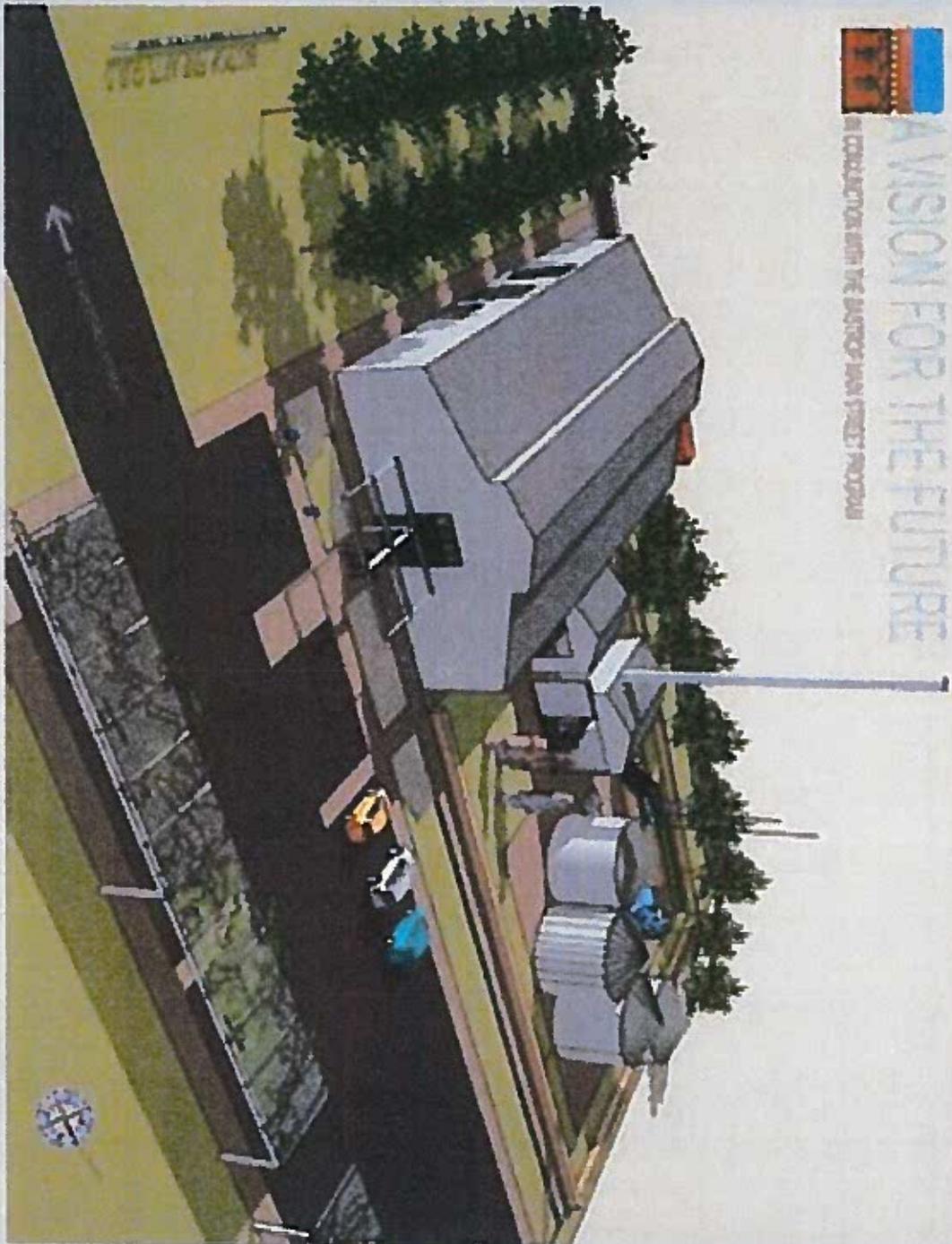
EXHIBIT

A

BASTROP FINE ARTS GUILD

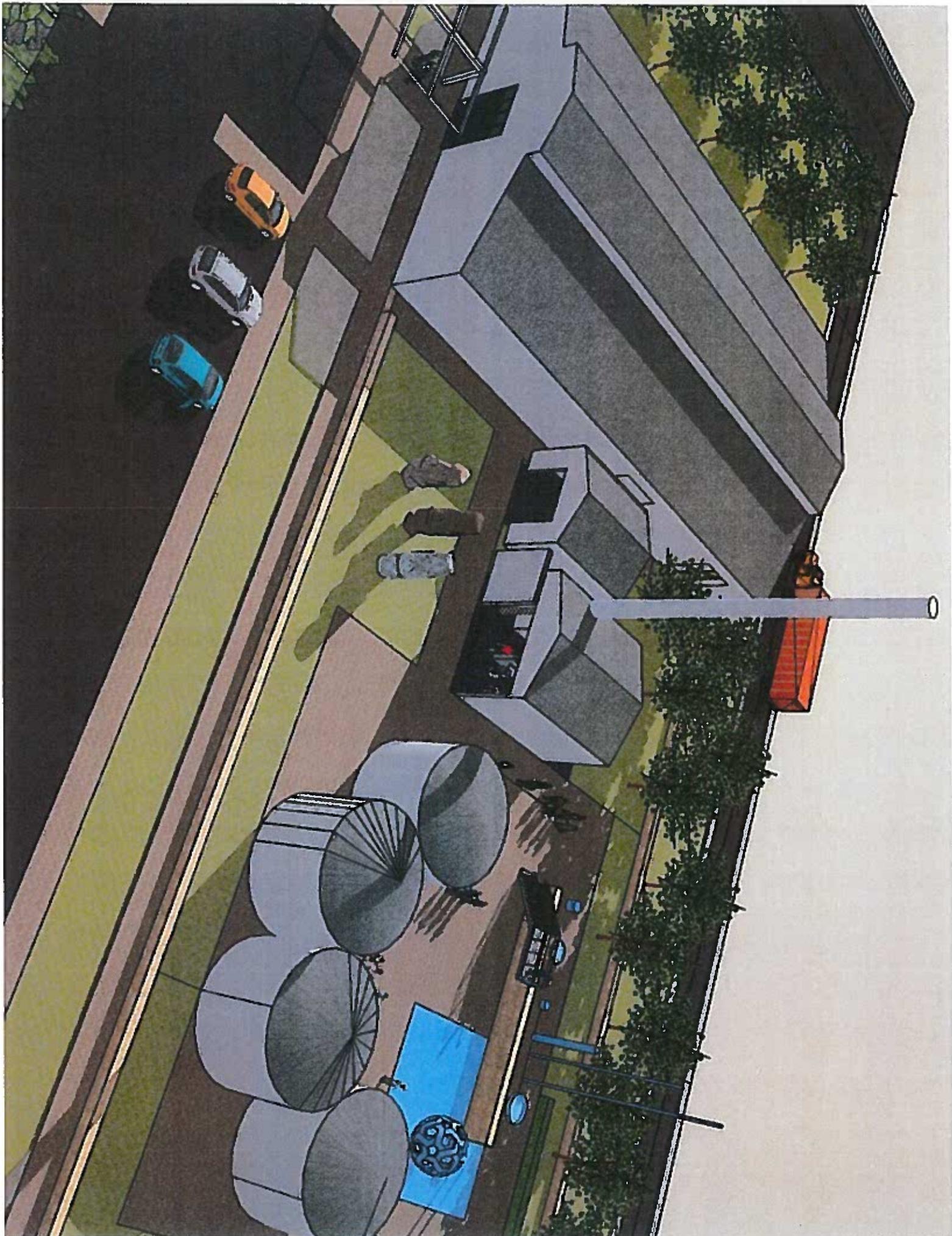


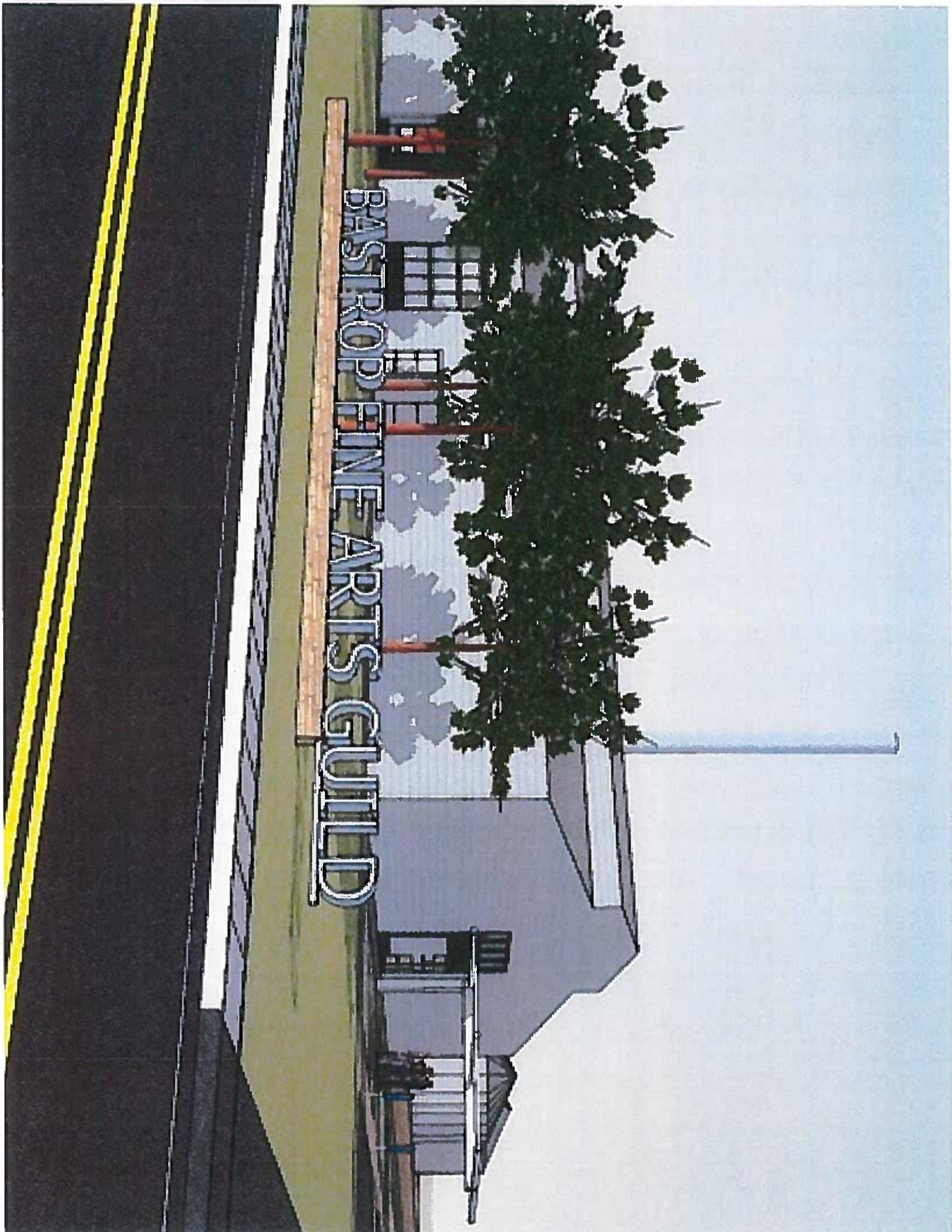
A VISION FOR THE FUTURE
IN CONNECTION WITH THE BASTROP LEARN PROJECT PROGRAM



THE STATE HISTORICAL COMMISSION
AND THE BASTROP LEARN PROJECT PROGRAM



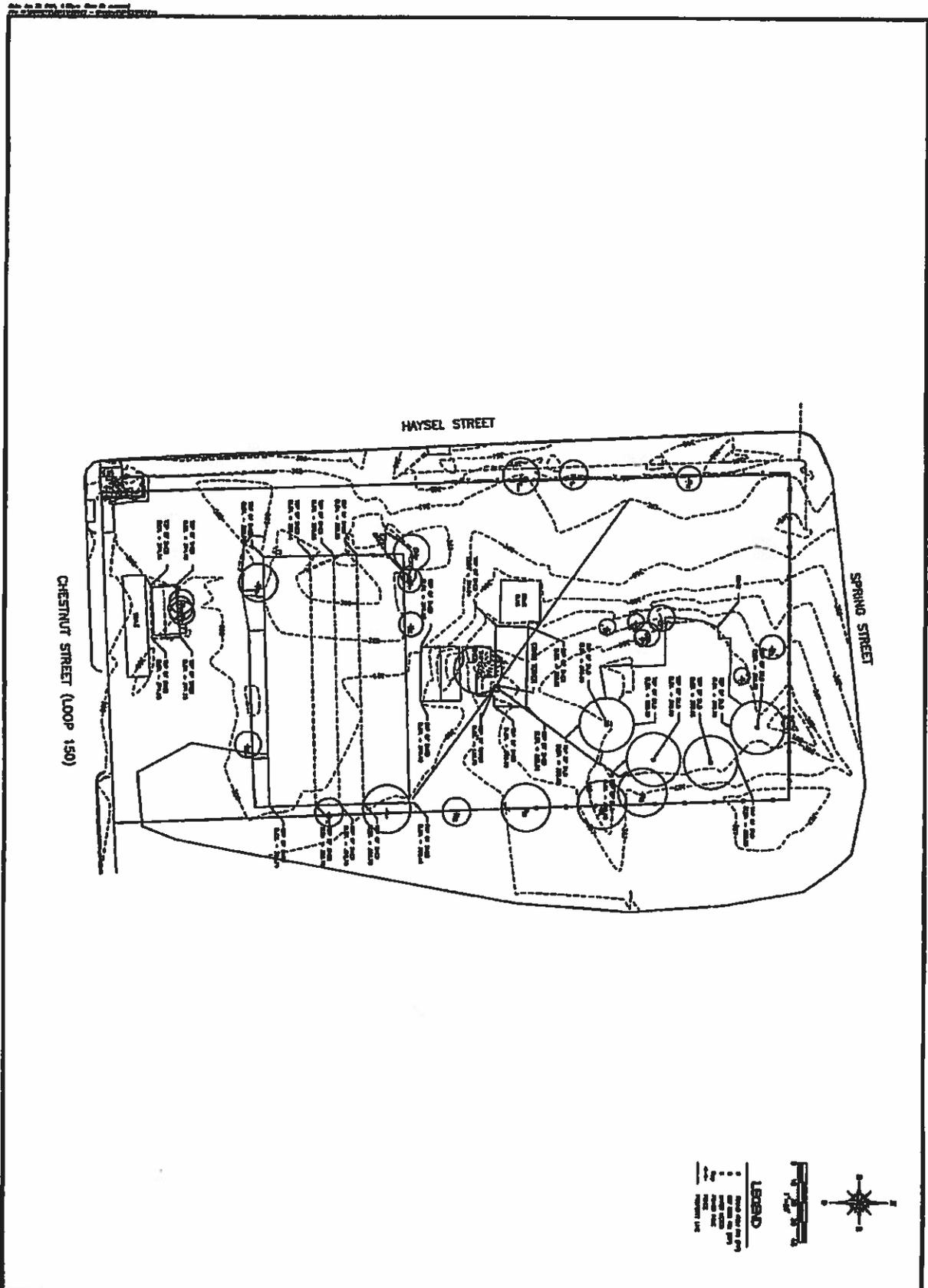






EXHIBIT

B



CD	DATE	BY	CHKD
	DESCRIPTION		

LOST PINES ART GUILD

EXISTING SITE EXHIBIT



KD ENGINEERING, L.L.C.
 107 CHALK CREEK, GUNNERS, TEXAS 75048
 PHONE: 940-483-0200

07/15/2014

Current Owner		Legal Description		Exemptions		Appraised	
CLARDY, CLYDE (08095143) 37B HWY 95 NORTH BASTROP, TX 78602		BUILDING BLOCK 49 E W ST, ACRES 1.246 (BASTROP GRAIN)				Unavailable	
Situa Address				Entities		Homestead Cap	
1264 CHESTNUT ST BASTROP, TX 78602				C04, C01, RD1, S04		N/A	
History Information							
		2010	2009	2008	2007		
Imp HS		\$0	\$0	\$0	\$0		
Imp NHS		\$57,232	\$59,792	\$59,772	\$59,772		
Land HS		\$0	\$0	\$0	\$0		
Land NHS		\$209,520	\$209,520	\$209,520	\$209,520		
Ag Mkt		\$0	\$0	\$0	\$0		
Ag Use		\$0	\$0	\$0	\$0		
Tin Mkt		\$0	\$0	\$0	\$0		
Tin Use		\$0	\$0	\$0	\$0		
HS Cap		\$0	\$0	\$0	\$0		
Assesort		\$269,752	\$269,312	\$269,292	\$269,292		
Improvements							
Type	Description	Area	Year Built	Eff Year	Value		
C	Commercial						
MA	Main Area	324					
MA	Main Area	324					
MA	Main Area	324					
MA	Main Area	324					
Building Attributes							
Construction	Foundation	Exterior	Interior	Roof	Flooring		
Heat/AC	Balls	Fireplace	Year Built	Rooms	Bedrooms		
Land Segments							
SPTB Description	Area	Market	Ag Value				
F1 Commercial	0.50000						
F1 Commercial	0.74600						

EXHIBIT

C

**BASTROP FINE ARTS GUILD
LOST PINES ART CENTER TIME LINE**

- | | |
|---|--------------------------|
| 1. Architectural Drawings for Phase One | September 1, 2011 |
| 2. Ownership of Property, Title and Transfer | October 1, 2011 |
| 3. Complete Environmental Clean- Up | December 31, 2012 |
| 4. Construction Drawings completed | January 1, 2012 |
| 5. Construction Budget | March 31, 2012 |
| 6. Construction Bids - On or before | March 31, 2013 |
| 7. Construction Funds Raised – On or before | August 6, 2014 |
| 8. Start Construction - On or before | August 6, 2014 |
| 9. Project Completion - On or before | August 6, 2016 |
| 10. Begin Operation within 90 days of Completion | |

EXHIBIT

D

**RESOLUTION AUTHORIZING PRESIDENT AND PROJECT CHAIR OF BASTROP FINE
ARTS GUILD TO SIGN ALL LEGAL AND OTHER DOCUMENTS ON BEHALF OF
BASTROP FINE ARTS GUILD**

As evidenced by my signature below, I certify that the following are correct and complete copies of the resolutions duly adopted on July 5, 2011 by the Board of Directors of Bastrop Fine Arts Guild, a non-profit organization, located at 1009 Main Street, Bastrop, Texas, 78602.

I also certify that such resolution has not been modified, remain in effect, and/licensing statutes or requirements:

1. **RESOLVED:** that the President of the Board and Co-Manager of the Building Project of Bastrop Fine Arts Guild, and each of their successors in office, are each hereby authorized to sign all legal and other documents on behalf of the Bastrop Fine Arts Guild and transact business on the organizations behalf.
2. **RESOLVED:** that the President and Co-Manager of the Building Project are each hereby authorized and directed to transact all business or incidental transactions authorized by the relevant resolution, or may be designed to carry out the purpose of such resolution: and that such resolution all the powers hereby granted shall continue in full force until written notice of revocation has been declared by the Bastrop Fine Arts Guild Board of Directors.
3. **RESOLVED:** that all prior resolutions regarding the authorizations of the organization are hereby revoked.

Gretchen Deuble

Signature of Board of Director

Gretchen Deuble-Treasure

Name and Title

7-14-2011

Date

City of Bastrop

Certificate of Occupancy

Department of Building Inspections

This Certificate is issued pursuant to the requirements of the International Building Code certifying that at the time of issuance this structure was in compliance with the ordinances of the Institution regulating building construction or use.

Name of Business: 1204 Chestnut Street

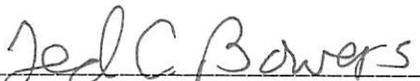
Use Classification: Art Museums
Group: A-3 Type Construction: II

Permit Number: 05-05671
Fire District: N/A

Owner of Building: Bastrop Fine Arts Guild
Address: 815 Main Street

City: Bastrop State: TX Zip: 78602

Building Address: 1204 Chestnut Street, Bastrop, Texas 78602



Ted C. Bowers, Building Official
Date: March 1, 2017

**BASTROP ECONOMIC DEVELOPMENT CORPORATION
BOARD OF DIRECTORS
Minutes of Monthly Meeting, October 20, 2014
903 Main Street, Bastrop, Texas**

The Bastrop Economic Development Corporation (BEDC) met on Monday, October 20, 2014, at 6:30 p.m. in the BEDC Boardroom at 903 Main Street for the Regular Monthly Meeting.

Board members present were: Steve Mills, Gary Schiff, Gary Gutierrez, Dr. Neil Gurwitz, Mayor Ken Kesselus, Willie DeLaRosa and Mike Talbot (ex-officio). Board Member Pat Crawford was absent.

Staff members present: Angela Ryan, Brittney Horn, and JC Brown, BEDC Attorney.

Others in attendance: Nancy Wood, Bonnie Coffey, Naseem Khonsari, Deborah Johnson, Al Niece, Jeanette Condray, Tom Scott, Johnny Sanders, Carlos Liriano, and Miles Smith.

ANNOUNCEMENTS

1. Call to Order – Steve Mills, Chairman of the Board, called the meeting to order at 6:30 p.m.
2. Public Comments – Johnny Sanders spoke on behalf of the Bastrop Chamber of Commerce, whom he said would be hosting a public meeting with TxDOT on October 22, and he encouraged everyone to attend. Mr. Sanders said the Chamber was requesting that the BEDC or City consider hiring a professional traffic engineer to study the downtown area, to get an idea of what to expect once construction begins on the Hwy 71 overpasses, how it will affect downtown traffic, and what their recommendations would be. He said the Chamber encourages them to look at the overall long-term vision of where they want to be “down the road”. Mr. Sanders said that Lock Drug moving off Main Street is an example of the fact that there is a parking issue downtown. Carlos Liriano said it needs to be studied by a qualified company so they can look at the impact our decisions are going to make in the future. Mr. Sanders said the Chamber would like the BEDC to consider postponing the Main Street Project due to potential impact from the construction on Hwy 71.
3. Presentations – None.
4. Announcements – None.

EXECUTIVE DIRECTOR’S INFORMATIONAL UPDATE REPORT - Items for update, discussion and possible action:

- A. Meetings, Events and Travel attended/upcoming
 1. TxDOT Informational Meeting, October 22, Bastrop Convention Center – Mr. Talbot said that TxDOT would be giving an update about the overpass construction on Hwy 71, a UT representative would be there to talk about the mobility study, and he would be speaking about the Main Street Project.
 2. RECA (Real Estate Council of Austin) Quarterly Luncheon, Neighbor’s Kitchen, November 10 – Mrs. Ryan said that BEDC and the Bastrop Chamber were working together to host the event. Mr. Schiff had agreed to speak, as well as Johnny Sanders and John Landwehr.
- B. Update on BEDC Projects and/or Business:
 1. Main Street Program Update (Nancy Wood) – Ms. Wood stated the Entrepreneur Competition was scheduled for November 18, and there were now four entrants. She said she had submitted her third quarter report and there had been almost \$250,000 invested in downtown between Neighbor’s Kitchen and Baxters’ project, which brings the total downtown investment to \$23.5 million to date. Ms. Wood said she would be attending the Texas Downtown Association’s annual conference in Granbury in November. BEDC is a finalist for the President’s Award in the category of Best Marketing Program for the

BuyBastropTX campaign, which has already won the People's Choice Award. The winners will be announced on November 6.

2. Update on the Main Street Improvement Project – Mayor Kesselus asked if there had been a timeline set to begin the project. Mr. Talbot said he would speak with the UT mobility group after the TxDOT meeting to make the determination, and would be prepared to talk about it at the 10/28/14 Council meeting. He said it should be a joint decision between the Council and the BEDC Board, but there seems to be a consensus that the Main Street Project should not take place at the same time as the TxDOT work on Hwy 71. Mr. Talbot said he would have a plan of action ready for the Joint Meeting on November 18th.
3. Update on construction of infrastructure and other projects in the Business & Industrial Park – Mr. Talbot reported he had met with Mr. Coghlan and resolved the issues with his project. Project Copper would be discussed in Executive Session.
4. Update on Bastrop Area Housing Study – Mrs. Ryan reported that the Housing Study had been to the City Council for first reading and the second reading would be 10/28/14. Mr. Talbot said he was successful in getting the Council to pre-fund the retainer for the project. Mr. Mills said he expected to have an interim meeting with RCLCO within the next month.
5. Update on BEDC marketing activities – Mrs. Ryan reported that the BEDC was going to run an ad in the Formula 1 Fan Guide. She also said she was working on the 2015 Greater Austin Economic Development Guide due on November 25. Mrs. Ryan showed a blog post that Terry Hagerty had done as a freelance writer and photographer, on the opening of Academy, HEB Plus, and Dunkin' Donuts. She said it had a reach on Facebook of over 13,000, and articles such as these have been very well received. She said she was planning to continue posting stories like this to the BEDC website, and then sending them out through social media, which creates activity on the site as well as some good conversations.
6. Update on committee meeting to update BEDC Bylaws and Restrictive Covenants – Mrs. Ryan reported that the committee was scheduled to meet at the BEDC office on October 29 at 2:00 p.m. The group consists of Pat Crawford, Gary Schiff, Ken Kesselus, Mike Talbot, JC Brown, and Angela Ryan.
7. Update on construction projects in the City of Bastrop – The Board discussed the list of construction projects in various stages of completion. Mrs. Ryan said the Planning Department had announced Hobby Lobby would be building a 55,000 square foot store in Bastrop. Academy's grand opening is scheduled for November 21–23. Mr. Talbot said there would be additional announcements soon.

A. CONSENT AGENDA

A.1 Approval of meeting minutes of the Regular Board Meeting of September 22, 2014. Mr. Gutierrez made the motion to approve the minutes as submitted, Mr. Schiff seconded, and the motion passed.

B. PUBLIC HEARINGS

C. OLD BUSINESS

C.1 Consideration, discussion and possible action on approval of the amended 'Economic Development Agreement' between the Bastrop Economic Development Corporation and Niece Equipment, GP, LLC. Mr. Niece explained they had removed some of the options from their initial building plans, such as crane capacity, some of the office area, and heating and air conditioning, which reduced the amount of the project to \$1.7 million. He said he also reduced the number of employees to 25 so that he could maintain the number year round. Mr. Niece said the plans were

drawn up and they were waiting to see what was going to be done about the base on the site so he would have the final figures. Action was postponed until after Executive Session.

C.2 Consideration, discussion and possible action on a resolution by the Bastrop Economic Development Corporation authorizing Chairman Steve Mills to execute all necessary contracts and related documentation necessary to finalize the conveyance of 4.236 acres in the Bastrop Business & Industrial Park to Niece Equipment, GP, LLC. Action on this item was postponed until a future meeting.

C.3 Consideration, discussion and possible action on a request by the Bastrop Fine Arts Guild for an extension on their agreement with the Bastrop EDC, for initiation of work on Phase 1 of the construction on the Lost Pines Art Center, until on or before December 31, 2014. Jeanette Condray reported that they had sent out the bid sheets and met with some of the contractors, but that the process was taking a little longer than anticipated. She said they should have a contractor selected in November and can then start the deconstruction process. After a brief discussion, Mr. DeLaRosa made the motion to extend the contract deadline until January 31, 2015, Mr. Gutierrez seconded, and the motion passed.

D. NEW BUSINESS

D.1 Consideration, discussion and possible action on acceptance of the Bastrop Economic Development Corporation's preliminary financial summary report for period ending September 30, 2014. Mrs. Ryan explained that the Finance Department had not yet closed out last fiscal year, and the preliminary financial report was subject to change. She said the reimbursement to KKG came out of the previous fiscal year and was not showing in the report yet. Mr. Mills said he thinks BEDC will finish the fiscal year with about \$2.5 million in Fund Balance. Mr. Schiff made the motion to accept the preliminary financial report as submitted, Mr. DeLaRosa seconded, and the motion passed.

D.2 Consideration, discussion and possible action on a request by the Downtown Business Alliance for the Bastrop EDC to participate in the funding of a billboard campaign for downtown Bastrop. Naseem Khonsari, chairman of the Downtown Business Alliance (DBA) Billboard Project, said they are proposing to do a Billboard Campaign and are requesting the support of the BEDC, the Bastrop Chamber of Commerce, and the Bastrop Main Street Program, as well as the downtown businesses, in order to reach their minimum goal of \$56,000 for the first year. They've asked for \$5,500 from each entity and \$1,000 from each downtown business. Ms. Khonsari explained they are trying to brand downtown Bastrop as a destination. Proof Advertising, the company who does the ads for the Hyatt, will be doing the design work. The billboards will be in areas such as Sealy, Columbus, La Grange, and Chappell Hill. After discussion, Mayor Kesselus moved to approve the BEDC's participation in the Billboard Project in the amount of \$5,500, Mr. Gutierrez seconded, and the motion passed.

D.3 Consideration, discussion and possible action on a Resolution by the Bastrop Economic Development Board of Directors concerning the future oversight and assistance by the Bastrop City Manager to the Bastrop EDC Executive Director. Action on this item was postponed until after Executive Session.

D.4 Consideration, discussion and possible action on publishing a job posting for the position of 'Executive Director' for the Bastrop Economic Development Corporation. Action on this item was postponed until after Executive Session.

D.5 Consideration, discussion and possible action on establishing the official date for the joint meeting of the Bastrop City Council and the Bastrop Economic Development Corporation Board and solicit input from the BEDC Board members and staff regarding agenda items and issues for discussing and posting for the joint meeting. Some of the suggested topics included TxDOT's plans for the overpasses on Highway 71, the Main Street Improvement Project, and the housing study.

E. EXECUTIVE SESSION –

E.1 At 7:47 p.m., Mr. Mills convened the Bastrop Economic Development Corporation Board of Directors into a closed/executive session pursuant to the Texas Government Code, Chapter 551, to discuss the following:

1. Section 551.071(1)(A) and Section 551.071(2) - Consultations with Attorney: (1) threatened and/or contemplated litigation, and (2) matters upon which the Attorney has a duty and/or responsibility to report to the governmental body, including legal matters that may be presented at the future joint meeting of the BEDC and the City Council.
2. Section 551.072 - Deliberation about real property: 'Project Copper' and/or potential sales, acquisitions, exchanges, leases, dispositions or values of real property.
3. Section 551.087 - Deliberation regarding economic development negotiations: 'Project Copper'.
4. Section 551.074 - Personnel Matters: BEDC staffing and performance, personnel reclassification and/or compensation review, and/or employment of an Executive Director/CEO.

E.2 The Bastrop Economic Development Corporation Board of Directors reconvened from Executive Session at 9:48 p.m.

Gary Schiff made the motion to approve Angela Ryan's increase in compensation based upon the pay grade of her new title of BEDC Assistant Director, retroactive to the date that Dave Quinn left the BEDC. Dr. Gurwitz seconded, and the motion passed.

Gary Schiff made the motion to approve Mike Talbot as the Interim Executive Director of BEDC, with reimbursement along the same lines as the last time he acted as the interim director, with Steve Mills making any minor adjustments necessary, retroactive to the date that Dave Quinn left the BEDC. Willie DeLaRosa seconded, and the motion passed.

Gary Schiff made the motion to sell approximately 4.236 acres in the Bastrop Business & Industrial Park to Niece Equipment, at the same rate of reimbursement as previously agreed upon, with the changes to the agreement per Mr. Niece's email of October 17, 2014, provided that Mr. Niece accept the property "as is", with no additional fill. Willie DeLaRosa seconded, and the motion passed.

Gary Schiff made the motion authorizing the City Manager to publish a job posting for the position of BEDC Executive Director as soon as possible, but not prior to October 29, 2014, and to make any necessary adjustments in response to the City Council's recommendations. Gary Gutierrez seconded, and the motion passed.

Gary Schiff made the motion to submit the resolution to City Council, with the date changed to specify "no sooner than October 29, 2014." Gary Gutierrez seconded, and the motion passed.

F. BOARD INPUT ON FUTURE AGENDAS

Inviting input from the Board of Directors related to issues for possible inclusion on future agendas, related to (but not limited to) issues such as BEDC projects, property, economic development prospects, community events, and BEDC business.

G. ADJOURNMENT – Gary Gutierrez moved to adjourn and Gary Schiff seconded. The BEDC Board of Directors adjourned the meeting at 9:55 p.m.



Lost Pines Art Center & Reflective Sculpture Garden

Lost Pines Art League

January 11, 2017

This document is to update you on the milestones we have accomplished regarding this transformational economic development and cultural arts project. Multiple public hearings have been held throughout the 5 years this project has been undertaken. Public meetings and presentations include, but are not limited to: Texas Historic Commission architect Howard Langner, Bastrop historic preservation architect Glen VanBlaricom, Bastrop EDC, City of Bastrop, Bastrop Chamber, Main Street Board, Rotary Clubs, Kiwanis and many others. All requests for funding through the City of Bastrop were conducted during public hearings and properly posted for public input.

- Contract executed and \$100,000 grant received from the Bastrop Economic Development Corporation.
- Matching grant of \$100,000 received from private foundation in Houston.
- This project was submitted and approved for the TCEQ Brownfields Site Assessment program resulting in all environmental sampling, testing and analysis being funded through a partnership between the TCEQ and EPA (approximately \$100,000). Final drilling of underground water samples for environmental impact to underground water table completed by EPA. No contamination found and no further testing or monitoring required.
- Final soil samples taken and analyzed by TCEQ, with minor levels of contamination found under and around several silos which will require completion of TCEQ Voluntary Clean-Up Program.
- Sales contract between the Lost Pines Art League and Clyde and Karen Clardy finalized on March 23, 2012.
- All environmental clean up completed and VCP Conditional Certificate of Completion issued by TCEQ August 23, 2012 and filed with the deed of record with the County.
- Initial Master Design Plan completed by architectural firm of Barley & Pfeiffer of Austin. Barley & Pfeiffer are well-known for their green building and sustainable design projects.
- Presentation of Master Design Plan to representatives of the City Council, BEDC, Lost Pines Art Center Advisory Council and Main Street Board. This event was held courtesy of the Hyatt Regency Lost Pines and all room, equipment and refreshments provided as in-kind contributions to the project. We consider the Hyatt a significant partner in this project.
- General construction estimates completed and prepared by Oliver Custom Homes of Austin.
- Bastrop City Council approved a minimum investment of \$100,000 to the project in November 2012 to be distributed as determined by the City Manager.
- Capital Campaign Steering Committee constituted May of 2013; June 13th fundraiser generated over \$30,000 for capital campaign operations and an additional \$32,000+ in local pledges.
- Texas Historic Foundation grant of \$2500 – November 2013

- Shields-Ayres grant of \$7000 – December 2013
- ArtPlace America's Creative Placemaking 2014 Grants – 1 of 97 finalists (top 8% of 1270 national applicants). ArtPlace America grants have invested \$42.1 million in 134 projects (averaging \$315,000 per grant) in 80 communities across the U.S. over the last three years. Final grantees will be announced June 2014.
- Invited by Educational Foundation of America to submit LOI and full grant application. The EFA conducted an on-site visit of the property on May 20, 2014.
- Received \$488,000 grant from ArtPlace America's 2014 Creative Placemaking grant program. This grant will pay for the entire cost of deconstruction of the main building and repurposing all materials suitable for new construction. The remaining \$300,000 will help fund the design and development of final architectural, mechanical, electrical construction documents and blueprints.
- July 2014, met with the Texas Commission for the Arts, Texans for the Arts and the Cultural Arts representative for the City of Austin Economic Development Department. This conversation centered around the 3 ArtPlace America 2014 grants and the impact of this prestigious national recognition and funding for Cultural Arts Districts from the 2015 legislature.
- November 2014 received major corporate donation of \$2.5 million
- November 2014 Bastrop City Council voted to invest an additional \$300,000 to the project to be funded in the first quarter of 2015.
- December 2014 received 2-year grant from Shield-Ayers Foundation for \$10,000 issued in December and an additional \$10,000 to be funded in 2015.
- January 11, 2015, all 4 silos naming rights sold at \$30,000 each for a total of \$120,000. (Some of these donations are single donations and others will be paid over a period of years.)
- January 27, 2015, City Council authorized City Manager to execute the prepared 380 Economical Development contract with the Lost Pines Art League in the amount of \$300,000.
- The City's additional \$300,000 grant was received in March of 2015. This allowed the Guild to pay off the 15-year seller financed land note within 3 years. That final payment was made in March of 2015 and the necessary release documents were executed.
- Major donations were received by individual donors for the naming rights for the classrooms, totalling an additional \$30,000.
- July of 2015 the project was selected to receive a \$75,000 Our Town grant from the National Endowment for the Arts.
- Posted Executive Director position for 90 days, June – Aug. 2015. Reposted position for additional 30 days to end October 31, 2015.
- Value engineering completed and master architectural site and construction plans submitted to City, Sept. 28, 2015.
- Groundbreaking ceremony, Oct. 12, 2015.
- Site grading permit received from City, Nov. 13, 2015

- **New construction permit received from City, Jan. 15, 2016**
- **Hired Executive Director, March 1, 2016**
- **Foundation poured, March 4, 2016**
- **Submitted Meadows Foundation Grant request for \$400,000, March 15, 2016**
- **Began setting structural steel beams, April 12, 2016**
- **Notified of award of one of two LCRA mega grants granted each year of \$50,000 each. Funds will be deposited June 1, 2016. Matching funds already raised.**
- **August 2016, main building (Phase 1) framed and interior work progressing, with Phase 1 completion projected for September 2016.**

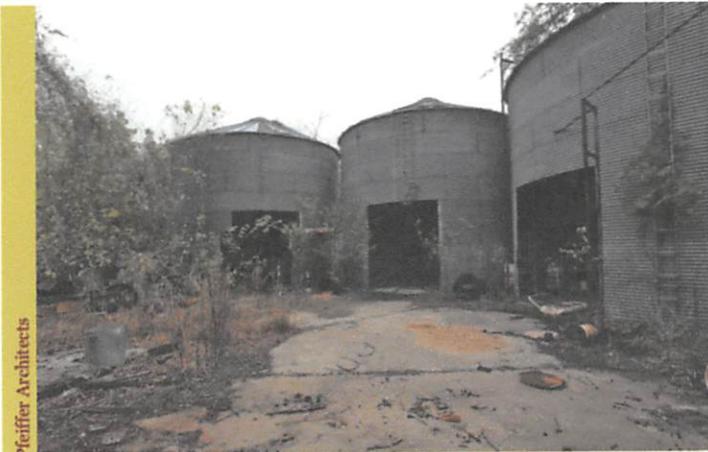
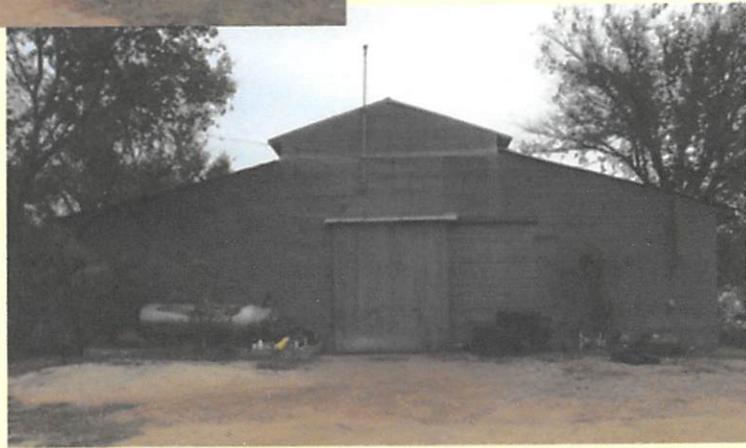
Note of Interest: The property at 1204 Chestnut was recently utilized by Frog Design of Austin as a part of a global project funded by the TED (Technology, Entertainment and Design) Global Initiative. Portraits of individuals involved in or impacted by the September wildfires were mounted to the metal surface of the 100-year old building and a documentary of that entire project was shown at the TED Salon conference held in London, England, November 10th of 2011. As a result of this project, the Guild was interviewed and an article written by Jeanne Claire van Ryzin, Arts Critic for the Austin American Statesman. In addition, a 30-minute program with Camille Torres, Editorial Director, Talk Back Media Inc. was broadcast in the Dallas-Ft. Worth area.

The Existing Property



Barley & Pfeiffer Architects

Existing
Exterior views
(from street)



Existing Silos

Barley & Pfeiffer Architects



Existing Interior (center view)

Barley & Pfeiffer Architects



HIGHLIGHTS OF THE LOST PINES ART CENTER & REFLECTIVE SCULPTURE GARDEN

The Lost Pines Art League is undertaking a transformational project that will utilize salvaged materials from the 100-year old Powell Cotton Seed Plant. The newly constructed main building of the Art Center has been designed in the footprint of the original old warehouse and will utilize corrugated metal and stone on the exterior to mirror the look of the original building. In addition, we will convert 4 existing grain silos by repurposing them into 3 medium-specific working artist studios. The fourth silo will be converted to an efficiency apartment for an artist-in-residence. Ultimately, the project will transform the property into a vibrant art complex and sculpture garden within one block of the Convention Center and City Hall. Below are some pertinent facts about this unique and exciting project.

- A 12,000 square foot sustainable designed main building will be constructed to house:
 - A 3,000 square foot state-of-the-art gallery
 - A large lobby and retail gift shop
 - Two (2) classrooms approximately 1000 sq. ft.
 - Six (6) offices for lease (artist studios or art-related businesses)
 - Note, as of 12-01-16, all but one are already leased for 1-2 years
 - A specialty wine/coffee bistro was leased for 2 years 12-01-16

- Four (4) grain silos will be repurposed as:
 - A working studio for pottery
 - A working studio for glass artwork
 - A working studio for wood, stone and/or metal sculpting
 - An efficiency apartment/studio for an artist-in-residency program

- An outdoor sculpture garden will be created containing:
 - “Lockdown” plinths/pads for display of sculpture and large bronzes
 - Xeriscape landscaping and rainwater collection system
 - Outdoor water feature and public patio and seating for special events

Purchase price of the property - \$459,000 Architectural Preliminary & Construction Plans - \$495,000
Estimated building construction cost - \$4.2 Million Projected project completion date – 2017

To participate in this exciting project, go to our website at: www.lostpinesartleague.org click on the Lost Pines Art Center link. You may donate through PayPal or download a Pledge/Donation Card and simply mail a check to Jeanette Condray, 138 Serenity, Bastrop, TX 78602. The Guild is a 501(c)(3) nonprofit organization and donations are tax deductible.

Should you have questions or require more information regarding this transformational project, contact Project Director, Karol Rice at 512-565-6912 or Project Finance Director, Jeanette Condray at 512-576-1100.



Dear:

Mayor and Council members

Chair and Board members of Bastrop Economic Development Corporation

On behalf of the Board of Directors of the Lost Pines Art League I apologize for not formally notifying the City of Bastrop and the Bastrop Economic Development Corporation that we would not meet certain deadlines in our contracts with both organizations. While there were numerous informal conversations about the construction schedule we did not formally address the issue with the either organization and we should have done that well in advance of December 31, 2017. What we assumed as obvious translated into a sloppy approach to our contractual obligations, an error which will not happen again. We acknowledge that we are currently in default on some of the provisions of our contracts and ask that you consider extending our contract deadlines as outlined below.

Our review of the contracts shows our deficiencies as failing to meet the construction deadline for the entire project and failing to hire the number of employees laid out in the BEDC contract. The main building was completed well in advance of the deadline but we did not finish the outside space by December 31st and we do not have three full time employees. If there are any other deficiencies, we will earnestly work to resolve them.

We did not finish the project in the back by the specified time because we had to revisit the scope of the LCRA River Walk portion of the project, we had to complete the final architectural plans and we had to secure a bank loan to finish that portion of the project. I am pleased to report a contract has been signed with Bastrop County Fence Company for that phase of our project and work is underway. The lot has been cleared, the pad poured for the Steam Engine, the Steam Engine has been moved and the LCRA River Walk is being laid out. The contract with Bastrop County Fence Company will complete all of the outside work in the back and will refurbish the exterior of all four Silos.

Discussions are under way for Bastrop Fence Company to complete the interior of the Glass Silo which is our most expensive and significant silo. Additional work will also be done to the Outdoor Stage and a Covered Porch will be added to the Glass Silo. There is some confusion as to the interior of the other three Silos and when they are projected to be finished. Our plan for some time has been to complete the main building, complete outside event area, and complete the Glass Silo interior and exterior. We do not plan to build an apartment for the Artist in



Residence Program because the need does not justify the cost. We can utilize area housing, B&B, hotels for that program and the bids for an apartment were excessive. We do plan to use that space as a Flex Classroom but don't have the resources at this time to complete the interior and the bathroom.

The other two silos don't have a specific construction schedule at this time for a good reason. We need more time to live with our current business plan so we can react to what space our classroom market tells us we need. For example, it may prove more beneficial to have additional Flex space than another dedicated work space for those two activities. In 2011 we envisioned certain dedicated spaces, such as the Apartment, but a year into operation and we can see the classroom market taking us into a more general space requirement. The Glass Silo is our highest priority because our market study shows the closest high end glass facilities to be in San Antonio and Houston. We believe we can do well marketing this facility to Artists in Austin and Central Texas. We need to develop the same level of focus for the other silos before we attempt to attract the funds to finish them.

A year of operation also has taught us we do not need three employees. Even if we had the money, which we do not, we just don't need them. We have a tremendous volunteer force and our classes can all be taught by Artists we contract with for that specific purpose. We may well grow into a staff of three someday, but appears to be several years away.

It is important to note that the parking, wastewater, water and electric is all in place for the Silos. We can finish the outside Sculpture Garden and the Glass Silo and easily expand the other three Silos as plans and resources firm up. In the meantime we will have in place the vast majority of what was envisioned as a complete project in 2011. Our Community has responded and we have in place a five million dollar asset that attracted over 13,000 visitors in its first year of operation.

In order to reach closure on our commitments made in our contract with the City of Bastrop and the Bastrop Economic Development Corporation we would offer the following schedule:

Fencing, Steam Engine pad and placement, the LCRA Interpretive River Walk, landscaping, irrigation system, additions to the Outdoor Stage, the awnings and bleacher for the Glass Silo will be completed by July 30, 2018. The outdoor space will be available for use much earlier than July on a scheduled basis (Music Festival for example) but we need allow additional time for the grass to mature and planting material to be in place.

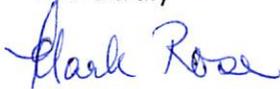
The Glass Silo, interior and exterior, will be completed September 30, 2018. The exterior of the remaining Silos will be refurbished by September 30, 2018. The interior of the remaining three silos will be developed over the next five years as the market for the Art Center develops.

It has never been the plan to make the Silos look "new" on the outside. Refurbished means walls will be patched, doors will be installed and the exterior will be cleaned. The plans have always called for these buildings to look old, but be functional. Unfortunately, some of the artist

In addition to offering this completion schedule we would request a waiver from the three employee provision. It makes no sense to hire people for the sake of hiring them. The Art Center has already had a major impact on tourism, economic development and culture. We will do far more for this community, its employment and its economy by carrying out our mission, than by hiring a few extra staff.

We appreciate the support given this project by the City of Bastrop and the Bastrop Economic Development Corporation. We've been good stewards of the money you have given us and built a wonderful facility. This year we will complete the outside area and begin fully exploring the potential of the Center and its positive impact on the City and County. If there is anything else we need to do to complete our obligations to the two organizations we stand ready to get it done.

Yours truly



Mark Rose

President

Corporations Section
P.O.Box 13697
Austin, Texas 78711-3697



Carlos H. Cascos
Secretary of State

Office of the Secretary of State

**CERTIFICATE OF FILING
OF**

**Lost Pines Art League
800647679**

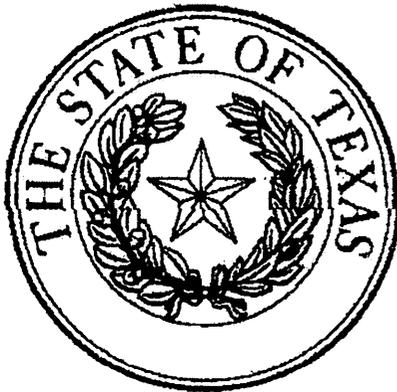
[formerly: Bastrop Fine Arts Guild]

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Amendment for the above named entity has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

Dated: 03/21/2016

Effective: 03/21/2016



A handwritten signature in black ink, appearing to read "Cascos" followed by a horizontal line.

Carlos H. Cascos
Secretary of State

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: APR 27 2007

BASTROP FINE ARTS GUILD
C/O KAROL RICE
1009 MAIN ST STE 7
BASTROP, TX 78602

Employer Identification Number:
57-1239456
DLN:
17053226007016
Contact Person: ROBERTA VAN METER ID# 52624
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
September 30
Public Charity Status:
509(a)(2)
Form 990 Required:
Yes
Effective Date of Exemption:
April 26, 2006
Contribution Deductibility:
Yes
Advance Ruling Ending Date:
September 30, 2010

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. During your advance ruling period, you will be treated as a public charity. Your advance ruling period begins with the effective date of your exemption and ends with advance ruling ending date shown in the heading of the letter.

Shortly before the end of your advance ruling period, we will send you Form 8734, Support Schedule for Advance Ruling Period. You will have 90 days after the end of your advance ruling period to return the completed form. We will then notify you, in writing, about your public charity status.

Please see enclosed Information for Exempt Organizations Under Section 501(c)(3) for some helpful information about your responsibilities as an exempt organization.

Letter 1045 (DO/CG)



STAFF REPORT

MEETING DATE: March 22, 2018

AGENDA ITEM: 2B

TITLE:

Review and discuss the Bastrop EDC Strategic Plan, Updates, and Supplements.

STAFF REPRESENTATIVE:

Lynda K. Humble, City Manager
Shawn Kirkpatrick, BEDC Executive Director

BACKGROUND/HISTORY:

The Bastrop EDC's strategic plan was accepted on March 13, 2013, with updates and supplements in 2015, 2016, and 2017. Included within this memo is the Strategic Plan Timeline, which starts in 2011, when Mr. Joe Newman was EDC Executive Director, Terry Orr was Mayor, and Mike Talbot was City Manager.

Implementation, in accordance with the 2013 Strategic Plan recommendations, was never fully activated. In September 2014, BEDC Executive Director Dave Quinn departed Bastrop, with the current Executive Director Shawn Kirkpatrick starting in April 2015. Mr. Kirkpatrick reviewed the 2013 Strategic Plan with the Board as part of the FY 2016 budget process. Moving forward with the FY 2016 budget, the Board provided guidance on an Annual Scope of Work, incorporating elements of the strategic plan, updates and supplements. In 2017, in addition to the FY 2018 budget's Annual Scope of Work, the Board accepted an update of the strategic plan objectives and strategies, including key performance indicators (KPIs).

Given the size of the documents, please go directly to the EDC website to find the BEDC Strategic Plan documents at <https://bastropedc.org/strategic-plan-0>.

Board of Directors

The EDC Board is governed by state law and is comprised of seven members, appointed to two year terms and serve at the will of the City Council. Since April 2015, the Board has had nine (9) past directors and seven (7) current directors.

Current EDC Board Members

- Chair Cam Chavez (appointed June 2015)
- Vice Chair Kevin Plunkett (appointed August 2016)
- Secretary/Treasury Sam Kier (appointed June 2017)
- Drusilla Rogers (appointed June 2016)
- Ron Spencer (appointed June 2017)
- Kathryn Nash (appointed June 2017)
- Mayor Connie Schroeder (appointed June 2017)

Past EDC Board Members (since April 2015)

Mayor Ken Kesselus
Steve Mills
Gary Schiff
Dr. Neil Gurwitz
Pat Crawford
Willie DeLaRosa
Carlos Liriano
Joe Beal
Kristi Koch

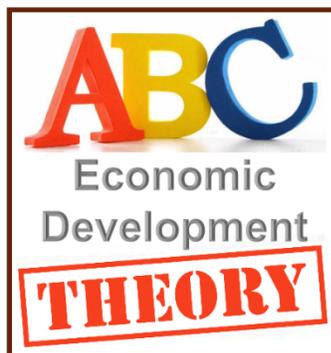
Governance

EDC is governed by the Texas Local Government Code Chapters 501-505. The EDC Board, with City Council approval, amended its bylaws and articles of incorporation several times since 2015. The 7th and 8th amended bylaws were adopted in February 2015 and May 2015, respectively. In 2016, the Board formed an ad hoc committee to codify the Articles of Incorporation (Articles) and bylaws with the Local Government Code. The restated Articles were filed with the Secretary of State of Texas on July 21, 2016 with the 9th amended bylaws adopted on February 14, 2017. Governing Documents can be found on the EDC website at <https://bastropedc.org/governing-documents>.

Market Conditions

The process for developing the 2013 Strategic Plan began immediately following the 2011 Bastrop County Complex Fire. Community engagement was high throughout the process as the community focused on rebuilding following the disaster. By 2015, Mr. Kirkpatrick arrived in Bastrop and the EDC Board shifted its guidance toward primary job creation, residential housing development, and education and workforce training programs.

As part of the FY 2016 and FY 2017 budgets, EDC staff expanded to become a full-service economic development organization with functional areas of “Type A” primary jobs creation and capital investment, “Type B” non-primary job creation and capital investment, community development, development and redevelopment, and education and workforce development. Included within the “Type A” and “Type B” programs are business retention and expansion and entrepreneurial and small business development programs.



Strategic Plan Timeline

(Certain excerpts are from the minutes of the EDC)

In early 2011, the Board had discussed internally updating the existing five-year plan. When Mr. Newman left in March, it was decided to wait until a new director was hired. Interim ED Director, CM Mike Talbot, budgeted for both a strategic plan and retail study that year. Mr.

Quinn started the last week of August 2011. The Bastrop County Complex Fires began the following week.

10/24/11 – BEDC Board appointed a subcommittee to look at proposals from consultants to perform a new strategic plan for the EDC. (Committee meetings were held with TIP Strategies, Chabin Concepts and Avalanche Consulting between in November and December. The committee's recommendation was for Avalanche Consulting to be retained.)

01/23/12 – Public Hearing was held for the expenditure of \$52,000 for Avalanche Consulting to conduct a strategic plan for the Bastrop EDC. Mr. Quinn explained it will assist us in determining where we are today, what our assets and challenges are, and how those can best match up with future growth. The plan will also help us determine where the community wants the BEDC to concentrate. It will help us align with what the community wants, and assist us in finding the right balance.

02/14/12 – Expenditure approved by City Council.

04/09/12 – Contract was signed by Steve Mills, Board Chair

05/14/12 – Avalanche Consulting presented at an EDC Board meeting. (postponed from April)

06/11/12 – Special EDC Board Meeting/Workshop, presented by Amy Holloway, Avalanche Consulting

07/10/12 – First meeting of the steering committee

09/06/12 – Second meeting of the steering committee

09-10/12 – Received draft of first of three reports – Competitive Evaluation

09/17/12 – Amy Holloway made a presentation at the September Board meeting, saying they were about half way through the process. They had an “overwhelming” response to the community survey, with 694 participants. Ms. Holloway stated they had talked to about 30 individuals so far, conducted several focus groups, and have completed two of the four steering committee meetings, which have had about 35 people in attendance. The draft of the first report is ready to send to the steering committee for their input. The next meeting is scheduled for October 31. Ms. Holloway stated they had also met with the Greater Austin Chamber and the Governor's Office to gain a better understanding of how Bastrop fits within the region. Ms. Holloway said the project should be complete by the end of the year, and she would like to do a public roll-out of the results in January, if possible.

10/31/12 – Third meeting of the steering committee

12/13/12 – Received second report – Target Industries

01/10/13 – Final meeting of the steering committee

01/14/13 – Mr. Quinn reported the Strategic Plan is almost complete. The consultant has sent it to the steering committee for final comments, and it should be ready for the Board's acceptance at the next meeting. Mr. Quinn would like to do a public rollout event in late February or early

March. Mayor Orr commented he was impressed by the amount of citizen participation in the process.

01/29/13 – Edits of the third report – Bastrop Strategy – were sent to Avalanche. Completed report received February 2013.

03/18/13 – Special EDC Board Meeting/Workshop. Amy Holloway made a presentation about the results of the Strategic Plan. Ms. Holloway stated the next step should be to get the Steering Committee back together to form the implementation committee. She explained there would be a working group for each section of the report consisting of five or six volunteers. There would be an infrastructure working group, and education working group, etc. These working groups would meet to implement the recommendations in the Strategic Plan. Ms. Holloway recommended to the Board that they keep the momentum of the strategic planning process and begin implementation as soon as possible. The Board voted to accept the plan.

(During the next year and a half, there was a regular implementation update given at monthly Board meetings, but there was never an official “rollout”, and the steering committee was never brought back together. Upon becoming an EDC Board member, Mayor Kesselus reviewed the plan and requested Mr. Quinn go over it and give an update at a Board meeting.)

07/28/14 – Update on BEDC Strategic Plan implementation – Mr. Quinn gave a presentation that summarized the Strategic Plan, including the top strengths and challenges of the area, the targeted industries, and our vision. He said the process was a community effort which included an online survey, a 40-member steering committee, and interviews and focus groups.

Identified goals included:

- education and workforce development;
- position Bastrop as a destination for entrepreneurship and increase small business resources;
- invest in additional infrastructure;
- develop a county-wide inventory of development-ready sites;
- evaluate water resources and opportunities; ensure Bastrop has industrial sites that are ready to market;
- continue to make Bastrop an appealing and authentic place to live; and
- market Bastrop as a place to do business.

Mr. Quinn shared that successes thus far have included:

- building confidence in BISD schools through the “We Believe in BISD” initiative;
- partnerships with the Bastrop Main Street Program’s Entrepreneurship Program and the Governor’s Office Small Business Development Workshop;
- partnership with Bastrop County and the City of Elgin to create a county-wide GIS program;
- partnership with the City of Bastrop to ensure long-term water resources; preparing the properties in the Industrial Park so that they are shovel-ready;
- the planned Main Street Improvement Project; BEDC’s new website; and
- the Build it in Bastrop campaign.

Some of the suggestions from the plan which still need to be addressed or improved upon include:

- establishing a complete talent pipeline;
- strengthening the workforce readiness of Bastrop ISD students,

- developing a target company marketing database, and
- adopting a formal economic development incentives policy.

Mr. Mills suggested the Board have workshops on the Strategic Plan recommendations because there are so many pieces to it with a lot of “moving parts”.

Mr. Quinn left in September 2014.

Mr. Kirkpatrick started in April 2015.

06/24/15 – Mr. Kirkpatrick reviewed the strategic plan with the Board as part of the FY15/16 budget process. He also presented a Scope of Work for the EDC. Mr. Kirkpatrick reviewed BEDC’s current Strategic Plan with the Board, which included Education and Workforce Development, Business Climate, Infrastructure, Quality of Life, Marketing, and Target Markets/Niche Sectors. Mr. Kirkpatrick explained that the Board needs to set priorities, since the Strategic Plan contains so many recommendations. The Board discussed different areas of the Strategic Plan, including: bridging the gap on workforce training between high school students and employers; the possibility of adopting a formal incentives policy and application process; the importance of having shovel-ready sites available for primary job creation, including water and wastewater; supporting quality of life projects in areas of Bastrop other than just downtown; developing a more uniform marketing campaign so that BEDC and other organizations (Main Street, DBA, Chamber, etc.) share a similar message; and adding a section to the Strategic Plan about economic development.

07/20/15 – During a workshop session, Mr. Kirkpatrick reviewed the proposed changes to the Program of Work and the Strategic Plan with the Board. Some of the items discussed were: taking a more city-wide approach to marketing Bastrop, not just the downtown area; focusing more on workforce development; and breaking down the Strategic Plan so that it’s easier to implement.

09/21/15 – A review and discussion regarding the BEDC’s Strategic Plan and Scope of Work (Mike Barnes, Facilitator). Mr. Kirkpatrick said he had asked Mr. Barnes to review the existing Strategic Plan and make recommendations based on his 30-plus years in economic development. Mr. Barnes explained he had gone through the target industries identified in the Strategic Plan and provided NAICS codes for each. Those target industries were Hospitality, Life Sciences, IT, and Manufacturing. He had also provided some best practices and recommendations on how to attract these industries.

10/20/15 – During a joint meeting with the Bastrop City Council, Mr. Kirkpatrick gave an overview of Mike Barnes’ presentation at the September BEDC Board meeting. The consensus of the Board was to move forward with Mr. Barnes’ recommendations. Mr. Barnes had stressed that communities are as unique as the people who live there, and that it was important to take a look at our assets and determine what fits best. Mr. Kirkpatrick went over the target industries from the Strategic Plan that Mr. Barnes had reviewed and how to measure success, explaining that economic development is a lengthy process. He said the BEDC’s Program of Work areas include: Primary Job Creation and Expansion, Business and Industrial Park, Business Retention and Expansion, Education and Workforce Development, Retail Development, Infrastructure, Affordable Housing, Main Street Program, Entrepreneurial and Small Business Development, Downtown Redevelopment, Community Development, and Marketing. Mr. Kirkpatrick said these are the areas that the BEDC office works on daily or weekly, and the team does a really good job of balancing the work to ensure a continued pipeline of projects, in order to create jobs and allow

Bastrop to be a “live/work community.” Mr. Kirkpatrick also gave presentations on BEDC projects, programs and community marketing at the same meeting.

07/18/16 – Consideration, discussion and possible action on a presentation and update by Mike Barnes, Mike Barnes Group, regarding the BEDC’s Strategic Plan and Recruitment Strategy. Mr. Barnes presented his review and complimented the BEDC on its strong website, outstanding marketing collateral and attendance at EDC events. Mr. Barnes’ recommendations included concentrating on shovel-ready sites, development of a detailed cost structure with timetables for virtual buildings and incentives for potential projects. Mr. Barnes introduced Eric Davis from KSA Engineering who was available for questions from the Board regarding the use of virtual buildings.

03/20/17 – Alysia Cook met with the Board during a workshop session to set three to five year goals, metrics, and known performance indicators for the Bastrop EDC. Ms. Cook spent the day interviewing various business owners, property owners and stakeholders to learn the public perception of the EDC. Interviewees were asked what the EDC does well and what can be done better. Ms. Cook explained this workshop session will be an abbreviated strategic planning session, looking at what is important for the next three to five years. The Board Members participated in a SWOT (Strengths, Weaknesses, Opportunities, Threats) Analysis, listing 10 to 15 items in each category. After the SWOT Analysis was completed, Ms. Cook led the Board Members to identify six categories of goals. These were business retention and expansion, workforce development, primary job creation, EDC involvement with housing solutions, further development of the Bastrop brand, and improving communication, both internally and externally. Ms. Cook will take the information she gathered and will return in April for a three-hour workshop to present her findings and assist with developing which goals, metrics and performance indicators the EDC should be using for the next three to five years.

04/24/17 – The Bastrop EDC Board of Directors conducted a workshop session with Alysia Cook of Opportunity Strategies to set 3-5 year goals, metrics, and known performance indicators for the Bastrop EDC. Ms. Cook reviewed the key findings from her meetings with business leaders and stakeholders, and went through the 2013 Strategic Plan with the Board to prioritize goals and establish key performance indicators for each.

07/31/17 – Special Meeting/Workshop – Review results from goal-setting workshop with Alysia Cook: goals, metrics, and key performance indicators (KPIs) – Ms. Cook presented a draft document summarizing all the above-referenced items. Q&A with staff and Alysia Cook about Economic Development – At the end of Ms. Cook’s presentation, the floor was opened for questions and comments. Ms. Schroeder would like to see timelines attached to the KPIs. There was general discussion about updating the Board on the EDC’s progress.

09/18/17 – Presentation and training by the Mike Barnes Group regarding the EDC’s strategic plan, primary job recruiting, and economic development in Texas. Mike Barnes made a presentation to the Board.

09/18/17 – Consideration, discussion and possible action on the Bastrop EDC Board’s acceptance of the updates to the strategic plan objectives and strategies, including key performance indicators. The Board made two edits and requested that the EDC weekly updates tie back to the goals. (NOTE: These were the KPIs from Opportunity Strategies. A draft was previously presented to the Board at the 07/31/17 Special Meeting.)

Comprehensive Plan Update: In November 2016, the City Council adopted the Comprehensive Plan 2036, which included participation of more than 1500 people. The City Council has been quite clear that the Comprehensive Plan will be a “living” document that will drive the strategic decisions regarding how Bastrop develops from managed growth to housing and neighborhoods to cultural arts and tourism.

FUNDING SOURCE: N/A

RECOMMENDATION:

Staff is seeking direction from both policy bodies to determine if there is consensus as to whether the current economic development strategy works well with the Comprehensive Plan. If so, no further strategic discussions are needed. If not, then staff needs policy direction on future expectations on an interim solution until a new economic development strategic plan can be developed in concert with the Comprehensive Plan.



ATTACHMENTS:

- ??? Files are quite large to attach. On the EDC website and dropbox.





STAFF REPORT

MEETING DATE: March 22, 2018

AGENDA ITEM: 2C

TITLE:

Discuss other economic development related issues or concerns and next steps.

STAFF REPRESENTATIVE:

Lynda K. Humble, City Manager

Shawn Kirkpatrick, BEDC Executive Director

