

**NOTICE OF MEETING OF BOARD OF DIRECTORS OF  
BASTROP ECONOMIC DEVELOPMENT CORPORATION (BEDC)  
Monday, April 19, 2021 – 5:00 P.M.  
Bastrop City Hall, 1311 Chestnut Street, Bastrop, Texas**

**1. ALL TO ORDER**

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The Bastrop EDC Board reserves the right to convene into Executive Session at any time during the meeting regarding any agenda item in compliance with the Texas Open Meetings Act, Chapter 551 Government Code.  
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**2. PUBLIC COMMENT(S)**

**3. REGULAR BUSINESS & PRESENTATIONS**

- 3.1. Approval of meeting minutes from the Special Board Meeting of March 11, 2021, and the Regular Board Meeting of March 22, 2021. **(page 3)**
- 3.2. Acceptance of financial report provided by City of Bastrop’s Chief Financial Officer for period ending March 2021. **(page 7)**
- 3.3. Receive the Comprehensive Annual Financial Report for period ending September 30, 2020, presented by the City of Bastrop’s Chief Financial Officer. **(page 16)**
- 3.4. Discussion and possible action on Resolution R-2021-0007 authorizing the execution of a Professional Services Agreement with Terracon to perform a Geotechnical Study and Phase I Environmental Study for the southern portion of the Bastrop Business and Industrial Park. **(page 28)**
- 3.5. Discussion and possible action on Resolution R-2021-0008 authorizing the execution of a Professional Services Agreement with Corix Utilities to perform a wastewater study in Bastrop’s extraterritorial jurisdiction (ETJ). **(page 72)**
- 3.6. Discussion and possible action on an update about the MLK/Technology Drive Extension Project. **(page 92)**
- 3.7. Discussion and possible action on an update about the Downtown Trail Expansion Project (River Loop Trail Project). **(page 99)**
- 3.8. Receive updates from BEDC ad hoc committees. **(page 102)**
- 3.9. Discussion and possible action on authorizing a BEDC board or staff member to hire an office manager for the BEDC office. **(page 103)**

**4. EXECUTIVE SESSION**

- 4.1. The Bastrop EDC Board of Directors will meet in a closed/executive session pursuant to the Texas Government Code, Chapter 551, to discuss the following:
  - (1) **Sections 551.072 & 551.087** Deliberation regarding the commercial or financial information, as well as the purchase, exchange, lease, or value of real property received on Projects – Gravity; Super Glue; Dashboard; Fiesta; Swipe; Jump Start; and MLK/Technology Extension Project and adjoining tracts.

- (2) **Sections 551.072 & 551.087** Deliberation regarding the commercial or financial information, as well as the purchase, exchange, lease, or value of real property received property owned by BEDC, more particularly described as the 7.23 acres with legal description of A2 AUSTIN, STEPHEN F., ACRES 7.2340.
- (3) **Section 551.071** Consultation with Attorney and **Sections 551.072 & 551.087** Deliberation regarding the commercial or financial information, as well as the purchase, exchange, lease, or value of real property regarding the Art Institute's lease and amendment; 921 Main Street building.
- (4) **Section 551.074** Personnel Matters – Discussion on Interim Chief Executive Officer Position.
- (5) **Section 551.074** Personnel Matters – Discussion on Chief Executive Officer Position.

4.2. The Bastrop EDC Board of Directors will reconvene into open session to discuss, consider and/or take any action necessary related to the executive sessions noted herein.

## 5. ADJOURNMENT

### CERTIFICATE

I, Angela Ryan, Operations Manager of the Bastrop Economic Development Corporation (Bastrop EDC), certify that this Notice of Meeting was posted at Bastrop City Hall, 1311 Chestnut Street, and on the Bastrop EDC's website on this the 16th of April 2021 at 5:00 p.m. Copies of this agenda have been provided to those members of the media requesting such information.

Angela Ryan

Angela Ryan, BEDC Operations Manager

THE BASTROP ECONOMIC DEVELOPMENT CORPORATION IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. REASONABLE MODIFICATIONS AND EQUAL ACCESS WILL BE PROVIDED UPON REQUEST. PLEASE CALL 512-303-9700.

**Agenda Item: 3.1**

**AGENDA MEMORANDUM**

Meeting Date: April 19, 2021

Agenda Item: Approval of meeting minutes from the Bastrop EDC Special Board Meeting of March 11, 2021, and Regular Board Meeting of March 22, 2021.

Prepared by: BEDC Staff

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The draft minutes from the 03/11/21 Special Board Meeting and 03/22/21 Regular Board Meeting are attached.

Attachments:

Draft minutes from the Special Board Meeting of March 11, 2021

Draft minutes from the Regular Board Meeting of March 22, 2021

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**Recommendation** – Approve both sets of meeting minutes as submitted.

**[RECOMMENDED MOTION]** – I move to approve both sets of meeting minutes as submitted.



**BASTROP ECONOMIC DEVELOPMENT CORPORATION (BEDC)**  
**BOARD OF DIRECTORS**  
**Minutes of Special Meeting, March 11, 2021**  
**Virtual Special Meeting Broadcast via Facebook from**  
**Bastrop City Hall, 1311 Chestnut Street, Bastrop, Texas**

The Bastrop Economic Development Corporation (BEDC) met virtually on Friday, March 11, 2021, at 5:00 p.m. for a Special Meeting, which was broadcast from Bastrop City Hall, 1311 Chestnut Street. Board members present: Kathryn Nash, Kevin Plunkett, Connie Schroeder, Sam Kier, Bill Gossett, Ron Spencer, and Charles Washington. Staff members present: Cameron Cox, Angela Ryan, Jean Riemenschneider, and Kathy Merrifield. BEDC Attorneys Charlie Zech and Robyn Katz were also in attendance.

1. **CALL TO ORDER** – Board Chair Kathryn Nash called the meeting to order at 5:00 p.m.
2. **PUBLIC COMMENT(S)** – There were eight public comments. Chair Nash requested that Ms. Ryan email them to her.

**3. EXECUTIVE SESSION**

- 3.1. At 5:01 p.m., the Bastrop EDC Board of Directors met in a closed/executive session pursuant to the Texas Government Code, Chapter 551, to discuss the following:

Section 551.071 Consultation with Attorney and to discuss and deliberate the contract and employment of the Chief Executive Officer.

- 3.2. At 5:51 p.m., the Bastrop EDC Board of Directors reconvened into open session to discuss, consider and/or take any action necessary related to the executive session noted herein.

**4. OPEN SESSION**

- 4.1. Discussion and possible action rescinding the approval of the second amendment to the Chief Executive Officer contract. This item was not discussed.
- 4.2. Discussion and possible action on the employment and contract of the Chief Executive Officer.

Mr. Plunkett made the motion to terminate Mr. Cox's contract with the BEDC under clause 12 of the contract, effective immediately. Mr. Kier seconded, and the motion passed. Chair Nash told Mr. Cox that he was no longer authorized to use BEDC resources and that she would contact him immediately to arrange to have a meeting with him. Ms. Merrifield tendered her resignation. Chair Nash asked that she contact her to make arrangements for her departure.

Public comments related to agenda item 4.2 were read from the following people: Cheryl Kruckeberg with Bastrop Montessori; Christopher McEwan with Tough Cookie Bakery; Clint Howard with Deep in the Heart Art Foundry; Jennifer Long; Johnny Sanders with Bluebonnet Electric Co-op; Kazem Khonsari; Raymond Keyrouz; and Tom Dickey with Neighbors Kitchen & Yard.

5. **ADJOURNMENT** – Mr. Spencer made the motion to adjourn the meeting and Mr. Kier seconded. The meeting was adjourned at 6:11 p.m.

**BASTROP ECONOMIC DEVELOPMENT CORPORATION (BEDC)**  
**BOARD OF DIRECTORS**  
**Minutes of Regular Board Meeting, March 22, 2021**  
**Bastrop City Hall, 1311 Chestnut Street, Bastrop, Texas**

The Bastrop Economic Development Corporation (BEDC) met on Monday, March 22, 2021, at 5:00 p.m. for a Regular Board Meeting, at Bastrop City Hall, 1311 Chestnut Street. Board members present: Kathryn Nash, Kevin Plunkett, Connie Schroeder, Sam Kier, Bill Gossett, Ron Spencer, and Charles Washington. Staff members present: Angela Ryan and Jean Riemenschneider. BEDC Attorney Charlie Zech was also present.

**1. CALL TO ORDER** – Board Chair Kathryn Nash called the meeting to order at 5:00 p.m.

**2. PUBLIC COMMENT(S)** – There were no public comments.

**3. REGULAR BUSINESS & PRESENTATIONS**

- 3.1. Approval of meeting minutes from the BEDC Board Meeting of January 25, 2021, and Special Board Meeting of March 5, 2021. Mr. Plunkett made the motion to approve the minutes as submitted, Ms. Schroeder seconded, and the motion passed.
- 3.2. Acceptance of financial reports provided by City of Bastrop's Chief Financial Officer for periods ending January 2021 and February 2021. Mr. Kier made the motion to accept both sets of financial reports as submitted, Mr. Plunkett seconded, and the motion passed.
- 3.3. Receive update on 921 Main Street Project from Project Manager Jimmy Crouch. Mr. Crouch gave his final update on the 921 Main Street Project.
- 3.4. Discussion and possible action on forming an ad hoc committee on BEDC projects. Chair Nash appointed Mr. Spencer and Mr. Gossett to an ad hoc projects committee, with Mr. Plunkett as a backup. Ms. Schroeder offered to be a second backup as needed. Ms. Nash approved Mr. Plunkett to a communications committee and asked him to work with Mr. Washington or another board member of his choosing.
- 3.5. Discussion and possible action on Resolution R-2021-0006 approving amendments to the BEDC's Policies & Procedures. There was a brief discussion about ensuring that the new language would not prohibit the BEDC would supporting campaigns that would be beneficial for economic development. Mr. Zech recommended adding "Except as approved by the Board" to the new language to give the Board flexibility on any future discussions. Mr. Gossett pointed out that the new section needed a title and to be added to the table of contents. Mr. Spencer made the motion to approve Resolution R-2021-0006 Policies & Procedures once those edits have been made, Mr. Gossett seconded, and the motion passed.
- 3.6. Updates: BEDC recognized as "2020 Award of Distinction" by Bastrop Chamber of Commerce; TEDC Economic Excellence Award. No action was necessary.
- 3.7. Discussion and possible action on BEDC personnel and staffing. Chair Nash recommended that Mr. Washington work with Ms. Ryan on the process of hiring a new office manager.

**4. EXECUTIVE SESSION**

4.1. At 5:50 p.m., the Bastrop EDC Board of Directors met in a closed/executive session pursuant to the Texas Government Code, Chapter 551, to discuss the following:

- (1) **Sections 551.072 & 551.087** Deliberation regarding the commercial or financial information, as well as the purchase, exchange, lease, or value of real property received on Projects – Gravity; Super Glue; Dashboard; Fiesta; and MLK/Technology Extension Project and adjoining tracts.
- (2) **Sections 551.072 & 551.087** Deliberation regarding the commercial or financial information, as well as the purchase, exchange, lease, or value of real property received property owned by BEDC, more particularly described as the 7.23 acres with legal description of A2 AUSTIN, STEPHEN F., ACRES 7.2340.
- (3) **Section 551.071** Consultation with Attorney and **Sections 551.072 & 551.087** Deliberation regarding the commercial or financial information, as well as the purchase, exchange, lease, or value of real property regarding the Art Institute's lease amendment and final tenant finish-out costs of the project.
- (4) **Section 551.074** Personnel Matters – Discussion on Chief Executive Officer position.
- (5) **Section 551.071** Consultation with Attorney regarding termination of Chief Executive Officer.

4.2. At 7:57 p.m., the BEDC Board of Directors reconvened into open session to discuss, consider and/or take any action necessary related to the executive sessions noted herein. There was no action taken.

5. **ADJOURNMENT** – Ms. Schroeder made the motion to adjourn the meeting and Mr. Gossett seconded. The board meeting was adjourned at 7:58 p.m.



**Agenda Item: 3.2**

**AGENDA MEMORANDUM**

Meeting Date: April 19, 2021

Agenda Item: Acceptance of March 2021 financial report provided by City of Bastrop’s Chief Financial Officer.

Prepared by: Tracy Waldron, City of Bastrop CFO

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Attached for the Board’s review and consideration is the BEDC financial summary report for the period ending March 2021.

NOTE: Budget adjustments submitted to the Finance Department should be reflected in the April financial report.

Attachment:  
March 2021 Financial Report

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**Recommendation** – Accept the financial summary report as submitted.

**[RECOMMENDED MOTION]** – I move to accept the March 2021 BEDC financial report as submitted.



# Bastrop Economic Development Corporation

Financial Summary  
For Period Ending  
March 2021

**bastrop**

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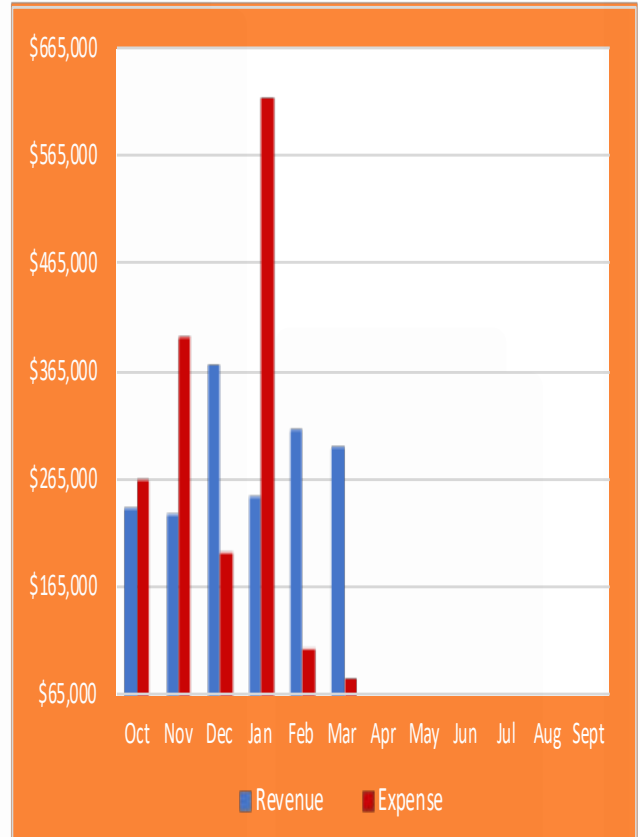


# Summary of Revenues and Expenditures

As of March 31, 2021  
OVERALL FUND PERFORMANCE

## REVENUES VS EXPENSES

Month	FY2021 Revenue	FY2021 Expense	Monthly Variance
Oct	\$ 235,414	\$ 264,145	\$ (28,731)
Nov	229,727	396,078	\$ (166,351)
Dec	367,034	195,297	\$ 171,737
Jan	245,860	615,651	\$ (369,791)
Feb	307,909	106,755	\$ 201,154
Mar	292,659	80,764	\$ 211,895
Apr			\$ -
May			\$ -
Jun			\$ -
Jul			\$ -
Aug			\$ -
Sept			\$ -
<b>Total</b>	<b>\$ 1,678,603</b>	<b>\$ 1,658,690</b>	<b>\$ 19,913</b>



Positive

October was adjusted by the last draw from the Roscoe Bank loan for 921 Main St. project of \$120,000 which was reclassified to the loan liability account. The expenses are lower now that the capital projects are completed. The March revenue includes \$56,250 in 921 rental revenue that cover Jan-March rent payments.

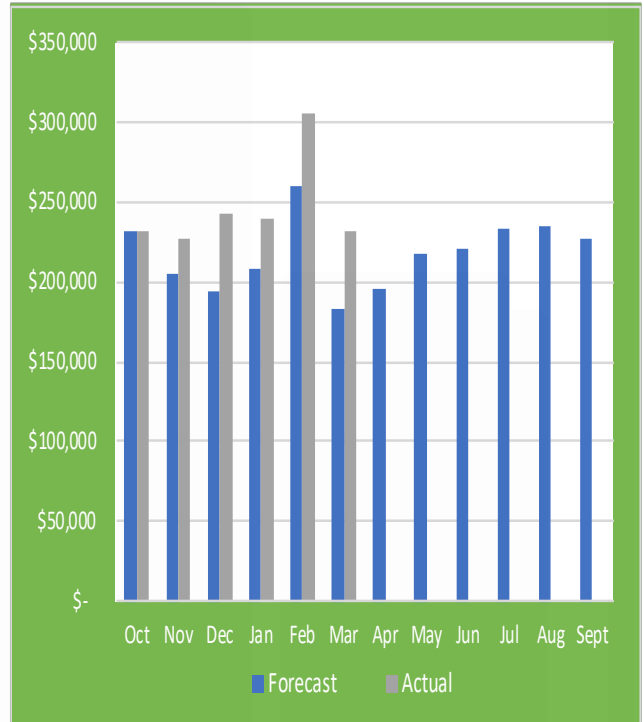
# Summary of Sales Tax Revenue

## As of March 31, 2021

### REVENUE ANALYSIS

#### SALES TAX REVENUE

<u>Month</u>	<u>FY2021 Forecast</u>	<u>FY2021 Actual</u>	<u>Monthly Variance</u>
Oct	\$ 232,480	\$ 232,437	\$ (43)
Nov	205,073	227,506	\$ 22,433
Dec	193,970	242,312	\$ 48,342
Jan	208,509	239,340	\$ 30,831
Feb	260,635	304,769	\$ 44,134
Mar	182,444	231,987	\$ 49,543
Apr	195,478		
May	217,404		
Jun	221,541		
Jul	232,748		
Aug	234,572		
Sept	226,346		
<b>Total</b>	<b>\$ 2,611,200</b>	<b>\$ 1,478,351</b>	<b>\$ 195,240</b>
Forecast YTD	\$ 1,283,111		
Actual to Forecast	\$ 195,240	15.2%	



### Positive

Sales Tax revenue is 89% of total revenue (excluding grant proceeds). The amount in Oct. and Nov. are estimated due to the timing of receiving the payments. The State Comptroller has a two month lag between month earned and month distributed. The Actual to forecast year to date is a positive 15%. This budget was conservative due to the volatility of this revenue source.

# Expenditures Budget to Actual Comparison

## As of March 31, 2021

### OPERATING EXPENDITURES COMPARISON

<u>Category</u>	<u>FY2021 Forecast</u>	<u>FY2021 Actual</u>	<u>Monthly Variance</u>
Personnel	\$ 217,639	\$ 215,906	\$ 1,733
Supplies & Material	5,900	283	\$ 5,617
Maintenance & Repairs	8,080	2,100	\$ 5,980
Occupancy	29,800	32,376	\$ (2,576)
Contractual Service	166,473	103,455	\$ 63,018
Marketing/Advertising	612,510	560,370	\$ 52,140
Contingency	-	-	\$ -
Debt Service	<u>117,837</u>	<u>116,505</u>	<u>\$ 1,332</u>
<b>Total</b>	<b><u>\$ 1,158,239</u></b>	<b><u>\$ 1,030,995</u></b>	<b><u>\$ 127,244</u></b>
Forecast to Actual %	10.99%		

Positive

The forecast to actual comparison is a positive 11% year-to-date.

# Expenditures Budget to Actual Comparison

## As of March 31, 2021

### CAPITAL OUTLAY PROJECTS

<u>Project</u>	<u>FY2021 Budget</u>	<u>FY2021 Actual</u>	<u>Budget Balance</u>
<b>Trail System Downtown loop</b> (only engineering and permitting expenses so far)	\$ 43,000	\$ -	\$ 43,000
<b>Bus. Ind. Park-Tech/MLK Infra*</b> (only engineering expenses so far)	1,451,055	-	\$ 1,451,055
<b>921 Main St. Project</b> Engineering & Constr	-	627,696	\$ (627,696)
<b>Real Property</b> This was for the grant proj that was replaced by the Gummy bear project	1,300,000	-	\$ 1,300,000
<b>Total</b>	<b>\$ 2,794,055</b>	<b>\$ 627,696</b>	<b>\$ 2,166,359</b>

*\* This project includes \$319,055 of bond funds budgeted from the 2013. There is a budget transfer in process and will be reflected in the April report*

## Expenditures Budget to Actual Comparison As of March 31, 2021

### 380 DEVELOPMENT AGREEMENT

	FY2021 <u>Budget</u>	FY2021 <u>Actual</u>	Budget <u>Balance</u>
<b>380 Agreement</b>	\$ 285,000	\$ 83,940	\$ 201,060
Total	<b>\$ 285,000</b>	<b>\$ 83,940</b>	<b>\$ 201,060</b>

*The only 380 Agreement still active is Burleson Crossing. This agreement states that 50% of the \$1.5 cent sales tax collected (which includes EDC's \$0.5) will be rebated back to the developer until the maximum reimbursement amount is met or 15 years (which would also be FY2023).*

*The payoff amount wasn't specific to EDC it was a combined rebate amount with the City.*

*The current remaining reimbursement (as of 3/9/2021 developer provided Actual cost of funds ie. interest) and rebate payments through 12/31/2020, is \$2M. The estimation is that this agreement will be fully rebated within the FY2023 budget year.*

**BASTROP ECONOMIC DEVELOPMENT CORPORATION FUND  
FY 2020-2021 BUDGET**

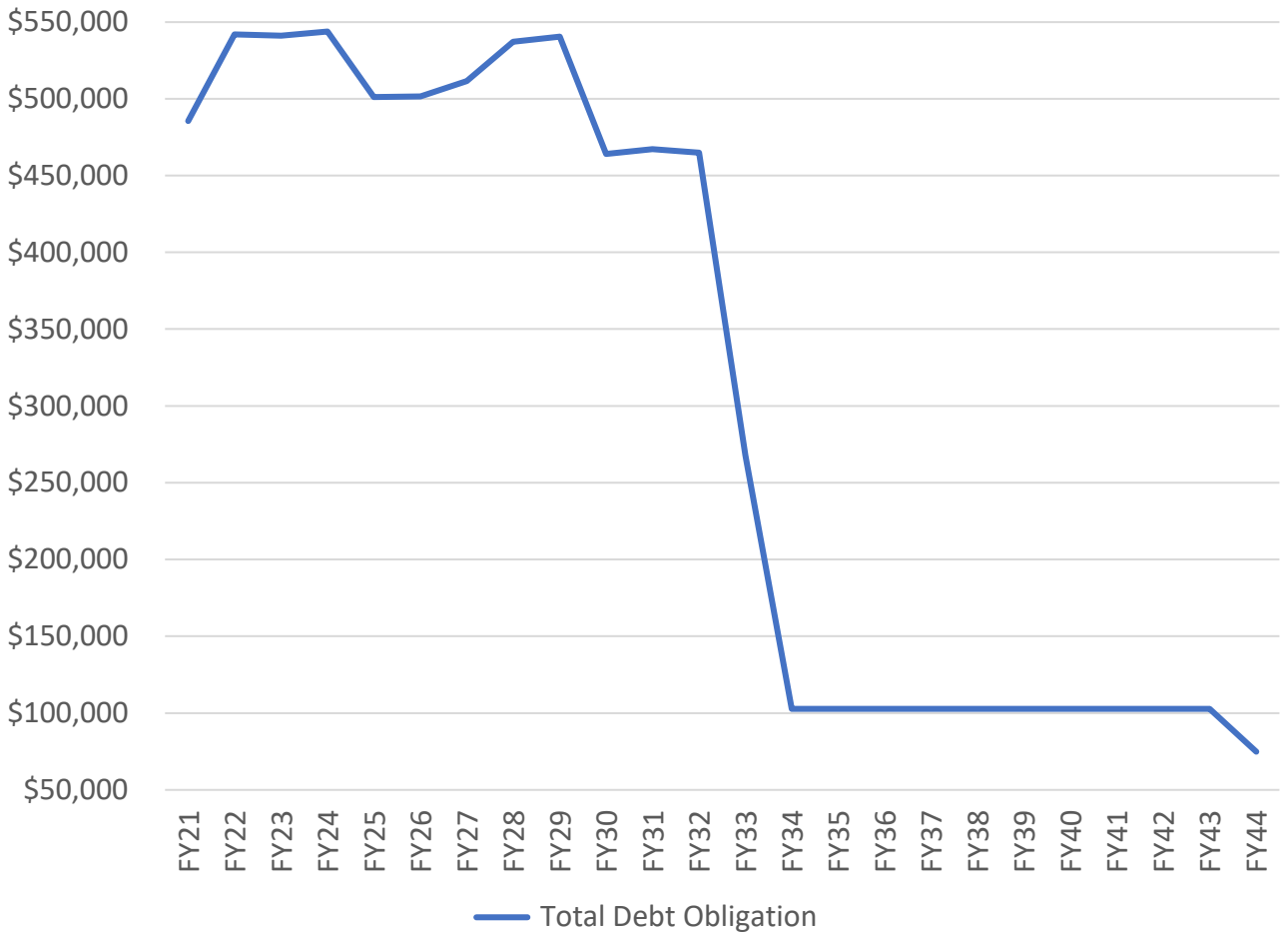
Working Capital 9-30-2020 Audited	\$	4,867,763
 <b>FY 2020-2021</b>		
Budgeted		
Revenues	\$	<u>3,953,570</u>
Total FY 2021 Resources	\$	8,821,333
 Budgeted Expenditures:		
Operating Expenses	\$	(2,199,084)
Capital Expenses	\$	(2,475,000)
Debt Service	\$	<u>(447,012)</u>
	\$	(5,243,899)
 Projected Working Capital Balance 09-30-2021		
	\$	3,577,434
 Reserve 25% of Operating Expense		
	\$	549,771

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# Debt Obligation As of 10/01/2020

### Total Debt Obligation



## Agenda Item: 3.3

# AGENDA MEMORANDUM

Meeting Date: April 19, 2021

Agenda Item: Receive the Comprehensive Annual Financial Report for period ending September 30, 2020, presented by the City of Bastrop's Chief Financial Officer.

Prepared by: Tracy Waldron, City of Bastrop CFO

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Attached for the Board's review and consideration is the portion of the FY2020 City of Bastrop Comprehensive Annual Financial Report (CAFR) concerning BEDC.

CFO Tracy Waldron will present and discuss the audit.

The entire Comprehensive Annual Financial Report can be downloaded at the following link:

<https://www.cityofbastrop.org/upload/page/0219/1%20City%20of%20Bastrop%20CAFR%20YE%209.30.2020%20FINAL.pdf>

Attachment:

Relevant pages from the FY2020 Comprehensive Annual Financial Report.

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**Recommendation** – None; item presented for informational purposes.

**[RECOMMENDED MOTION]** – None.





# CITY OF BASTROP, TEXAS

## STATEMENT OF NET POSITION

September 30, 2020

	Primary Government			Component Unit
	Governmental Activities	Business-Type Activities	Total	BEDC
<b>Assets</b>				
Cash and equity in pooled cash/investments	\$ 12,764,832	\$ 29,510,135	\$ 42,274,967	\$ 5,217,942
Receivables, net of allowances	3,017,745	1,135,613	4,153,358	609,616
Internal balances	(424,244)	424,244	-	-
Due from BEDC	125,257	-	125,257	-
Due from other governments	744,554	-	744,554	-
Prepays and other assets	118,199	-	118,199	12,000
Inventory	12,068	384,894	396,962	-
Restricted assets:				
Temporarily restricted cash/cash equivalents	-	952,310	952,310	-
	<u>16,358,411</u>	<u>32,407,196</u>	<u>48,765,607</u>	<u>5,839,558</u>
Note receivable	3,076,303	240,000	3,316,303	-
Capital assets:				
Nondepreciable capital assets	7,594,073	14,071,119	21,665,192	4,150,057
Depreciable capital assets, net	37,406,779	30,156,592	67,563,371	487,990
	<u>45,000,852</u>	<u>44,227,711</u>	<u>89,228,563</u>	<u>4,638,047</u>
<b>Total Assets</b>	<u>64,435,566</u>	<u>76,874,907</u>	<u>141,310,473</u>	<u>10,477,605</u>
<b>Deferred Outflows of Resources</b>				
Deferred outflows - pension	666,393	251,454	917,847	40,966
Deferred outflows - TMRS OPEB	36,274	13,573	49,847	2,119
Deferred outflows - Health OPEB	95,922	37,929	133,851	5,945
Deferred loss on refunding	676,465	-	676,465	-
<b>Total Deferred Outflows of Resources</b>	<u>1,475,054</u>	<u>302,956</u>	<u>1,778,010</u>	<u>49,030</u>
<b>Liabilities</b>				
Accounts payable and accrued liabilities	2,033,242	2,396,279	4,429,521	567,875
Accrued bond interest	103,841	-	103,841	-
Due to primary government	-	-	-	125,257
Noncurrent liabilities:				
Portion due within one year:				
Compensated absences	257,545	58,341	315,886	11,903
Bonds and notes payable	2,146,783	1,425,585	3,572,368	301,382
Portion due in more than one year:				
Compensated absences	28,616	6,482	35,098	11,902
Bonds and notes payable (net)	22,984,619	37,939,635	60,924,254	5,353,549
Net pension liability	2,445,791	527,820	2,973,611	89,348
OPEB liability - health	677,863	190,212	868,075	30,919
OPEB liability - TMRS	281,154	78,174	359,328	12,691
<b>Total Liabilities</b>	<u>30,959,454</u>	<u>42,622,528</u>	<u>73,581,982</u>	<u>6,504,826</u>
<b>Deferred Inflows of Resources</b>				
Deferred gain on refunding	-	46,720	46,720	-
Deferred inflows - pension	327,742	204,495	532,237	57,582
Deferred inflows - TMRS OPEB	6,735	1,973	8,708	318
<b>Total Deferred Inflows of Resources</b>	<u>334,477</u>	<u>253,188</u>	<u>587,665</u>	<u>57,900</u>
<b>Net Position</b>				
Net investment in capital assets	23,307,166	23,850,300	47,157,466	1,858,157
Restricted for:				
Nonexpendable perpetual care cemetery	386,814	-	386,814	-
Expendable:				
Cemetery	104,947	-	104,947	-
Debt service	298,232	-	298,232	108,127
Economic development	2,896,369	-	2,896,369	9,332
Traffic safety	464,505	-	464,505	-
PEG fees	58,669	-	58,669	-
Capital projects	-	3,255,790	3,255,790	-
Unrestricted	7,099,987	7,196,057	14,296,044	1,988,293
<b>Total Net Position</b>	<u>\$ 34,616,689</u>	<u>\$ 34,302,147</u>	<u>\$ 68,918,836</u>	<u>\$ 3,963,909</u>

See Notes to Financial Statements.

# CITY OF BASTROP, TEXAS

## STATEMENT OF ACTIVITIES

For the Year Ended September 30, 2020

Functions/Programs	Expenses	Program Revenues		
		Charges for Services	Operating Grants and Contributions	Capital Grants and Contributions
<b>Primary Government</b>				
<b>Governmental Activities</b>				
General government	\$ 4,802,825	\$ 591,191	\$ -	\$ -
Public safety	3,754,875	289,954	1,744,570	-
Development services	708,088	1,202,430	-	-
Community services	1,059,379	111,651	-	-
Economic development	6,963,722	108,435	-	-
Interest and fiscal agent fees	966,319	-	-	-
<b>Total Governmental Activities</b>	<u>18,255,208</u>	<u>2,303,661</u>	<u>1,744,570</u>	<u>-</u>
<b>Business-Type Activities</b>				
Water and wastewater	5,197,452	6,150,299	-	903,907
Bastrop power and light	5,609,727	6,383,347	-	-
Community impact fees	7,185	1,252,892	-	-
<b>Total Business-Type Activities</b>	<u>10,814,364</u>	<u>13,786,538</u>	<u>-</u>	<u>903,907</u>
<b>Total Primary Government</b>	<u>\$ 29,069,572</u>	<u>\$ 16,090,199</u>	<u>\$ 1,744,570</u>	<u>\$ 903,907</u>
<b>Component Unit</b>				
BEDC	<u>\$ 3,496,545</u>	<u>\$ -</u>	<u>\$ 771,584</u>	<u>\$ -</u>

**General Revenues:**

Property taxes  
Sales taxes  
Hotel/motel taxes  
Franchise fees  
Investment revenue  
Other revenues  
Transfers

**Total General Revenues and Transfers**

**Change in Net Position**

Beginning net position

**Ending Net Position**

See Notes to Financial Statements.

<b>Net Revenue (Expense) and Changes in Net Position</b>			<b>Component</b>
<b>Primary Government</b>			<b>Unit</b>
<b>Governmental</b>	<b>Business-Type</b>	<b>Total</b>	<b>BEDC</b>
<b>Activities</b>	<b>Activities</b>		
\$ (4,211,634)	\$ -	\$ (4,211,634)	\$ -
(1,720,351)	-	(1,720,351)	-
494,342	-	494,342	-
(947,728)	-	(947,728)	-
(6,855,287)	-	(6,855,287)	-
(966,319)	-	(966,319)	-
<u>(14,206,977)</u>	<u>-</u>	<u>(14,206,977)</u>	<u>-</u>
-	1,856,754	1,856,754	-
-	773,620	773,620	-
-	1,245,707	1,245,707	-
<u>-</u>	<u>3,876,081</u>	<u>3,876,081</u>	<u>-</u>
<u>(14,206,977)</u>	<u>3,876,081</u>	<u>(10,330,896)</u>	<u>-</u>
-	-	-	(2,724,961)
8,849,258	-	8,849,258	-
5,528,824	-	5,528,824	2,733,447
1,673,609	-	1,673,609	-
484,574	-	484,574	-
277,206	195,866	473,072	64,000
272,921	-	272,921	13,796
625,417	(625,417)	-	-
<u>17,711,809</u>	<u>(429,551)</u>	<u>17,282,258</u>	<u>2,811,243</u>
3,504,832	3,446,530	6,951,362	86,282
<u>31,111,857</u>	<u>30,855,617</u>	<u>61,967,474</u>	<u>3,877,627</u>
<u>\$ 34,616,689</u>	<u>\$ 34,302,147</u>	<u>\$ 68,918,836</u>	<u>\$ 3,963,909</u>

**CITY OF BASTROP, TEXAS**  
*NOTES TO FINANCIAL STATEMENTS*  
 For the Year Ended September 30, 2020

**I. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**A. Reporting Entity**

The City of Bastrop, Texas (the “City”) was incorporated on December 18, 1837 and adopted the “Home Rule Charter” on May 7, 2002, pursuant to the laws of the State of Texas (the “State”), which provide for a Council-Manager form of government.

The City Council is the principal legislative body of the City. With few exceptions, all powers of the City are vested in an elective council, which enacts legislation, adopts budgets, determines policies, and appoints the City Attorney and the Municipal Court Judge. The Council also appoints the City Manager, who executes the laws and administers the government of the City. The City Manager is responsible for the appointment and removal of department directors and employees, supervision and control of all City departments, and preparation of the annual budget.

The City provides the following services: public safety, street maintenance, sanitation services, recreation programs, municipal court, community development, public improvements, water, sewer and electrical services, and general administrative services.

The City is an independent political subdivision of the State governed by an elected council and a mayor and is considered a primary government. As required by generally accepted accounting principles, these basic financial statements have been prepared based on considerations regarding the potential for inclusion of other entities, organizations, or functions as part of the City’s financial reporting entity.

The accompanying financial statements present the City and its component units, entities for which the City is considered to be financially accountable. Blended component units are, in substance, part of the primary government’s operations, even though they are legally separate entities. Thus, blended component units are appropriately presented as funds of the primary government. Each discretely presented component unit is reported in a separate column in the government-wide financial statements to emphasize that it is legally separate from the government.

**Blended Component Unit**

The Hunters Crossing Local Government Corporation (the “Corporation”) was established to administer the service plan of the Hunters Crossing Public Improvement District (PID). The PID was established on September 11, 2001 by resolution of the Bastrop City Council. That resolution was later amended on November 11, 2003. The purpose for creation of the PID was to provide for the construction of certain public improvements and a mechanism for the payment of the costs of such construction and the costs of such improvements through the levy of assessments against owners of respective parcels in the PID. The assessment and bond issuance authorizations are approved by the City Council and the City is legally obligated to provide resources in case there are deficiencies in debt service payments and resources are not available from any other remedies. The entity is reported as a blended component unit of the City. Separate financial statements for the Corporation can be obtained from the City’s Finance Department.

**Discretely Presented Component Unit**

The Bastrop Economic Development Corporation (BEDC) was established in 1995, after the citizens of the City voted to pass a one-half cent sales tax dedicated to economic development.

**CITY OF BASTROP, TEXAS**  
**NOTES TO FINANCIAL STATEMENTS**  
**For the Year Ended September 30, 2020**

The BEDC's primary purpose is to assist in bringing meaningful and rewarding employment opportunities to citizens in the area through funding assistance provided to businesses to relocate or expand in Bastrop. A separate governing board oversees the BEDC, which is appointed by the City Council, and consists of individuals from the community and related governmental entities in the area. City employees also manage the operations of the BEDC. The BEDC has been reported as a discretely presented component unit because the governing board is not identical to the governing body of the City, the BEDC does not solely serve the City, and the City has the ability to impose its will on the BEDC. Separate financial statements for the BEDC can be obtained from the City's Finance Department.

No other entities, organizations, or functions have been included as part of the City's reporting entity. Additionally, as the City is considered a primary government for financial reporting purposes, its activities are not considered a part of any other governmental or other type of reporting entity.

Considerations regarding the potential for inclusion of other entities, organizations, or functions in the City's financial reporting entity are based on criteria prescribed by generally accepted accounting principles. These same criteria are evaluated in considering whether the City is a part of any other governmental or other type of reporting entity. The overriding elements associated with prescribed criteria considered in determining that the City's financial reporting entity status is that of a primary government are that it has a separately elected governing body, it is legally separate, and it is fiscally independent of other state and local governments. Additionally, prescribed criteria under generally accepted accounting principles include considerations pertaining to organizations for which the primary government is financially accountable and considerations pertaining to organizations for which the nature and significance of their relationship with the primary government are such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete.

**B. Government-Wide Financial Statements**

The government-wide financial statements (i.e., the Statement of Net Position and the Statement of Activities) report information on all of the activities of the primary government. *Governmental activities*, which normally are supported by taxes, intergovernmental revenues, and other nonexchange transactions, are reported separately from *business-type activities*, which rely to a significant extent on fees and charges to external customers for support.

**C. Basis of Presentation – Government-Wide Financial Statements**

While separate government-wide and fund financial statements are presented, they are interrelated. The governmental activities column incorporates data from governmental funds and the internal service fund, while business-type activities incorporate data from the City's enterprise funds. Separate financial statements are provided for governmental funds, proprietary funds, and the fiduciary fund.

As a general rule, the effect of interfund activity has been eliminated from the government-wide financial statements. Exceptions to this general rule are payments in lieu of taxes where the amounts are reasonably equivalent in value to the interfund services provided and other charges between the City's water and wastewater functions and various other functions of the City. Elimination of these charges would distort the direct costs and program revenues reported for the various functions concerned.

**CITY OF BASTROP, TEXAS**  
**NOTES TO FINANCIAL STATEMENTS**  
**For the Year Ended September 30, 2020**

The following is a summary of changes in capital assets for the BEDC for the year end:

	<u>Beginning Balance</u>	<u>Increases</u>	<u>(Decreases)/ Reclassifications</u>	<u>Ending Balance</u>
<b>BEDC:</b>				
Capital assets not being depreciated:				
Land	\$ 511,695	\$ -	\$ -	\$ 511,695
Construction in progress	2,012,118	3,001,140	(1,374,896)	3,638,362
Total capital assets not being depreciated	<u>2,523,813</u>	<u>3,001,140</u>	<u>(1,374,896)</u>	<u>4,150,057</u>
Other capital assets:				
Machinery and equipment	8,300	-	-	8,300
Buildings	845,595	-	-	845,595
Total other capital assets	<u>853,895</u>	<u>-</u>	<u>-</u>	<u>853,895</u>
Less accumulated depreciation for:				
Machinery and equipment	(6,917)	(1,384)	-	(8,301)
Buildings	(341,472)	(16,132)	-	(357,604)
Total accumulated depreciation	<u>(348,389)</u>	<u>(17,516)</u>	<u>-</u>	<u>(365,905)</u>
Other capital assets, net	505,506	(17,516)	-	487,990
<b>BEDC Capital Assets, Net</b>	<u>\$ 3,029,319</u>	<u>\$ 2,983,624</u>	<u>\$ (1,374,896)</u>	<u>4,638,047</u>
			Less associated debt	<u>(2,779,890)</u>
			<b>Net Investment in Capital Assets</b>	<u>\$ 1,858,157</u>

#### D. Long-Term Debt

The City issues general obligation bonds, certificates of obligation, and tax and revenue bonds to provide funds for the acquisition and construction of major capital facilities and improvement projects. Long-term debt of this nature has been issued for both governmental and business-type activities. These debt instruments are direct obligations and pledge the full faith and credit of the City. General obligation bonds and certificates of obligation generally are issued with repayment scheduled to occur as equal amounts of principal maturing each year with maturities that range from 3 to 30 years. The City issues maintenance tax notes or obtains regular notes payable financing arrangements from banks to provide funds for the acquisition of equipment or minor capital projects. Tax notes and regular notes payable are direct obligations and pledge the full faith and credit of the government. These debt instructions are generally repaid in equal installments of principal and interest over a period of 3 to 10 years.

#### Federal Arbitrage

The Tax Reform Act of 1986 instituted certain arbitrage restrictions consisting of complex regulations with respect to issuance of tax-exempt bonds after August 31, 1986. Arbitrage regulations deal with the investment of tax-exempt bond proceeds at an interest yield greater than the interest yield paid to bondholders. Generally, all interest paid to bondholders can be retroactively rendered taxable if applicable rebates are not reported and paid to the Internal Revenue Service (IRS) at least every five years for applicable bond issues. Accordingly, there is the risk that if such calculations are not performed, or are not performed correctly, a substantial liability to the City could result. The City periodically engages an arbitrage consultant to perform the calculations in accordance with the rules and regulations of the IRS.



**CITY OF BASTROP, TEXAS**  
**NOTES TO FINANCIAL STATEMENTS**  
For the Year Ended September 30, 2020

Long-term debt at year end was comprised of the following debt issues:

Description	Interest Rate Payable	Amount Original Issue	Balance
<b><u>Governmental Activities:</u></b>			
<b>BONDS PAYABLE</b>			
Gen. Oblig. Bonds, Series 2005	3.67%	\$ 2,445,000	\$ 815,000
Gen. Oblig. Bonds, Series 2006	4.24%	345,000	140,000
Certificates of Oblig., Series 2006 (31.4%)	4.19%	227,650	62,800
Gen. Oblig. Bonds, Series 2007	4.08%	1,220,000	560,000
Certificates of Obligation, Series 2007 (11.42%)	4.04%	264,944	121,654
Gen. Oblig. Ref. & Improvement Bonds, Series 2012	2.0 - 3.0%	2,015,000	925,000
Combination Tax & Rev., Cert. of Oblig., Series 2013 (67.2%)	3.0 - 4.25%	7,392,000	6,243,000
GO Refunding, Series 2014 (74.53%)	2.0 - 4.0%	1,695,558	2,005,000
GO Refunding, Series 2016 (58%)	2.0 - 4.0%	1,440,000	1,100,000
GO Refunding, Series 2017 (83%)	2.0 - 4.0%	3,745,000	3,060,000
Combination Tax & Rev., Cert. of Oblig., Series 2018	3.75 - 4.0%	4,605,000	4,220,000
Limited Tax Note, Series 2019	1.78%	465,000	450,000
Combination Tax & Rev., Cert. of Oblig, Series 2020	2.0-4.0%	2,615,000	2,615,000
Gen. Oblig. Refunding Bonds, Series 2020 (60.42%)	0.96-1.27%	1,446,497	1,446,467
<b>TOTAL BONDS PAYABLE</b>			<u>23,763,921</u>
<b>NOTE PAYABLE</b>			
Note Payable - Texas Capital Fund - Art Foundry	0.00%	447,351	240,451
<b>TOTAL GOVERNMENTAL ACTIVITIES</b>			<u>\$ 24,004,372</u>
<b><u>Business-Type Activities:</u></b>			
<b>BONDS PAYABLE</b>			
Certificates of Oblig., Series 2006 (68.6%)	4.19%	497,350	\$ 137,200
Certificates of Oblig., Series 2007 (88.58%)	4.04%	2,055,056	943,377
Combination Tax & Rev., Cert. of Oblig., Series 2012	2.0 - 4.0%	4,200,000	2,960,000
Combination Tax & Rev., Cert. of Oblig., Series 2013 (32.8%)	3.0 - 4.25%	3,608,000	3,047,000
Combination Tax & Rev., Cert. of Oblig., Series 2014 (85.5%)	2.0 - 3.5%	5,985,000	4,552,875
GO Refunding., Series 2016 (42%)	2.0-4.0%	1,085,000	835,000
Utility System Revenue Bonds, Series 2019	2.0-4.0%	1,900,000	1,835,000
Combination Tax & Rev., Cert. of Oblig., Series 2014 (14.5%)	2.0 - 3.5%	1,015,000	772,125
GO Refunding, Series 2017 (12.7%)	2.0 - 3.5%	610,000	610,000
Gen. Oblig. Refunding Bonds, Series 2020 (39.58%)	2.0-4.0%	948,503	948,502
Utility System Revenue Bonds, Series 2020	2.0-5.0%	20,065,000	20,065,000
<b>TOTAL BONDS PAYABLE</b>			<u>36,706,079</u>
<b>NOTES PAYABLE</b>			
Note Payable - Ingram Note	0.00%	600,000	240,000
Note Payable-XS Ranch Water Co.	0.00%	1,000,000	600,000
<b>TOTAL NOTES PAYABLE</b>			<u>840,000</u>
<b>TOTAL BUSINESS-TYPE ACTIVITIES</b>			<u>\$ 37,546,079</u>
<b><u>BEDC:</u></b>			
<b>BONDS PAYABLE</b>			
Sales Tax and Revenue Bonds, Series 2018	3.39%	1,250,000	1,120,000
<b>TOTAL BONDS PAYABLE</b>			<u>\$ 1,120,000</u>
<b>NOTES PAYABLE</b>			
Note Payable - City of Bastrop	0.00%	600,000	240,000
Note Payable - Roscoe loan	0.00%	1,420,000	1,419,890
<b>OTHER NOTE TO CITY</b>			
Due to City of Bastrop - 24.2% Cert. of Oblig., Series 2013	0.00%		2,250,000
Due to City of Bastrop - 13.4% GO Refunding, Series 2017	0.00%		500,000
Due to City of Bastrop - 5.23% GO Refunding, Series 2020	0.00%		125,041
<b>TOTAL NOTES PAYABLE</b>			<u>4,534,931</u>
<b>TOTAL BEDC</b>			<u>\$ 5,654,931</u>



**CITY OF BASTROP, TEXAS**  
**NOTES TO FINANCIAL STATEMENTS**  
**For the Year Ended September 30, 2020**

The annual requirements to amortize bond and notes outstanding at year end were as follows:

**Governmental Activities:**

Fiscal year	Bonds and C.O.			Notes			Total		
	Principal	Interest	Total	Principal	Interest	Total	Principal	Interest	Total
2021	\$ 2,124,415	\$ 829,370	\$ 2,953,785	\$ 22,368	\$ -	\$ 22,368	\$ 2,146,783	\$ 829,370	\$ 2,976,153
2022	2,245,692	774,224	3,019,916	22,368	-	22,368	2,268,060	774,224	3,042,284
2023	2,238,632	707,224	2,945,856	22,368	-	22,368	2,261,000	707,224	2,968,224
2024	2,137,672	628,582	2,766,254	22,368	-	22,368	2,160,040	628,582	2,788,622
2025	1,974,262	554,337	2,528,599	22,368	-	22,368	1,996,630	554,337	2,550,967
2026-2030	8,774,248	1,742,920	10,517,168	111,838	-	111,838	8,886,086	1,742,920	10,629,006
2031-2035	3,469,000	444,064	3,913,064	16,773	-	16,773	3,485,773	444,064	3,929,837
2036-2040	800,000	59,913	859,913	-	-	-	800,000	59,913	859,913
	<u>\$ 23,763,921</u>	<u>\$ 5,740,634</u>	<u>\$ 29,504,555</u>	<u>\$ 240,451</u>	<u>\$ -</u>	<u>\$ 240,451</u>	<u>\$ 24,004,372</u>	<u>\$ 5,740,634</u>	<u>\$ 29,745,006</u>

**Business-type Activities:**

Fiscal year	Bonds and C.O.			Notes			Total		
	Principal	Interest	Total	Principal	Interest	Total	Principal	Interest	Total
2021	\$ 1,165,585	\$ 1,177,008	\$ 2,342,593	\$ 60,000	\$ -	\$ 60,000	\$ 1,225,585	\$ 1,177,008	\$ 2,402,593
2022	1,544,308	1,099,282	2,643,590	260,000	-	260,000	1,804,308	1,099,282	2,903,590
2023	1,581,368	1,058,105	2,639,473	260,000	-	260,000	1,841,368	1,058,105	2,899,473
2024	1,627,328	1,016,195	2,643,523	260,000	-	260,000	1,887,328	1,016,195	2,903,523
2025	1,510,738	964,093	2,474,831	-	-	-	1,510,738	964,093	2,474,831
2026-2030	8,270,752	3,934,819	12,205,571	-	-	-	8,270,752	3,934,819	12,205,571
2031-2035	7,246,000	2,428,930	9,674,930	-	-	-	7,246,000	2,428,930	9,674,930
2036-2040	4,365,000	1,619,763	5,984,763	-	-	-	4,365,000	1,619,763	5,984,763
2041-2045	4,360,000	1,071,338	5,431,338	-	-	-	4,360,000	1,071,338	5,431,338
2046-2050	5,035,000	399,050	5,434,050	-	-	-	5,035,000	399,050	5,434,050
	<u>\$ 36,706,079</u>	<u>\$ 14,768,582</u>	<u>\$ 51,474,661</u>	<u>\$ 840,000</u>	<u>\$ -</u>	<u>\$ 840,000</u>	<u>\$ 37,546,079</u>	<u>\$ 14,768,582</u>	<u>\$ 52,314,661</u>

**BEDC:**

Fiscal year	Bonds and C.O.			Notes			Total		
	Principal	Interest	Total	Principal	Interest	Total	Principal	Interest	Total
2021	\$ 70,000	\$ 37,968	\$ 107,968	\$ 219,478	\$ 158,043	\$ 377,521	\$ 289,478	\$ 196,011	\$ 485,489
2022	70,000	35,595	105,595	281,966	154,331	436,297	351,966	189,926	541,892
2023	75,000	33,222	108,222	285,945	146,982	432,927	360,945	180,204	541,149
2024	75,000	30,680	105,680	296,765	141,261	438,026	371,765	171,941	543,706
2025	80,000	28,137	108,137	257,678	135,329	393,007	337,678	163,466	501,144
2026-2030	445,000	97,802	542,802	1,464,641	547,073	2,011,714	1,909,641	644,875	2,554,516
2031-2035	305,000	20,849	325,849	1,001,259	278,384	1,279,643	1,306,259	299,233	1,605,492
2036-2040	-	-	-	377,980	135,909	513,889	377,980	135,909	513,889
2041-2045	-	-	-	349,219	33,933	383,152	349,219	33,933	383,152
	<u>\$ 1,120,000</u>	<u>\$ 284,253</u>	<u>\$ 1,404,253</u>	<u>\$ 4,534,931</u>	<u>\$ 1,731,245</u>	<u>\$ 6,266,176</u>	<u>\$ 5,654,931</u>	<u>\$ 2,015,498</u>	<u>\$ 7,670,429</u>

**New Debt**

On June 9, 2020, the City issued the Water and Wastewater Utility System Revenue Bonds, Series 2020 to secure funding for wastewater treatment plan building and expansion. The principal on the bonds totaled \$20,065,000 and carry and interest rate from 2.00 to 5.00%. The bonds will mature in August of 2039.

On February 6, 2020, the City issued the Combination Tax and Revenue Certificates of Obligation, Series 2020 to secure funding for the acquisition of public safety equipment. The principal on the bonds totaled \$2,615,000 and carry an interest rate from 2.00 to 4.00%. The certificates will mature in August of 2030.

**Advanced Refunding**

On June 17, 2020, the City issued the General Obligation Refunding Bond, Series 2020. This was an advance refunding to fully defease the Series 2010 Refunding, Series 2011 Refunding and Series 2010 certificates of obligation. The net proceeds exceeded the payment to escrow agent representing a loss on refunding of \$8,924. The refunding was undertaken to reduce gross debt service payments by \$80,500 and is considered a present value economic savings of \$73,632.

**CITY OF BASTROP, TEXAS**  
**NOTES TO FINANCIAL STATEMENTS**  
**For the Year Ended September 30, 2020**

Liabilities are reported when it is probable that a loss has occurred and the amount of the loss can be reasonably estimated. Liabilities include an amount for claims that have been incurred but not reported. Claim liabilities are calculated considering the effects of inflation, recent claim settlement trends, including frequency and amount of payouts, and other economic and social factors. No claim liabilities are reported at year end.

**C. COVID-19**

In March 2020, COVID-19 was recognized as a pandemic both worldwide and in the United States with local stay at-home orders going into effect. The City navigated through this time by alternating the schedules of its employees due to various City functions needing to continue to run through this time. The City followed the directions of the State in relation to Municipal Court. The Court was closed until the City came up with an acceptable plan to monitor social distancing, require masks, and provide hand sanitizers. Subsequent to the second wave of the COVID outbreak, the State is now requiring Municipal Court to be held via Zoom meetings. While the initial event occurred prior to yearend, the City was, subsequent to year end, continuing to modify its operations to prevent the spread to customers, staff, and the community as a whole, while balancing the needs of the community. The City has made numerous changes to its operations, including provisions for customer and staff to wear masks, more frequent cleanings, and numerous other changes. While such changes cause a significant hardship and have increased expenses, such increases are nominal in comparison to the overall budget. The City is continuing to monitor exposure levels with customer, staff, and the community as a whole, but to date the overall exposure threat level has been sufficiently low to continue with open doors; however the City is ready to modify plans if necessary.

**D. Construction and Other Significant Commitments**

Commitments

Construction in progress and remaining commitments under related construction contracts for governmental activities projects at year end are as follows:

<b><u>Governmental Activities:</u></b>	<b><u>Spent To Date</u></b>	<b><u>Remaining Commitment</u></b>
Elevated Storage Tank Hwy 20	\$ 1,420,580	\$ 70,220
Ground Storage Tank Hwy 20	898,123	273,968
Pine Street Drainage Improvements	437,075	10,000
Gills Branch Drainage Improvements	414,959	128,631
Main Street Sidewalk and Street Reconstruction	1,381,296	415,091
Skate Park	-	246,000
WWTP#3 and Collector Lines - Engineering	3,266,363	2,961,556
XS Water Line and Water Plant-Engineering	209,537	4,575,130
<b>Total</b>	<b><u>\$ 8,027,933</u></b>	<b><u>\$ 8,680,596</u></b>
 <b><u>BEDC:</u></b>		
921 Main St. Building	<u>\$ 1,823,144</u>	<u>\$ 589,004</u>

**CITY OF BASTROP, TEXAS**  
**NOTES TO FINANCIAL STATEMENTS**  
For the Year Ended September 30, 2020

**G. Restatement**

Beginning net position for the BEDC was restated for an adjustment in land from the prior year.

	<b>BEDC</b>
Prior year ending fund balance/net position	\$ 4,210,601
Land adjustment	(332,974)
<b>Beginning Fund Balance/Net Position - Restated</b>	<b>\$ 3,877,627</b>

**H. Tax Abatement - Economic Development Agreement**

The City and the BEDC enter into economic development agreements designed to promote development and redevelopment within the City, stimulate commercial activity, generate additional sales tax, and enhance the property tax base and economic vitality of the City. This program refunds property and sales taxes as authorized under Chapter 380 and 501 of the Texas Local Government Code.

In January 2012, the BEDC entered into an agreement with a developer to rebate one-half cent of sales tax. Commitments made by the developer include providing a community kiosk, complying with building codes, and maintaining the property in good order and condition. The maximum amount to be rebated is \$700,000 over ten years. As of yearend, \$700,000 was rebated, including \$83,507 in the current fiscal year.

The City and the BEDC entered into an agreement with a developer in August 2007 to rebate one and one-half cents of sales tax. The City also agreed to rebate 50% of the incremental increase in property taxes since 2007. Commitments made by the developer include building a project based on guidelines in the agreement, complying with building codes, and maintaining the property in good order and condition. The maximum amount to be rebated by the City and BEDC is \$7,370,694 plus owner's actual cost of funds (interest carry), over fifteen years. As of yearend \$7,678,716 was rebated, including \$1,048,748 in the current fiscal year.

## AGENDA MEMORANDUM

Meeting Date: April 19, 2021

Agenda Item: Discussion and possible action on Resolution R-2021-0007 entering into a Professional Services Agreement with Terracon to perform a Geotechnical Study and Phase I Environmental Study for the southern portion of the Bastrop Business and Industrial Park.

Prepared by: BEDC Staff

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Business prospects often look for “shovel-ready” property because the initial work has already been completed (e.g., soil analysis, environmental studies, surveys, public infrastructure, etc.), thereby reducing the amount of time it takes to get a project on the ground.

As stated in the BEDC’s Strategic Plan, “because speed to market is important, communities with ready to market properties have an advantage.”

In order to create additional shovel-ready lots in the Bastrop Business & Industrial Park, the BEDC Project Manager is requesting to proceed with the first steps toward that goal, which are a Phase I Environmental Site Assessment and a Geotechnical Study.

Representatives from Terracon are scheduled to attend the board meeting to explain the studies in greater detail and to answer any questions.

NOTE: The appropriate exhibits will be added to the PSA once it is approved by the BEDC Board.

Attachments:

Proposals from Terracon:

- 1) Proposal for Preliminary Geotechnical Engineering Services
- 2) Proposal for a Phase I Environmental Site Assessment

Draft Resolution R-2021-0007

Draft Professional Services Agreement (PSA)

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**Recommendation** – Approve Resolution R-2021-0007 as submitted.

**[RECOMMENDED MOTION]** – I move to approve Resolution R-2021-0007 as submitted.



November 23, 2020



Bastrop Economic Development Corporation  
301 Highway 71 W Ste 214  
Bastrop, TX 78602

Attn: Mr. Cameron Cox  
P: (512) 332-8870  
E: Cameron@bastropedc.org

Re: Proposal for Preliminary Geotechnical Engineering Services  
BEDC 85 Acres Preliminary  
Technology Drive  
Bastrop, Texas  
Terracon Proposal No. PA1205112

Dear Mr. Cox:

We appreciate the opportunity to submit this proposal to Bastrop Economic Development Corporation (BEDC) to provide Preliminary Geotechnical Engineering services for the above referenced project. The following are exhibits to the attached Agreement for Services.

Exhibit A	Project Understanding
Exhibit B	Scope of Services
Exhibit C	Compensation and Project Schedule
Exhibit D	Site Location and Nearby Geotechnical Data
Exhibit E	Anticipated Exploration Plan

Our base fee to perform the Scope of Services described in this proposal is \$20,500. See Exhibit C for more details of our fees and consideration of additional services.

Your authorization for Terracon to proceed in accordance with this proposal can be issued by signing and returning a copy of the attached Agreement for Services to our office.

Sincerely,

**Terracon Consultants, Inc.**

Joseph D. Hill, P.E.  
Office Manager/Senior Associate

Alton G. Rogers, P.E.  
Senior Engineer/Senior Associate

Terracon Consultants, Inc. 6198 Imperial Loop College Station, Texas 77845  
P [979] 846 3767 F [979] 846 7604 terracon.com

## AGREEMENT FOR SERVICES

This AGREEMENT is between Bastrop Economic Development Corporation ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the BEDC 85 Acres Preliminary project ("Project"), as described in Consultant's Proposal dated 11/23/2020 ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

1. **Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services section ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. When Consultant subcontracts to other individuals or companies, then consultant will collect from Client on the Subcontractors' behalf. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
2. **Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.
3. **Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
4. **Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
5. **Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
6. **LIMITATION OF LIABILITY. CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$25,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.**
7. **Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of Services on the project.
8. **Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. **EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
9. **Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii) commercial general liability insurance (\$1,000,000 occ / \$2,000,000 agg); (iii) automobile liability insurance (\$1,000,000 B.I. and P.D. combined single

- limit); and (iv) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.
10. **CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.**
  11. **Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to Kansas law.
  12. **Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
  13. **Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
  14. **Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
  15. **Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
  16. **Utilities.** Unless otherwise stated in the Proposal, Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
  17. **Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any other parties, including Client, Client's contractors, subcontractors, or other parties present at the site. In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to the coronavirus. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and risk assessment processes. Client acknowledges its responsibility for notifying Consultant of any circumstances that present a risk of exposure to the coronavirus or individuals who have tested positive for COVID-19 or are self-quarantining due to exhibiting symptoms associated with the coronavirus.

Consultant: Terracon Consultants, Inc.  
 By: \_\_\_\_\_ Date: 11/23/2020  
 Name/Title: Joseph D. Hill, P.E. / Office Manager  
 Address: 6198 Imperial Loop  
College Station, TX 77845-5765  
 Phone: (979) 846-3767 Fax: (979) 846-7604  
 Email: Joe.Hill@terracon.com

Client: Bastrop Economic Development Corporation  
 By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Name/Title: Cameron Cox / Chief Executive Officer  
 Address: 301 Highway 71 W Ste 214  
Bastrop, TX 78602-4111  
 Phone: (512) 332-8870 Fax: \_\_\_\_\_  
 Email: cameron@bastropedc.org

**Proposal for Preliminary Geotechnical Engineering Services**

BEDC 85 Acres Preliminary ■ Bastrop, Texas

November 23, 2020 ■ Terracon Proposal No. PA1205112

**EXHIBIT A - PROJECT UNDERSTANDING**

Our Scope of Services is based on our understanding of the project as described by BEDC and the expected subsurface conditions as described below. We have visited the project site to confirm the information provided. Aspects of the project, undefined or assumed, are **highlighted as shown below**. We request the design team verify all information prior to our initiation of field exploration activities.

**Site Location and Anticipated Conditions**

Item	Description
<b>Parcel Information</b>	The project is located at Technology Drive in Bastrop, Texas. Approximately 85 acres 30.093845° N 97.312302° W (approximate) (See Exhibit D)
<b>Existing Improvements<sup>1</sup></b>	There is an existing substation at the southeast corner of the site, a transmission line running east to west through the north portion of the site, and a natural gas pipeline along the western site boundary.
<b>Current Ground Cover<sup>1</sup></b>	Lightly vegetated with scattered trees on the western portion of the site and densely vegetated with brush and trees on the eastern portion of the site.
<b>Existing Topography<sup>1</sup></b>	The elevation at the western edge of the site is approximately 360 feet MSL and gradually increases to approximately 465 feet MSL at the eastern edge of the site.
<b>Site Access</b>	<b>We expect the site, and all exploration locations, are accessible with our truck-mounted drilling equipment.</b> Clearing of paths will be necessary to access boring locations in the densely vegetated areas. We can provide this service for an additional fee.
<b>Expected Subsurface Conditions</b>	Our experience near the vicinity of the proposed development and geologic maps indicates subsurface conditions consist of sandy lean clay and clayey sand with some silt and gravel throughout.

<sup>1</sup> From Google Earth Imagery

**Planned Construction**

Item	Description
<b>Information Provided</b>	Information was provided by Jean Riemenschneider with BEDC via email on November 12, 2020 and during a follow up phone call on November 13, 2020. A site visit was made on November 18, 2020. The following attachments were also provided: <ul style="list-style-type: none"> <li>■ "Lower 68 ac tract.pdf"</li> <li>■ "Bastrop-County-CLI-Complete.#43.pdf"</li> <li>■ "1996 Geotechnical Engineering Report Industrial Park.pdf"</li> </ul>



**Proposal for Preliminary Geotechnical Engineering Services**

BEDC 85 Acres Preliminary ■ Bastrop, Texas

November 23, 2020 ■ Terracon Proposal No. PA1205112



Item	Description
<b>Project Description</b>	The project consists of a preliminary geotechnical study for the proposed development of this site. Detailed site development plans were not available at the time of this proposal; however numerous companies are interested in portions of this site for different uses.
<b>Proposed Structure</b>	Potential structures may require shallow or deep foundations.
<b>Pavements</b>	<p>Terracon shall provide recommendations for light, medium, and heavy duty pavement recommendations as part of the proposed development. We assume both rigid (concrete) and flexible (asphalt) pavement sections may be considered.</p> <p>Anticipated traffic is as follows:</p> <ul style="list-style-type: none"> <li>■ Autos/light trucks: 1,000 vehicles per day</li> <li>■ Light delivery and trash collection vehicles: 50 vehicles per week</li> <li>■ Tractor-trailer trucks: 20 vehicles per week</li> </ul> <p>The pavement design period is 20 years.</p>

**Proposal for Preliminary Geotechnical Engineering Services**

BEDC 85 Acres Preliminary ■ Bastrop, Texas

November 23, 2020 ■ Terracon Proposal No. PA1205112

**EXHIBIT B - SCOPE OF SERVICES**

Our proposed Scope of Services consists of field exploration, laboratory testing, and engineering/project delivery. These services are described in the following sections.

**Field Exploration**

The field exploration program consists of the following:

Number of Borings	Planned Boring Depth (feet) <sup>1</sup>	Planned Location
15	25 or auger refusal	See Exhibit E

1. Below ground surface.

**Boring Layout and Elevations:** We will use handheld GPS equipment to locate borings with an estimated horizontal accuracy of +/-20 feet. Field measurements from existing site features may be utilized. If available, approximate elevations will be obtained by interpolation from a site specific, surveyed topographic map.

**Subsurface Exploration Procedures:** We will advance soil borings with a truck-mounted drill rig using continuous flight augers (solid stem and/or hollow stem, as necessary, depending on soil conditions). Five samples will be obtained in the upper 10 feet of each boring and at intervals of 5 feet thereafter. Soil sampling is typically performed using thin-wall tube and/or split-barrel sampling procedures. The split-barrel samplers are driven in accordance with the standard penetration test (SPT). The samples will be placed in appropriate containers, taken to our soil laboratory for testing, and classified by a Geotechnical Engineer. In addition, we will observe and record groundwater levels during drilling and sampling.

Our exploration team will prepare field boring logs as part of standard drilling operations including sampling depths, penetration distances, and other relevant sampling information. Field logs include visual classifications of materials encountered during drilling, and our interpretation of subsurface conditions between samples. Final boring logs, prepared from field logs, represent the Geotechnical Engineer's interpretation, and include modifications based on observations and laboratory tests.

**Property Disturbance:** We will backfill borings with auger cuttings upon completion. Our services do not include repair of the site beyond backfilling our boreholes, and cold patching existing pavements. Excess auger cuttings will be dispersed in the general vicinity of the borehole. Because backfill material often settles below the surface after a period, we recommend boreholes to be periodically checked and backfilled, if necessary. We can provide this service, or grout the boreholes for additional fees, at your request.

**Proposal for Preliminary Geotechnical Engineering Services**

BEDC 85 Acres Preliminary ■ Bastrop, Texas

November 23, 2020 ■ Terracon Proposal No. PA1205112

**Safety**

Terracon is not aware of environmental concerns at this project site that would create health or safety hazards associated with our exploration program; thus, our Scope considers standard OSHA Level D Personal Protection Equipment (PPE) appropriate. Our Scope of Services does not include environmental site assessment services, but identification of unusual or unnatural materials encountered while drilling will be noted on our logs and discussed in our report.

Exploration efforts require borings (and possibly excavations) into the subsurface, therefore Terracon will comply with local regulations to request a utility location service through Texas 811. We will consult with the owner/client regarding potential utilities, or other unmarked underground hazards. Based upon the results of this consultation, we will consider the need for alternative subsurface exploration methods, as the safety of our field crew is a priority.

Private utilities should be marked by the owner/client prior to commencement of field exploration. Terracon will not be responsible for damage to private utilities not disclosed to us. If the owner/client is unable to accurately locate private utilities, Terracon can assist the owner/client by coordinating or subcontracting with a private utility locating services. Fees associated with the additional services are not included in our current Scope of Services and will be forwarded to our client for approval prior to initiating. The detection of underground utilities is dependent upon the composition and construction of the utility line; some utilities are comprised of non-electrically conductive materials and may not be readily detected. The use of a private utility locate service would not relieve the owner of their responsibilities in identifying private underground utilities.

**Site Access and Safety:** Terracon must be granted access to the site by the property owner. By acceptance of this proposal, without information to the contrary, we consider this as authorization to access the property for conducting field exploration in accordance with the Scope of Services. In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to the coronavirus. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and risk assessment processes. Client acknowledges its responsibility for notifying Consultant of any circumstances that present a risk of exposure to the coronavirus or individuals who have tested positive for COVID-19 or are self-quarantining due to exhibiting symptoms associated with the coronavirus.

**Laboratory Testing**

The project engineer will review field data and assign laboratory tests to understand the engineering properties of various soil strata. Exact types and number of tests cannot be defined until completion of field work. The anticipated laboratory testing may include the following:

- Laboratory Determination of Water (Moisture) Content of Soil and Rock by Mass
- Laboratory Determination of Density (Unit Weight) of Soil Specimens

**Proposal for Preliminary Geotechnical Engineering Services**

BEDC 85 Acres Preliminary ■ Bastrop, Texas

November 23, 2020 ■ Terracon Proposal No. PA1205112



- Liquid Limit, Plastic Limit, and Plasticity Index of Soils
- Determining the Amount of Materials Finer than No. 200 Sieve in Soils by Washing
- Particle-Size Analysis of Soils
- Unconfined Compressive Strength of Cohesive Soil

Our laboratory testing program often includes examination of soil samples by an engineer. Based on the material's texture and plasticity, we will describe and classify soil samples in accordance with the Unified Soil Classification System (USCS).

**Engineering and Project Delivery**

Results of our field and laboratory programs will be evaluated by a professional engineer. The engineer will develop a geotechnical site characterization, perform the engineering calculations necessary to evaluate foundation alternatives, and develop appropriate geotechnical engineering design criteria for earth-related phases of the project.

Your project will be delivered using our **GeoReport®** system. Upon initiation, we provide you and your design team the necessary link and password to access the website (if not previously registered). Each project includes a calendar to track the schedule, an interactive site map, a listing of team members, access to the project documents as they are uploaded to the site, and a collaboration portal. The typical delivery process includes the following:

- Project Planning – Proposal information, schedule and anticipated exploration plan will be posted for review and verification
- Site Characterization – Findings of the site exploration
- Geotechnical Engineering – Preliminary recommendations and geotechnical engineering report

When utilized, our collaboration portal documents communication, eliminating the need for long email threads. This collaborative effort allows prompt evaluation and discussion of options related to the design and associated benefits and risks of each option. With the ability to inform all parties as the work progresses, decisions and consensus can be reached faster. In some cases, only minimal uploads and collaboration will be required, because options for design and construction are limited or unnecessary. This is typically the case for uncomplicated projects with no anomalies found at the site.

When services are complete, we upload a printable version of our completed geotechnical engineering report, including the professional engineer's seal and signature, which documents our services. Previous submittals, collaboration and the report are maintained in our system. This allows future reference and integration into subsequent aspects of our services as the project goes through final design and construction.

The geotechnical engineering report will provide the following:

**Proposal for Preliminary Geotechnical Engineering Services**

BEDC 85 Acres Preliminary ■ Bastrop, Texas

November 23, 2020 ■ Terracon Proposal No. PA1205112



- Boring logs with field and laboratory data
- Stratification based on visual soil classification
- Groundwater levels observed during and after the completion of drilling
- Site Location and Exploration Plans
- Subsurface exploration procedures
- Description of subsurface conditions
- Preliminary foundation options and engineering design parameters
- Preliminary recommendations for design and construction of interior floor slabs
- Preliminary subgrade preparation/earthwork recommendations
- Preliminary pavement options

**Additional Services**

In addition to the services noted above, the following are often associated with geotechnical engineering services. Fees for services noted above do not include the following:

**Review of Plans and Specifications:** Our geotechnical report and associated verbal and written communications will be used by others in the design team to develop plans and specifications for construction. Review of project plans and specifications is a vital part of our geotechnical engineering services. This consists of review of project plans and specifications related to site preparation, foundation, and pavement construction. Our review will include a written statement conveying our opinions relating to the plans and specifications' consistency with our geotechnical engineering recommendations.

**Observation and Testing of Pertinent Construction Materials:** Development of our geotechnical engineering recommendations and report relies on an interpretation of soil conditions. This is based on widely spaced exploration locations, and assuming construction methods will be performed in a manner sufficient to meet our expectations, and is consistent with recommendations made at the time the geotechnical engineering report is issued. We should be retained to conduct construction observations, and perform/document associated materials testing, for site preparation, foundation, and pavement construction. This allows a more comprehensive understanding of subsurface conditions and necessary documentation of construction, to confirm and/or modify (when necessary) the assumptions and recommendations made by our engineers.

**Perform Environmental Assessments:** Our Scope for this project does not include, either specifically or by implication, an environmental assessment of the site intended to identify or quantify potential site contaminants. If the client/owner is concerned about the potential for such conditions, an environmental site assessment should be conducted. We can provide a proposal for an environmental assessment, if desired.

**Proposal for Preliminary Geotechnical Engineering Services**

BEDC 85 Acres Preliminary ■ Bastrop, Texas

November 23, 2020 ■ Terracon Proposal No. PA1205112

**EXHIBIT C - COMPENSATION AND PROJECT SCHEDULE****Compensation**

Based upon our understanding of the site, the project as summarized in Exhibit A, and our planned Scope of Services outlined in Exhibit B, our base fee is shown in the following table:

Task	Lump Sum Fee
Subsurface Exploration, Laboratory Testing, Geotechnical Consulting & Reporting	\$20,500

Additional services not part of the base fee include the following:

Additional Services (see Exhibit B)	Lump Sum Fee	Initial for Authorization
Private Utility Locate Service <sup>1</sup>	Cost + 15%	
Clearing Service	Cost + 15%	
Plans and Specifications Review	\$500	
Construction Materials Testing Services	TBD	

1. If the owner/client is unable to accurately locate private utilities, we can subcontract a private utility locating firm and/or utilize geophysical equipment, if necessary. The detection of underground utilities is dependent upon the composition and construction of utility lines. Some utilities are comprised of non-electrically conductive materials and may not be readily detected. The use of a private locate service does not relieve the owner of their responsibilities in identifying private underground utilities.

Our Scope of Services does not include services associated with site clearing, wet ground conditions, tree or shrub clearing, or repair of/damage to existing landscape. If such services are desired by the owner/client, we should be notified so we can adjust our Scope of Services.

Unless instructed otherwise, we will submit our invoice(s) to the address shown at the beginning of this proposal. If conditions are encountered that require Scope of Services revisions and/or result in higher fees, we will contact you for approval, prior to initiating services. A supplemental proposal stating the modified Scope of Services as well as its effect on our fee will be prepared. We will not proceed without your authorization.

**Project Schedule**

We developed a schedule to complete the Scope of Services based upon our existing availability and understanding of your project schedule. However, this does not account for delays in field exploration beyond our control, such as weather conditions, permit delays, or lack of permission to access the boring locations. In the event the schedule provided is inconsistent with your needs, please contact us so we may consider alternatives.

**Proposal for Preliminary Geotechnical Engineering Services**

BEDC 85 Acres Preliminary ■ Bastrop, Texas

November 23, 2020 ■ Terracon Proposal No. PA1205112



<b>GeoReport® Delivery</b>	<b>Posting Date from Notice to Proceed <sup>1, 2</sup></b>
Project Planning	2 working days
Site Characterization	20 working days
Geotechnical Engineering	30 working days

1. Upon receipt of your notice to proceed we will activate the schedule component of our **GeoReport®** website with specific, anticipated calendar days for the three delivery points noted above as well as other pertinent events such as field exploration crews on-site, etc.
2. We will maintain a current calendar of activities within our **GeoReport®** website. In the event of a need to modify the schedule, the schedule will be updated to maintain a current awareness of our plans for delivery.

**EXHIBIT D – SITE LOCATION**

BEDC 85 Acres Preliminary ■ Bastrop, Texas

November 23, 2020 ■ Terracon Proposal No. PA1205112

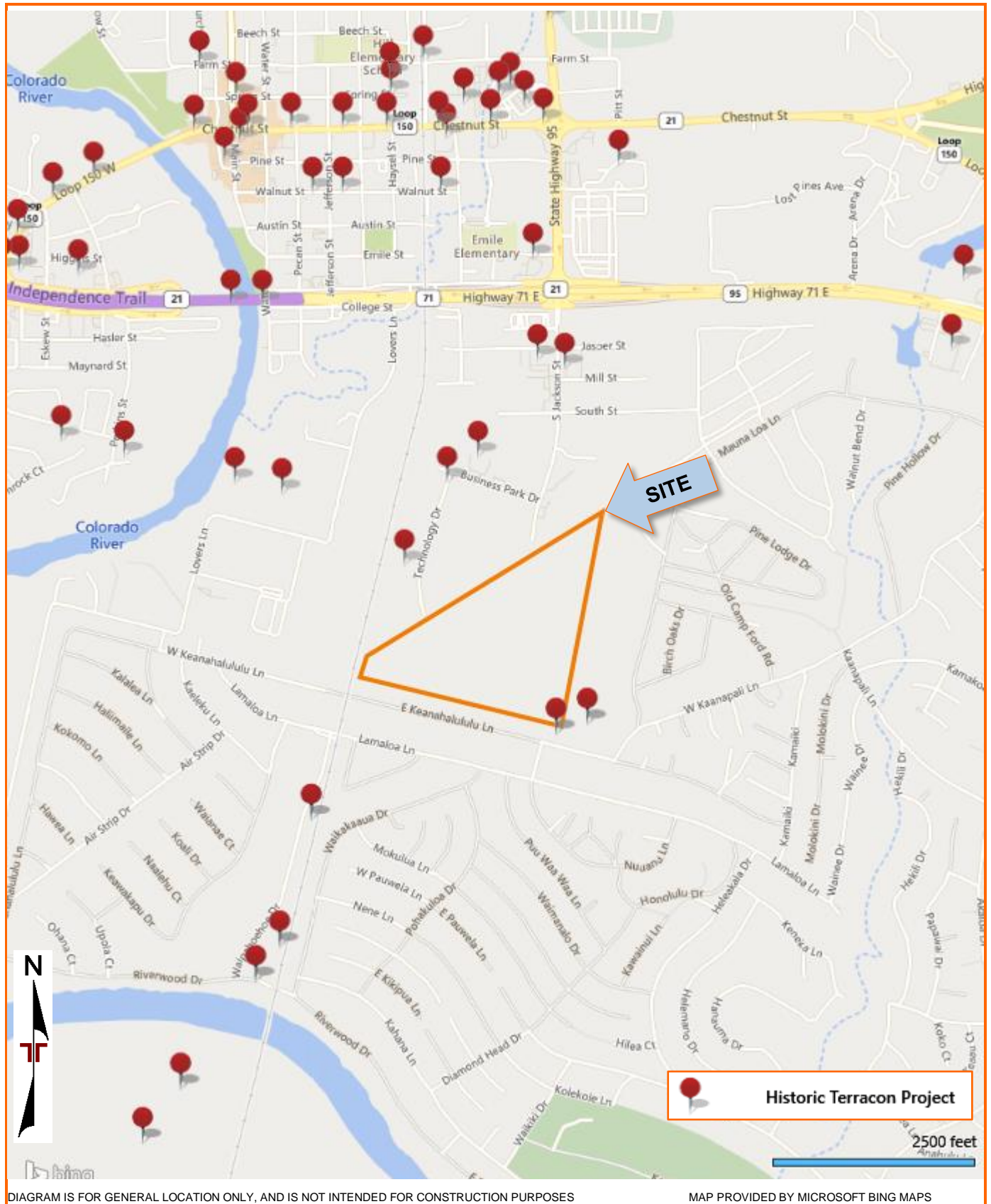


DIAGRAM IS FOR GENERAL LOCATION ONLY, AND IS NOT INTENDED FOR CONSTRUCTION PURPOSES

MAP PROVIDED BY MICROSOFT BING MAPS



**EXHIBIT E – ANTICIPATED EXPLORATION PLAN**

BEDC 85 Acres Preliminary ■ Bastrop, Texas

November 23, 2020 ■ Terracon Proposal No. PA1205112

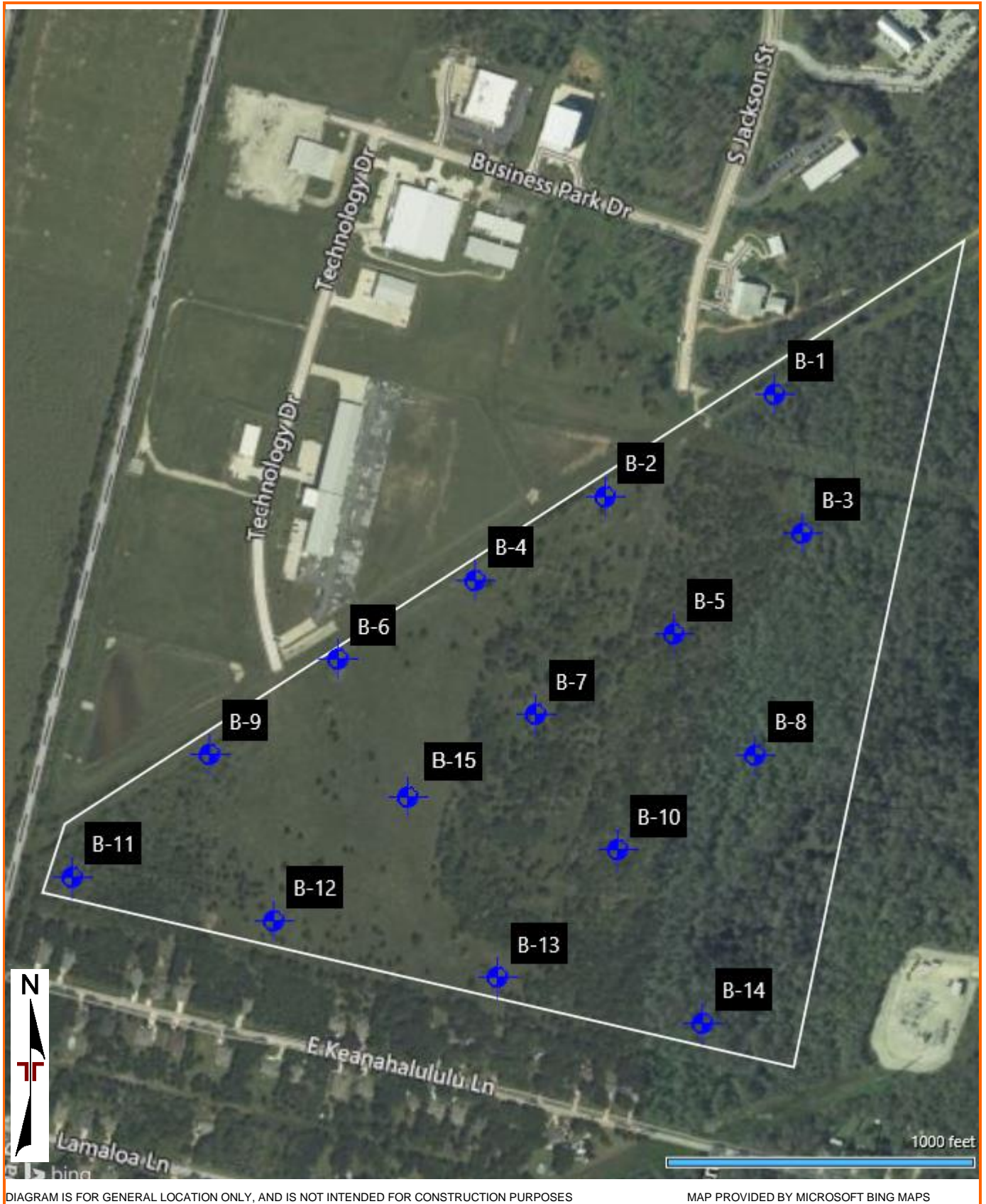


DIAGRAM IS FOR GENERAL LOCATION ONLY, AND IS NOT INTENDED FOR CONSTRUCTION PURPOSES

MAP PROVIDED BY MICROSOFT BING MAPS

November 13, 2020



Bastrop Economic Development Corporation  
301 Highway 71 W., Ste. 214  
Bastrop, TX 78602-4111

Attn: Mr. Cameron Cox  
P: (512) 332-8870  
E: cameron@bastropedc.org

RE: Proposal for a Phase I Environmental Site Assessment  
BEDC - 104-Acres  
Technology Drive  
Bastrop, Bastrop County, TX  
Terracon Proposal No. PA1207049

Dear Mr. Cox:

Terracon Consultants, Inc. (Terracon) appreciates the opportunity to submit this proposal to Bastrop Economic Development Corporation (client) to conduct a Phase I Environmental Site Assessment (ESA) of the above-referenced site. We understand the site is an approximate 104-acre tract of vacant, undeveloped land located within the Bastrop Business and Industrial Park at the end of Technology Drive in Bastrop, Bastrop County, Texas. According to the Bastrop Central Appraisal District website, the site is currently listed as being owned by Bastrop Economic Development Corporation and Bluebonnet Electric Cooperative Inc. and is a part of three contiguous parent tracts. Based on the review of the Capital Area Council of Government website, one unpermitted landfill (known as Bastrop) was identified on the site.

Scope of Services (see Section 2.0 of attached proposal detail)	Phase I ESA consistent with ASTM E1527-13 n Chain of Title/Environmental Lien Search is not included in this fee. n Additional non-scope items: None
Schedule (see Section 2.4 of attached proposal detail)	15 business days from written notice to proceed
Compensation	Lump sum of \$2,800

If this proposal meets with your approval, work may be initiated by returning a fully executed copy of the attached Agreement for Services and User Questionnaire attached to this proposal to our College Station office. **Please provide site contact information with the signed agreement.** The terms, conditions, and limitations stated in the Agreement for Services and

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sections of this proposal incorporated therein, shall constitute the exclusive terms and conditions and services to be performed for this project.

We appreciate the opportunity to provide this proposal and look forward to working with you on this project. If you have any questions or comments regarding this proposal or require additional services, please give me a call.

Sincerely,

**Terracon Consultants, Inc.**

Melissa S. Stevens

Group Manager, Environmental Services

Hilary D. Johns, P.G.

Manager - Environmental Services

Attachments: ASTM E1527-13 User Questionnaire  
Detailed Scope of Services  
Agreement for Services

## Client/User Required Questionnaire



<b>Person Completing Questionnaire</b>	Name: Company:	Phone: Email:
<b>Site Name</b>	BEDC - 104-Acres	
<b>Site Address</b>	Technology Drive, Bastrop, TX	
<b>Point of Contact for Access</b>	Name: Company:	Phone: Email:
<b>Access Restrictions or Special Site Requirements?</b>	___No ___Yes (If yes, please explain)	
<b>Confidentiality Requirements?</b>	___No ___Yes (If yes, please explain)	
<b>Current Site Owner</b>	Name: Company:	Phone: Email:
<b>Current Site Operator</b>	Name: Company:	Phone: Email:
<b>Reasons for ESA</b> (e.g., financing, acquisition, lease, etc.)		
<b>Anticipated Future Site Use</b>		
<b>Relevant Documents?</b>	Please provide Terracon copies of prior Phase I or II ESAs, Asbestos Surveys, Environmental Permits or Audit documents, Underground Storage Tank documents, Geotechnical Investigations, Site Surveys, Diagrams or Maps, or other relevant reports or documents.	
<b>ASTM User Questionnaire</b>		
In order to qualify for one of the Landowner Liability Protections (LLPs) offered by the Small Business Relief and Brownfields Revitalization Act of 2001 (the "Brownfields Amendments"), the user must respond to the following questions. Failure to provide this information to the environmental professional may result in significant data gaps, which may limit our ability to identify recognized environmental conditions resulting in a determination that "all appropriate inquiry" is not complete. This form represents a type of interview and as such, the user has an obligation to answer all questions in good faith, to the extent of their actual knowledge.		
1) Did a search of recorded land title records (or judicial records where appropriate) identify any environmental liens filed or recorded against the property under federal, tribal, state, or local law (40 CFR 312.25)? ___No ___Yes (If yes, explain below and send Terracon a copy of the title records or judicial records reviewed.)		
2) Did a search of recorded land title records (or judicial records where appropriate) identify any activity and use limitations (AULs), such as engineering controls, land use restrictions, or institutional controls that are in place at the property and/or have been filed or recorded against the property under federal, tribal, state, or local law (40 CFR 312.26)? ___No ___Yes (If yes, explain below and send Terracon a copy of the title records or judicial records reviewed.)		
3) Do you have any specialized knowledge or experience related to the site or nearby properties? For example, are you involved in the same line of business as the current or former occupants of the site or an adjoining property so that you would have specialized knowledge of the chemicals and processes used by this type of business (40 CFR 312-28)? ___No ___Yes (If yes, explain below)		
4) Do you have actual knowledge of a lower purchase price because contamination is known or believed to be present at the site (40 CFR 312.29)? ___No ___Yes ___Not applicable (If yes or Not applicable, explain below)		
5) Are you aware of commonly known or reasonably ascertainable information about the site that would help the environmental professional to identify conditions indicative of releases or threatened releases (40 CFR 312.30)? ___No ___Yes (If yes, explain below)		
6) Based on your knowledge and experience related to the site, are there any obvious indicators that point to the presence or likely presence of contamination at the site (40 CFR 312.31)? ___No ___Yes (If yes, explain below)		
<u>Comments or explanations:</u>		

Please return this form with the signed authorization to proceed.

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## DETAILED SCOPE OF SERVICES

### 1.0 PROJECT INFORMATION

We understand the site is an approximate 104-acre tract of vacant, undeveloped land located within the Bastrop Business and Industrial Park at the end of Technology Drive in Bastrop, Bastrop County, Texas. According to the Bastrop Central Appraisal District website, the site is currently listed as being owned by Bastrop Economic Development Corporation and Bluebonnet Electric Cooperative Inc. and is a part of three contiguous parent tracts. Based on the review of the Capital Area Council of Government website, one unpermitted landfill (known as Bastrop) was identified on the site. If this is not accurate, or if you have additional useful information, please inform us as soon as possible.

### 2.0 SCOPE OF SERVICES

#### 2.1 Base Phase I ESA Services

The ESA will be performed consistent with the procedures included in ASTM E1527-13, *Standard Practice for Environmental Site Assessments: Phase I Environmental Assessment Process*. The purpose of this ESA is to assist the client in developing information to identify recognized environmental conditions (RECs - as defined below) in connection with the site as reflected by the scope of this proposal. The potential for vapor migration will be addressed as part of a Phase I ESA and will be considered by Terracon in evaluation of RECs associated with the site. If modifications to the scope of services are required, please contact us to discuss proposal revisions.

#### REC Definition

Recognized environmental conditions are defined by ASTM E1527-13 as “the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: 1) due to any release to the environment, 2) under conditions indicative of a release to the environment, or 3) under conditions that pose a material threat of a future release to the environment. *De minimis* conditions are not recognized environmental conditions.”

#### Physical Setting

The physical setting for the site will be described based on a review of the applicable USGS topographic quadrangle map, USDA soil survey, and selected geologic reference information.

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**Historical Use Information**

A review of selected historical sources, where reasonably ascertainable and readily available, will be conducted in an attempt to document obvious past land use of the site and adjoining properties back to 1940 or when the site was initially developed, whichever is earlier. The following selected references, depending on applicability and likely usefulness, will be reviewed for the site.

- Historical topographic maps
- Aerial photographs (approximate 10 to 15-year intervals)
- City directories (approximate 5-year intervals)
- Fire (Sanborn) insurance maps
- Property tax file information
- Building department records
- Zoning records
- Prior environmental reports, permits and registrations; or geotechnical report, if provided by the client.
- Site title search information, if provided by client
- Environmental liens, if provided by client

Pursuant to ASTM E1527-13, the client should engage a title company or title professional to undertake a review of reasonably ascertainable recorded land title records (or judicial records where appropriate) for environmental liens and activity and use limitations currently recorded against or relating to the site. If the client is unable to provide land title records (or judicial records where appropriate), an abstract firm may be contracted by Terracon to perform a review of land title records (or judicial records where appropriate) for an additional fee. Documentation of environmental liens and activity and use limitations, if recorded, will be provided in the land title records (or judicial records where appropriate). Note, however, unless specifically requested within three days of project commencement, Terracon will rely on the client to provide land title records (or judicial records where appropriate). **If land title records (or judicial records where appropriate) are not provided for review in a timely manner, Terracon may conclude that the absence of records represents a data gap, which must be evaluated and documented in the final report.**

The client and the current owner or their representative will be interviewed to provide information regarding past uses of the site and information pertaining to the use of hazardous substances and petroleum products on the site. Additionally, a reasonable attempt will be made to interview past owners, operators, and occupants of the site to the extent that they are identified within the scope of the ESA and are likely to have material information that is not duplicative of information already obtained through the assessment process.

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## **Regulatory Records Review**

Consistent with ASTM E1527-13, federal, state, and tribal databases, where applicable and within ASTM-defined minimum search distances from the nearest property boundary, will be reviewed for indications of RECs. A database firm will be subcontracted to access governmental records used in this portion of the assessment. Additional federal, state, and local databases may be reviewed if provided by the database firm. Determining the location of unmapped facilities is beyond the scope of this assessment.

In addition to the database review and if customary practice for the site location, an attempt will be made to review reasonably ascertainable and useful local lists or records such as Brownfield sites, landfill/solid waste disposal sites, registered storage tanks, land records, emergency release reports, and contaminated public wells. A reasonable attempt will also be made to interview at least one staff member of any one of the following types of local government agencies: fire department, health agency, planning department, building department, or environmental department. As an alternative, a written request for information may be submitted to the local agencies.

The scope of work proposed herein includes **up to two hours of regulatory agency file and/or records review, including client-provided reports and files**. If the results of this initial review appear to warrant a more extensive review of applicable regulatory agency files and/or records, a cost estimate will be provided to the client for pre-approval. Review of regulatory files and/or records, when authorized, will be for the purpose of identifying RECs. Please note that all requested files may not be available from regulatory agencies within the client's requested project schedule.

## **Site and Adjoining/Surrounding Property Reconnaissance**

A site reconnaissance will be conducted to identify RECs. The reconnaissance will consist of visual observations of the site from the site boundaries and selected interior portions of the site. The site reconnaissance will include, where applicable, an interview with site personnel who the client has identified as having knowledge of the uses and physical characteristics of the site. Pertinent observations from the site reconnaissance will be documented including:

- n Site description
- n General site operations
- n Aboveground chemical or waste storage
- n Visible underground chemical or waste storage, drainage, or collection systems
- n Electrical transformers
- n Obvious releases of hazardous substances or petroleum products

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The adjoining property reconnaissance will consist of visual observations of the adjoining/surrounding properties from the site boundaries and accessible public rights-of-way.

**Report Preparation**

A PDF-formatted copy of the final report will be submitted that presents the results of this assessment, based upon the scope of services and limitations described herein. The final report will be signed by an environmental professional responsible for the Phase I ESA, and the report will contain an environmental professional statement as required by 40 CFR 312.21(d). Recommendations will be developed as part of the Phase I ESA scope of services. Prior to final report issuance, the client may request paper copies at a charge of \$75.00 per report copy.

**2.2 Additional Services Beyond Base ESA**

At the direction of the client, additional services beyond the scope of the base Phase I ESA have not been included.

**2.3 Additional Services Not Included**

The following services, although not specifically required by ASTM E1527-13, may also be performed concurrently with ESAs and may be beneficial for the evaluation of environmental conditions and/or an evaluation of specific business environmental risks at the site. At your direction, these services have not been included as part of the scope of services for this ESA. Please note that this list is not all-inclusive. If you seek additional services, please contact us for a supplemental proposal and cost estimate.

- Radon Records Review
- Lead in Drinking Water Records Review
- Wetland Records Review
- Threatened/Endangered Species Records Review
- Historic Properties/Archaeological Resources Review
- ASTM E 2600-15 Vapor Encroachment Screen

If the site is intended for future development, Terracon can also provide proposals for geologic hazards (like growth faulting), construction materials testing, construction draw reviews and scope and budget review services.



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**2.4 Schedule**

Services will be initiated upon receipt of the written notice to proceed. The final report will be submitted within 15 business days after receipt of your written notice to proceed, assuming site access can be obtained within five days after the notice to proceed.

In order to comply with the proposed schedule, please provide the following items at the time of notification to proceed.

- n A signed Agreement for Services evidencing acceptance of this scope of services.
- n The completed ASTM E1527-13 User Questionnaire, supplied as an attachment to this proposal.
- n Right of entry to conduct the assessment, including access to building interiors.
- n Notification of any restrictions or special requirements (such as confidentiality, scheduling, or on-site safety requirements) regarding accessing the site.
- n An accurate legal description and/or a diagram of the site such as a surveyor's plat map or scaled architect's drawing (if such diagrams exist).
- n Current site owner, property manager, occupant information (including tenant list), and contact information for persons knowledgeable about the site history including current and historical use of hazardous substances and petroleum products on site (e.g., names, phone numbers, etc.).
- n Copies of environmental reports, permits and registrations, and geotechnical reports that were previously prepared for the site.
- n Information relating to known or suspect environmental conditions at the site, including commonly known or reasonable ascertainable information within the local community about the site that is material to RECs in connection with the site.
- n Information about environmental liens and activity and use limitations for the site, if any.
- n Specialized knowledge or experience that is material to RECs in connection with the site, if any.
- n Knowledge that the purchase price of the site is significantly less than the purchase price of comparable properties.
- n Land title records.

Please note that requested regulatory files or other information may not be provided to Terracon by the issuance date of the report. Consideration of information not received by the issuance date of the report is beyond the scope of this ESA.

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**2.5 Reliance**

The ESA report will be prepared for the exclusive use and reliance of Bastrop Economic Development Corporation. Reliance by any other party is prohibited without the written authorization of the client and Terracon.

If the client is aware of additional parties that will require reliance on the ESA report, the names, addresses, and relationship of these parties should be provided for Terracon approval prior to the time of authorization to proceed. Terracon may grant reliance on the ESA report to those approved parties upon receipt of a fully executed Reliance Agreement (available upon request) and receipt of information requested in the Reliance Agreement. If, in the future, the client and Terracon consent to reliance on the ESA by a third party, Terracon may grant reliance upon receipt of a fully executed Reliance Agreement, requested information and receipt of an additional minimum fee of \$400 per relying party.

Reliance on the ESA by the client and all authorized parties will be subject to the terms, conditions, and limitations stated in the Agreement for Services, sections of this proposal incorporated therein, the Reliance Agreement, and ESA report. The limitation of liability defined in the Agreement for Services is the aggregate limit of Terracon's liability to the client and all relying parties.

Continued viability of the report is subject to ASTM E1527-13 Sections 4.6 and 4.8. If the ESA will be used by a different user (third party) than the user for whom the ESA was originally prepared, the third party must also satisfy the user's responsibilities in Section 6 of ASTM E1527-13.

**2.6 Scope and Report Limitations**Site Access and Safety

Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, including following applicable state and local COVID related requirements, but shall not be responsible for the supervision or health and safety precautions for any third parties, including Client's contractors, subcontractors, or other parties present at the site. In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to the coronavirus. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and risk assessment processes. Client acknowledges its responsibility for notifying Consultant of any circumstances that present a risk of exposure to the coronavirus or individuals who have tested positive for COVID-19 or are self-quarantining due to exhibiting symptoms associated with the coronavirus.

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The fee is valid for 90 days from the date of this proposal and is based on the assumption that all field services will be performed under safety Level D personal protective procedures and that only one site visit will be made by Terracon personnel. The lump sum fee is based on the assumptions and conditions provided at the time of this proposal.

The findings and conclusions presented in the final report will be based on the site's current utilization, the anticipated future use of the site, if provided to Terracon, and the information collected as discussed in this proposal. Please note that we do not warrant database or third-party information (such as from interviewees) or regulatory agency information used in the compilation of reports.

Phase I ESAs, such as the one proposed for this site, are of limited scope, are noninvasive, and cannot eliminate the potential that hazardous, toxic, or petroleum substances are present or have been released at the site beyond what is identified by the limited scope of this ESA. In conducting the limited scope of services described herein, certain sources of information and public records will not be reviewed. It should be recognized that environmental concerns may be documented in public records that are not reviewed. This ESA does not include subsurface or other invasive assessments, vapor intrusion assessments or indoor air quality assessments (i.e. evaluation of the presence of vapors within a building structure), business environmental risk evaluations, or other services not particularly identified and discussed herein. No ESA can wholly eliminate uncertainty regarding the potential for RECs. The limitations herein must be considered when the user of this report formulates opinions as to risks associated with the site. No warranties, express or implied, are intended or made.

An evaluation of significant data gaps will be based on the information available at the time of report issuance, and an evaluation of information received after the report issuance date may result in an alteration of our opinions and conclusions. We have no obligation to provide information obtained or discovered by us after the date of the report, or to perform any additional services, regardless of whether the information would affect any conclusions, recommendations, or opinions in the report. This disclaimer specifically applies to any information that has not been provided by the client.

## AGREEMENT FOR SERVICES

This AGREEMENT is between Bastrop Economic Development Corporation ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the BEDC - 104-Acres project ("Project"), as described in Consultant's Proposal dated 11/13/2020 ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

1. **Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services section ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. When Consultant subcontracts to other individuals or companies, then consultant will collect from Client on the Subcontractors' behalf. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
2. **Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.
3. **Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
4. **Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
5. **Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
6. **LIMITATION OF LIABILITY. CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$50,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.**
7. **Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of Services on the project.
8. **Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. **EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
9. **Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii) commercial general liability insurance (\$1,000,000 occ / \$2,000,000 agg); (iii) automobile liability insurance (\$1,000,000 B.I. and P.D. combined single

limit); and (iv) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.

- 10. **CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.**
- 11. **Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to Kansas law.
- 12. **Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
- 13. **Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
- 14. **Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
- 15. **Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
- 16. **Utilities.** Unless otherwise stated in the Proposal, Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
- 17. **Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any other parties, including Client, Client's contractors, subcontractors, or other parties present at the site. In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to the coronavirus. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and risk assessment processes. Client acknowledges its responsibility for notifying Consultant of any circumstances that present a risk of exposure to the coronavirus or individuals who have tested positive for COVID-19 or are self-quarantining due to exhibiting symptoms associated with the coronavirus.

Consultant: Terracon Consultants, Inc.  
 By: \_\_\_\_\_ Date: 11/13/2020  
 Name/Title: Melissa S. Stevens / Group Manager,  
Environmental Services  
 Address: 6198 Imperial Loop  
College Station, TX 77845-5765  
 Phone: (979) 846-3767 Fax: (979) 846-7604  
 Email: Melissa.Stevens@terracon.com

Client: Bastrop Economic Development Corporation  
 By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Name/Title: Cameron Cox / Chief Executive Officer  
 Address: 301 Highway 71 W., Ste. 214  
Bastrop, TX 78602-4111  
 Phone: (512) 332-8870 Fax: \_\_\_\_\_  
 Email: cameron@bastropedc.org

**RESOLUTION NO. R-2021-0007****A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BASTROP ECONOMIC DEVELOPMENT CORPORATION APPROVING THE TERMS OF A PROFESSIONAL SERVICES AGREEMENT WITH TERRACON; AUTHORIZING ALL NECESSARY ACTIONS, INCLUDING EXECUTION OF NECESSARY DOCUMENTATION; AND, PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Bastrop Economic Development Corporation (“BEDC”) is a public instrumentality and non-profit industrial development corporation duly established and operating under Local Government Code, Chapters 501 and 505, *et seq.*, as amended, known as the Development Corporation Act of 1979 (the “Act”), and is acting with the approval of the governing body of the City of Bastrop, Texas (the “City”); and

**WHEREAS**, to fulfill its public purpose in attracting qualifying projects under Texas Local Government Code, Chapters 501 and 505, *et seq.*, as amended, the BEDC requires certain professional services, including without limitation, the contracting with and hiring of an engineering firm to perform certain property studies; and

**WHEREAS**, the BEDC is the current property owner of the majority of property (“Property”) located in the Bastrop Business and Industrial Park; and

**WHEREAS**, the BEDC wishes to prepare certain portions of the property for potential future economic development; and

**WHEREAS**, the initial steps in preparing the property for sale are a Geotechnical Study and a Phase 1 Environmental Site Assessment; and

**WHEREAS**, Terracon has provided the BEDC with a proposal to provide Preliminary Geotechnical Engineering services in the amount of \$20,500 and a Phase 1 Environmental Site Assessment in the amount of \$2,800; and

**WHEREAS**, after careful evaluation and consideration by the Board, it has determined that these services and this support can be provided most beneficially, efficiently and economically under a Professional Services Agreement (“PSA”) with Terracon to be executed by the Interim Chief Executive Officer or Board Vice Chair on behalf of the BEDC.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BASTROP ECONOMIC DEVELOPMENT CORPORATION THAT:**

**SECTION 1.** The findings set out above are hereby found to be true and correct and are incorporated herein for all purposes.

**SECTION 2.** The Board hereby finds that the provision of certain professional services is necessary for the BEDC’s proper attraction and advancement of qualifying projects under Texas Local Government Code, Chapters 501 and 505, *et seq.*, as amended, and hereby authorizes the Interim Chief Executive Officer or Vice Chair to enter into a Professional Services Agreement with Terracon to be approved by BEDC’s attorney, in a combined amount not to exceed \$23,300 upon affirmative approval of the City Council of the City of Bastrop as required by the applicable statutes.

**SECTION 3.** This Resolution is effective upon passage.

**DULY RESOLVED AND ADOPTED** by the Board of Directors of the Bastrop Economic Development Corporation, this \_\_\_\_ day of \_\_\_\_\_ 2021.

BASTROP ECONOMIC  
DEVELOPMENT CORPORATION

\_\_\_\_\_  
Kevin Plunkett, Board Vice Chair

ATTEST:

\_\_\_\_\_  
Sam Kier, Board Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Denton, Navarro, Rocha, Bernal & Zech, P.C.

**Exhibit "A"**

**Professional Services Agreement with Terracon**

DRAFT



**CITY OF BASTROP ECONOMIC DEVELOPMENT CORPORATION**

**STANDARD PROFESSIONAL SERVICES AGREEMENT**

THE STATE OF TEXAS     §  
  §  
BASTROP COUNTY         §

This Professional Services Agreement (“Agreement”) is made and entered by and between the City of Bastrop Economic Development Corporation (the “BEDC”), a Texas non-profit industrial development corporation, and Terracon (“Professional”) (individually referred to herein as a “Party” and collectively as “Parties”).

**Section 1. Duration.**

This Agreement shall become effective on the date of the last signing by a Party to the Agreement, and shall remain in effect until satisfactory completion of the Scope of Work unless terminated as provided for in this Agreement.

Deleted: upon execution by the BEDC

**Section 2. Scope of Work.**

- (A) Professional shall perform the Services as more particularly described in the Scope of Work attached hereto as Exhibit “A”. The work as described in the Scope of Work constitutes the “Project”. Unless otherwise provided in the Scope of Work, the anticipated submittal of all Project deliverables is immediately upon completion of the Project.
- (B) The Quality of Services provided under this Agreement shall be performed with the professional skill and care ordinarily provided by competent Professionals practicing in the same or similar locality and under the same or similar circumstances and professional license, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent Professional holding the same professional license. EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, PROFESSIONAL MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO PROFESSIONAL’S SERVICES AND PROFESSIONAL DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- (C) The Professional shall perform its Services for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.

- (D) The Professional may rely upon the accuracy of reports and surveys provided to it by the BEDC except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

**Section 3. Compensation.**

- (A) The Professional shall be paid in the manner set forth in Exhibit “B” and as provided herein.
- (B) *Billing Period:* The Professional may submit monthly, or less frequently, an invoice for payment based on the estimated completion of the described tasks and approved work schedule. Subject to Chapter 2251, Texas Government Code (the “Prompt Payment Act”), payment is due within thirty (30) days of the BEDC’s receipt of the Professional’s invoice. Interest on overdue payments shall be calculated in accordance with the Prompt Payment Act.
- (C) *Reimbursable Expenses:* Any and all reimbursable expenses related to the Project shall be accounted for in Exhibit “B”.

**Section 4. Changes to the Project Work; Additional Work.**

- (A) *Changes to Work:* Professional shall make such revisions to any work that has been completed as are necessary to correct any errors or omissions as may appear in such work. If the BEDC finds it necessary to make changes to previously satisfactorily completed work or parts thereof, the Professional shall make such revisions if requested and as directed by the BEDC and such services will be considered as additional work and paid for as specified under the following paragraph.
- (B) *Additional Work:* The BEDC retains the right to make changes to the Scope of Work at any time by a written order. Work that is clearly not within the general description of the Scope of Work and does not otherwise constitute special services under this Agreement must be approved in writing by the BEDC by supplemental agreement before the additional work is undertaken by the Professional. If the Professional is of the opinion that any work is beyond that contemplated in this Agreement and the Scope of Work governing the project and therefore constitutes additional work, the Professional shall promptly notify the BEDC of that opinion, in writing. If the BEDC agrees that such work does constitute additional work, then the BEDC and the Professional shall execute a supplemental agreement for the additional work and the BEDC shall compensate the Professional for the additional work on the basis of the rates contained in the Scope of Work. If the changes deduct from the extent of the Scope of Work, the contract sum shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement. Any work undertaken by Professional not previously approved as additional work shall be at risk of the Professional.

**Section 5. Time of Completion.**

The prompt completion of the services under the Scope of Work is critical to the BEDC. Unnecessary delays in providing services under a Scope of Work shall be grounds for dismissal of the Professional and termination of this Agreement without any or further liability to the BEDC other than a prorated payment for necessary, timely, and conforming work done by Professional

prior to the time of termination. The Scope of Work shall provide, in either calendar days or by providing a final date, a time of completion prior to which the Professional shall have completed all tasks and services described in the Scope of Work.

#### **Section 6. Insurance.**

Before commencing work under this Agreement, Professional shall obtain and maintain the liability insurance provided for in attached Exhibit "C" throughout the term of this Agreement and thereafter as required herein.

In addition to the insurance provided for in Exhibit "C", Professional shall maintain the following limits and types of insurance:

**Workers Compensation Insurance:** The Professional shall carry and maintain during the term of this Agreement, workers compensation and employers liability insurance meeting the requirements of the State of Texas on all the Professional's employees carrying out the work involved in this contract.

**General Liability Insurance:** The Professional shall carry and maintain during the term of this Agreement, general liability insurance on a per occurrence basis with limits of liability not less than \$1,000,000 for each occurrence and for fire damage. For Bodily Injury and Property Damage, coverage shall be no less than \$1,000,000. As a minimum, coverage for Premises, Operations, Products and Completed Operations shall be \$2,000,000. This coverage shall protect the public or any person from injury or property damages sustained by reason of the Professional or its employees carrying out the work involved in this Agreement. The general aggregate shall be no less than \$2,000,000.

**Automobile Liability Insurance:** Professional shall carry and maintain during the term of this Agreement, automobile liability insurance with either a combined limit of at least \$1,000,000 per occurrence for bodily injury and property damage or split limits of at least \$1,000,000 for bodily injury per person per occurrence and \$1,000,000 for property damage per occurrence. Coverage shall include all owned, hired, and non-owned motor vehicles used in the performance of this contract by the Professional or its employees.

**Subcontractor:** In the case of any work sublet, the Professional shall require subcontractor and independent contractors working under the direction of either the Professional or a subcontractor to carry and maintain the same workers compensation and liability insurance required of the Professional.

**Qualifying Insurance:** The insurance required by this Agreement shall be written by a non-assessable insurance company authorized to do business in the State of Texas and currently rated "B+" or better by the A.M. Best Companies. All policies shall be written on a "per occurrence basis" and not a "claims made" form.

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Evidence of such insurance shall be attached as Exhibit "D".

#### **Section 7. Miscellaneous Provisions.**

- (A) *Subletting.* The Professional shall not sublet or transfer any portion of the work under this Agreement or any Scope of Work issued pursuant to this Agreement unless specifically approved in writing by the BEDC, which approval shall not be unreasonably withheld. Subcontractors shall comply with all provisions of this Agreement and the applicable Scope of Work. The approval or acquiescence of the BEDC in the subletting of any work shall not relieve the Professional of any responsibility for work done by such subcontractor.
- (B) *Ownership of Documents.* Upon completion or termination of this Agreement, all documents prepared by the Professional or furnished to the Professional by the BEDC shall be delivered to and become the property of the BEDC. All drawings, charts, calculations, plans, specifications and other data, including electronic files and raw data, prepared under or pursuant to this Agreement, shall be made available, upon request, to the BEDC without restriction or limitation on the further use of such materials; PROVIDED, HOWEVER, THAT SUCH MATERIALS ARE NOT INTENDED OR REPRESENTED TO BE SUITABLE FOR REUSE BY THE BEDC OR OTHERS. ANY REUSE WITHOUT PRIOR VERIFICATION OR ADAPTATION BY THE PROFESSIONAL FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT THE BEDC'S SOLE RISK AND WITHOUT LIABILITY TO THE PROFESSIONAL. Where applicable, Professional shall retain all pre-existing proprietary rights in the materials provided to the BEDC but shall grant to the BEDC a non-exclusive, perpetual, royalty-free license to use such proprietary information solely for the purposes for which the information was provided. The Professional may, at Professional's expense, have copies made of the documents or any other data furnished to the BEDC under or pursuant to this Agreement.
- (C) *Professional's Seal.* To the extent that the Professional has a professional seal, it shall be placed on all documents and data furnished by the Professional to the BEDC. All work and services provided under this Agreement will be performed in a good and workmanlike fashion and shall conform to the accepted standards and practices of the Professional's industry. The plans, specifications and data provided by Professional shall be adequate and sufficient to enable those performing the actual work to perform the work as and within the time contemplated by the BEDC and Professional. The BEDC acknowledges that Professional has no control over the methods or means of work nor the costs of labor, materials or equipment. Unless otherwise agreed in writing, any estimates of costs by the Professional are for informational purposes only and are not guarantees.
- (D) *Compliance with Laws.* The Professional shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts, administrative, or regulatory bodies in any matter affecting the performance of this Agreement, including, without limitation, workers compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Professional shall furnish the BEDC with satisfactory proof of compliance.
- (E) *Independent Contractor.* Professional acknowledges that Professional is an independent contractor of the BEDC and is not an employee, agent, official or representative of the BEDC. Professional shall not represent, either expressly or through implication, that Professional is an employee, agent, official or representative of the BEDC. Income taxes, self-employment taxes, social security taxes and the like are the sole responsibility of the Professional.

- (F) *Non-Collusion.* Professional represents and warrants that Professional has not given, made, promised or paid, nor offered to give, make, promise or pay any gift, bonus, commission, money or other consideration to any person as an inducement to or in order to obtain the work to be provided to the BEDC under this Agreement. Professional further agrees that Professional shall not accept any gift, bonus, commission, money, or other consideration from any person (other than from the BEDC pursuant to this Agreement) for any of the services performed by Professional under or related to this Agreement. If any such gift, bonus, commission, money, or other consideration is received by or offered to Professional, Professional shall immediately report that fact to the BEDC and, at the sole option of the BEDC, the BEDC may elect to accept the consideration for itself or to take the value of such consideration as a credit against the compensation otherwise owing to Professional under or pursuant to this Agreement.
- (G) *Force Majeure.* If the performance of any covenant or obligation to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions [such as, by way of illustration and not of limitation, severe rain storms or below freezing temperatures, or tornados] labor action, strikes or similar acts, moratoriums or regulations or actions by governmental authorities), the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The party claiming delay of performance as a result of any of the foregoing force majeure events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven (7) days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the other party of the occurrence of a force majeure event causing such delay and the other party shall not otherwise be aware of such force majeure event, the claiming party shall not be entitled to avail itself of the provisions for the extension of performance contained in this subsection.
- (H) In the case of any conflicts between the terms of this Agreement and wording contained within the Scope of Services, this Agreement shall govern. The Scope of Services is intended to detail the technical scope of services, fee schedule, and contract time only and shall not dictate Agreement terms.

#### **Section 8. Termination.**

- (A) This Agreement may be terminated:
- (1) By the mutual agreement and consent of both Professional and BEDC;
  - (2) By either party, upon the failure of the other party to fulfill its obligations as set forth in either this Agreement or a Scope of Work issued under this Agreement;
  - (3) By the BEDC, immediately upon notice in writing to the Professional, as consequence of the failure of Professional to perform the services contemplated by this Agreement in a timely or satisfactory manner; or

- (4) By the BEDC, at will and without cause upon not less than thirty (30) days written notice to the Professional.
- (B) If the BEDC terminates this Agreement pursuant to Section 5 or subsection 8(A)(2) or (3), above, the Professional shall not be entitled to any fees or reimbursable expenses other than the fees and reimbursable expenses then due and payable as of the time of termination and only then for those services that have been timely and adequately performed by the Professional considering the actual costs incurred by the Professional in performing work to date of termination, the value of the work that is nonetheless usable to the BEDC, the cost to the BEDC of employing another Professional to complete the work required and the time required to do so, and other factors that affect the value to the BEDC of the work performed at time of termination. In the event of termination that is not the fault of the Professional, the Professional shall be compensated for all basic, special, and additional services actually performed prior to termination, together with any reimbursable expenses then due.

**Section 9. Indemnification.** Professional shall indemnify and hold harmless the City of Bastrop, Texas, Economic Development Corporation and its officials, employees and agents (collectively referred to as “Indemnitees”) and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including reasonable attorney’s fees) or liabilities (collectively referred to as “Liabilities”) by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance or non-performance of Services contemplated by this Agreement but only to the extent caused by the negligent acts, errors or omissions, intentional torts, intellectual property infringement, or a failure to pay a sub-contractor or supplier committed by Professional or Professional’s agent, consultant under contract, or another entity over which Professional exercises control (whether active or passive) of Professional or its employees, agents or sub-contractors (collectively referred to as “Professional”), (ii) the failure of Professional to comply with any of the paragraphs herein or the failure of Professional to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal, state or local, in connection with the performance of this Agreement. Professional expressly agrees to indemnify and hold harmless the Indemnitees, or any one of them, from and against all liabilities which may be asserted by an employee or former employee of Professional, or any of its sub-contractors, as provided above, for which Professional’s liability to such employee or former employee would otherwise be limited to payments under State Workers Compensation or similar laws. Nothing herein shall require Professional to indemnify, defend, or hold harmless any Indemnitee for the Indemnitee’s own negligence or willful misconduct. Any and all indemnity provided for in this Agreement shall survive the expiration of this Agreement and the discharge of all other obligations owed by the parties to each other hereunder and shall apply prospectively not only during the term of this Agreement but thereafter so long as any liability could be asserted in regard to any acts or omissions of Professional in performing Services under this Agreement.

For Professional Liability Claims, Professional shall be liable for reasonable defense costs incurred by Indemnitees but only after final adjudication and to the extent and percent that Professional or Professional’s agents are found negligent or otherwise at fault. As used in this Agreement, final adjudication includes any negotiated settlement and release of claims, without limitation as to when a negotiated settlement and release of claims occurs.

**Section 10. Notices.** Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

**Section 11. No Assignment.** Neither party shall have the right to assign that party's interest in this Agreement without the prior written consent of the other party.

**Section 12. Severability.** If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

**Section 13. Waiver.** Either BEDC or the Professional shall have the right to waive any requirement contained in this Agreement that is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation.

**Section 14. Governing Law; Venue.** This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this Agreement are performable in Bastrop County, Texas, such that exclusive venue for any action arising out of this Agreement shall be in Bastrop County, Texas.

**Section 15. Paragraph Headings; Construction.** The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the negotiation and preparation of this Agreement and this Agreement shall not be construed either more or less strongly against or for either party.

**Section 16. Binding Effect.** Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal and legal representatives, successors and assigns.

**Section 17. Gender.** Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

**Section 18. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**Section 19. Exhibits.** All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

**Section 20. Entire Agreement.** It is understood and agreed that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally.

**Section 21. Relationship of Parties.** Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Agreement.

**Section 22. Dispute Resolution.** The parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this agreement, the parties will first attempt to resolve the dispute by taking the following steps: (1) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied party to the other party, which notice shall request a written response to be delivered to the dissatisfied party not less than five (5) days after receipt of the notice of dispute. (2) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied party, the dissatisfied party shall give notice to that effect to the other party whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the dispute. (3) If those persons cannot or do not resolve the dispute, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the dispute.

**Section 23. Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire.** Professional represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code, Conflicts of Interest Questionnaire and Chapter 2252 of the Texas Government Code, Form 1295 Certificate of interested Parties online filing with the Texas Ethics Commission.

**Section 24. LIMITATION OF LIABILITY. BEDC AND PROFESSIONAL HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS AGREEMENT, INCLUDING PROFESSIONAL'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF PROFESSIONAL (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO BEDC AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$50,000 OR THE PROFESSIONAL'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND**

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EXPERT FEES) ARISING OUT OF PROFESSIONAL'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM BEDC, PROFESSIONAL MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S) OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER PROFESSIONAL'S COMMERCIAL GENERAL LIABILITY POLICY.

**Section 25. Consequential Damages.** Neither party shall be liable to the other for loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; cost of capital; or for any special, consequential, indirect, punitive, or exemplary damages.

**Section 26. Site Access and Safety.** BEDC shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Professional will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any third parties, including BEDC's contractors, subcontractors, or other parties present at the site. In addition, Professional retains the right to stop work without penalty at any time Professional believes it is in the best interests of Professional's employees or subcontractors to do so in order to reduce the risk of exposure to the coronavirus. BEDC agrees it will respond quickly to all requests for information made by Professional related to Professional's pre-task planning and risk assessment processes. BEDC acknowledges its responsibility for notifying Professional of any circumstances that present a risk of exposure to the coronavirus or individuals who have tested positive for COVID-19 or are self-quarantining due to exhibiting symptoms associated with the coronavirus.

**Section 27. Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. BEDC understands Professional's layout of boring and test locations is approximate and that Professional may deviate a reasonable distance from those locations. Professional will take reasonable precautions to reduce damage to the site when performing Services; however, BEDC accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.

**Section 28. Utilities.** Unless otherwise stated in the Proposal, BEDC shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Professional shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Professional shall not be responsible for damage to subterranean structures or utilities that are not called to Professional's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Professional.

Commented [CZ2]: Are these provisions acceptable?

**EXECUTED:**

**BEDC:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**PROFESSIONAL:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ADDRESS FOR NOTICE:**

**BEDC:**

Bastrop Economic Development Corporation  
Attn: Executive Director  
301 Highway 71 West, Suite 214  
Bastrop, Texas 78602

**PROFESSIONAL:**

Name  
Attn:  
Address  
City, State Zip  
Number

**With a copy to:**

BEDC Attorney  
City of Bastrop Economic Development  
Corporation  
2517 N. Main Avenue  
San Antonio, Texas 78212

Deleted: Attn: Charles E. Zech

**Exhibit "A"**  
**SCOPE OF WORK**

DRAFT

**Exhibit "B"**  
COMPENSATION

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## **Exhibit “C”**

### REQUIREMENTS FOR ALL INSURANCE DOCUMENTS

The Professional shall comply with each and every condition contained herein. The Professional shall provide and maintain the minimum insurance coverage set forth below during the term of its agreement with the BEDC. Any Subcontractor(s) hired by the Professional shall maintain insurance coverage equal to that required of the Professional. It is the responsibility of the Professional to assure compliance with this provision. The City of Bastrop Economic Development Corporation accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

#### INSTRUCTIONS FOR COMPLETION OF INSURANCE DOCUMENT

With reference to the foregoing insurance requirements, Professional shall specifically endorse applicable insurance policies as follows:

1. The City of Bastrop Economic Development Corporation shall be named as an additional insured with respect to General Liability and Automobile Liability **on a separate endorsement.**
2. A waiver of subrogation in favor of The City of Bastrop Economic Development Corporation shall be contained in the Workers Compensation and all liability policies (**except Professional Liability**) and must be provided **on a separate endorsement.**
3. All insurance policies shall be endorsed to the effect that The City of Bastrop Economic Development Corporation will receive at least thirty (30) days written notice prior to cancellation or non-renewal of the insurance.
4. All insurance policies, which name The City of Bastrop Economic Development Corporation as an additional insured, must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.
5. **Chapter 1811 of the Texas Insurance Code, Senate Bill 425 82(R) of 2011, states that the above endorsements cannot be on the certificate of insurance. Separate endorsements must be provided for each of the above.**
6. All insurance policies shall be endorsed to require the insurer to immediately notify The City of Bastrop Economic Development Corporation of any material change in the insurance coverage.
7. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
8. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
9. Professional may maintain reasonable and customary deductibles, subject to approval by The City of Bastrop Economic Development Corporation.
10. Insurance must be purchased from insurers having a minimum A.M. Best rating of B+.
11. All insurance must be written on forms filed with and approved by the Texas Department of Insurance. (ACORD 25 2010/05). Coverage must be written on an occurrence form.
12. Contractual Liability must be maintained covering the Professional’s obligations contained in the contract. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting all endorsements and insurance coverages according to requirements and instructions contained herein.

13. Upon request in the event a claim is filed, Professional shall furnish The City of Bastrop Economic Development Corporation with certified copies of all insurance policies.
14. A valid certificate of insurance verifying each of the coverages required above shall be issued directly to the City of Bastrop Economic Development Corporation within ten (10) business days after contract award and prior to starting any work by the successful Professional's insurance agent of record or insurance company. Also, prior to the start of any work and at the same time that the Certificate of Insurance is issued and sent to the City of Bastrop Economic Development Corporation, all required endorsements identified in sections A, B, C and D above shall be sent to the City of Bastrop Economic Development Corporation. The certificate of insurance and endorsements shall be sent to:

**Bastrop Economic Development Corporation**

Attn: Executive Director  
301 Highway 71 West, Suite 214  
Bastrop, Texas 78602

**Exhibit “D”**  
EVIDENCE OF INSURANCE

DRAFT

## Agenda Item: 3.5

# AGENDA MEMORANDUM

Meeting Date: April 19, 2021

Agenda Item: Discussion and possible action on Resolution R-2021-0008 approving a Professional Services Agreement with Corix Utilities to perform a wastewater study in Bastrop's extraterritorial jurisdiction (ETJ).

Prepared by: BEDC Staff

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At the board meeting on November 16, 2020, the Board approved entering into a Professional Services Agreement (PSA) with Corix via Resolution-R-2020-0030. The CEO was authorized to sign the PSA after it was approved by the BEDC attorney.

For reference, here are the details provided by the previous CEO at the November board meeting:

“Corix Utilities owns and maintains the majority of the sewer and wastewater certificate of convenience and necessity (CCN) for the land area covering the City of Bastrop's Type-A extra-territorial jurisdiction (ETJ). The BEDC is going to contract with Corix to develop a sewer infrastructure study for the City's ETJ for a comprehensive sewer plan within our commercially important Highway 71 corridor leading to Austin. This study is also important to prepare for the Tesla impact.”

The BEDC has received the draft agreement from Corix and legal counsel has reviewed it. A redlined version is attached for the Board's review.

Representatives from Corix and Kimley-Horn & Associates will be attending the meeting to make a presentation about the proposed wastewater study and to answer any questions.

NOTE: The appropriate exhibits will be added to the agreement once it is approved by the BEDC Board.

Attachments:

Presentation

Draft Resolution

Draft Professional Services Agreement

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**Recommendation** – Approve Resolution R-2021-0008 as submitted.

**[RECOMMENDED MOTION]** – I move to approve Resolution R-2021-0008 as submitted.





**CORIX**® Utilities



**bastrop**  
E D C

Kimley»»Horn

# Bastrop Area Wastewater Study

April 19, 2021

# Agenda

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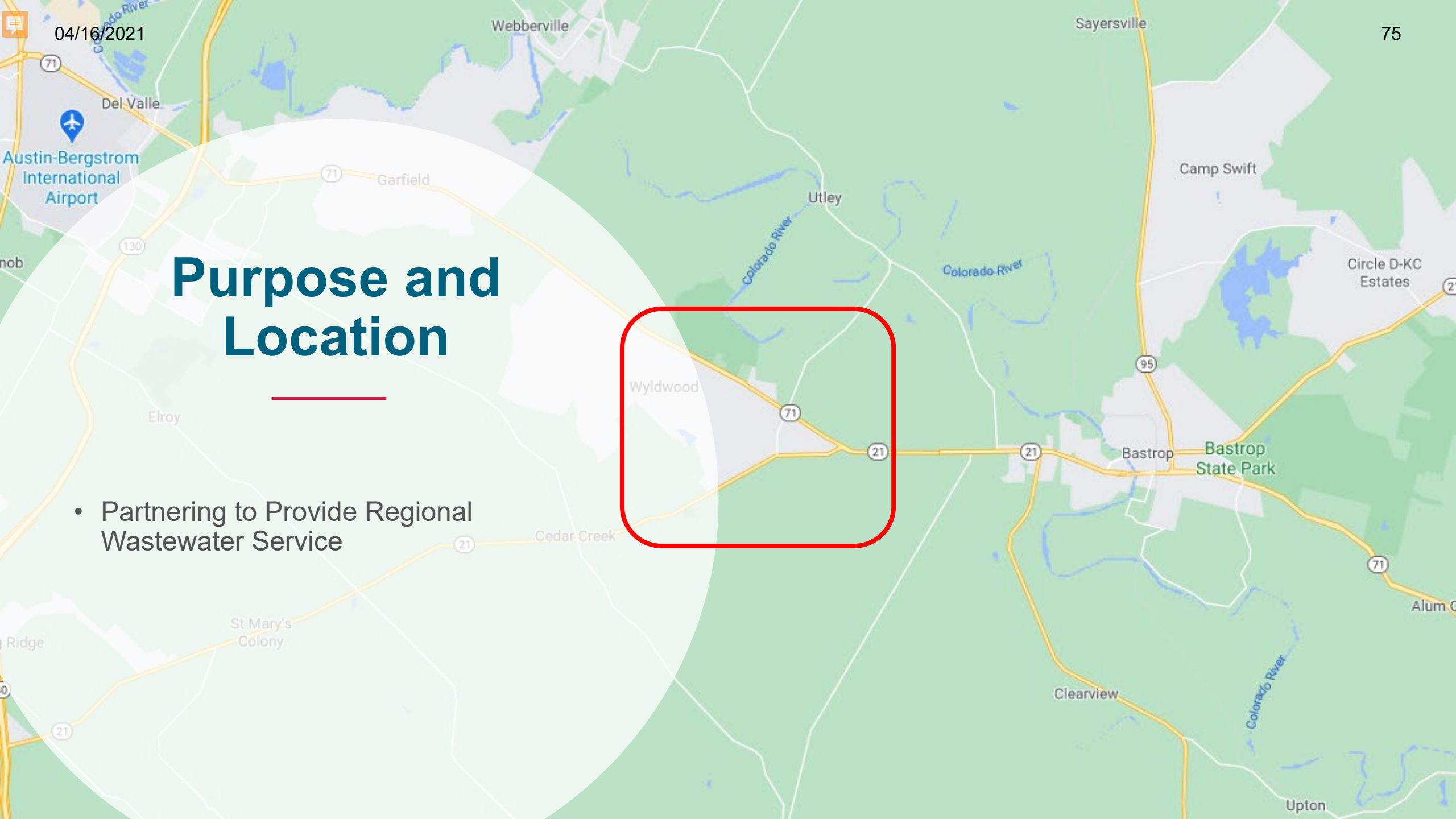
PURPOSE AND  
LOCATION



PROPOSED STUDY  
AREA



SCHEDULE AND  
DELIVERABLE



04/16/2021

75

# Purpose and Location

- Partnering to Provide Regional Wastewater Service










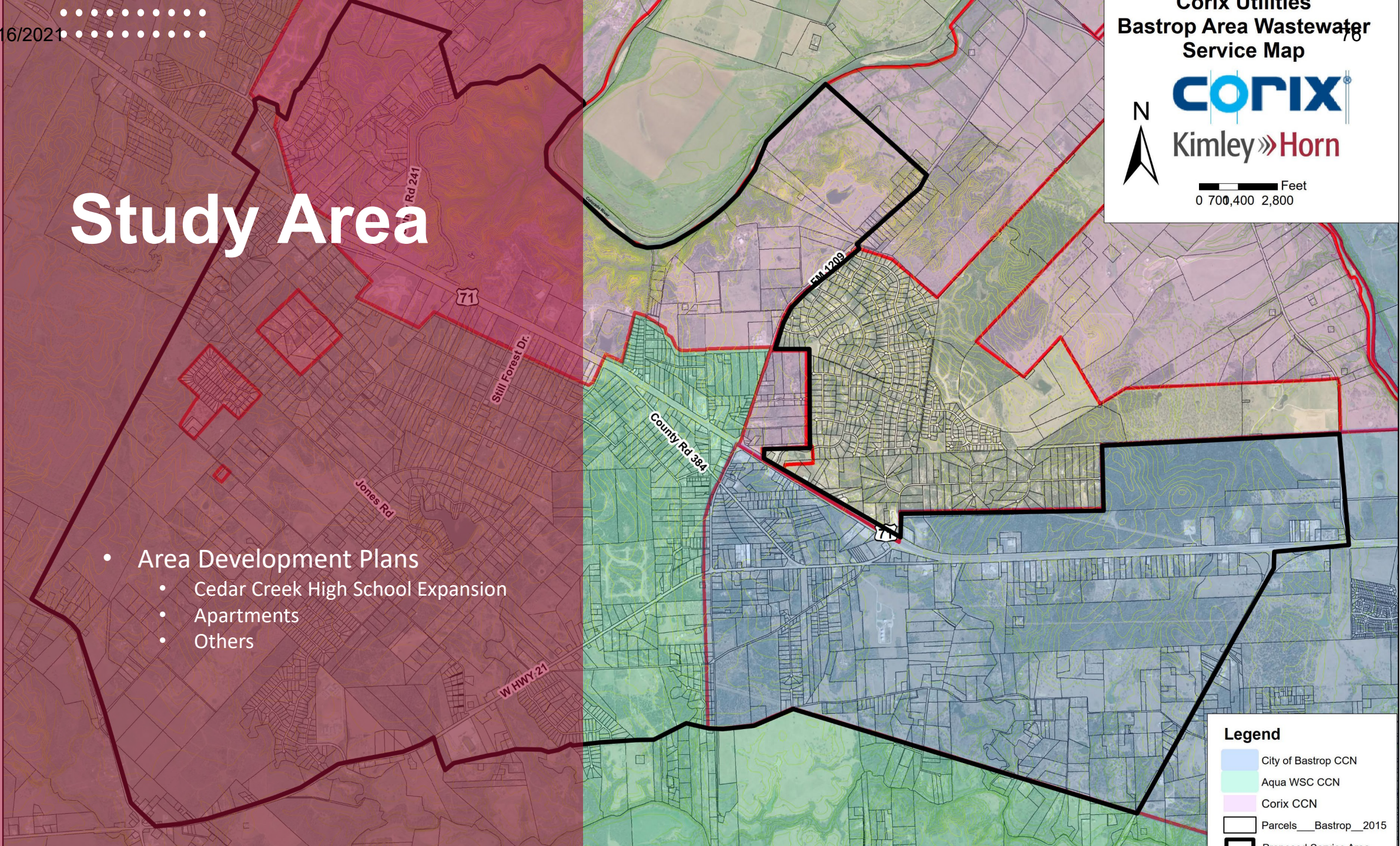
0 700,400 2,800 Feet

# Study Area

- Area Development Plans
  - Cedar Creek High School Expansion
  - Apartments
  - Others

### Legend

-  City of Bastrop CCN
-  Aqua WSC CCN
-  Corix CCN
-  Parcels\_\_Bastrop\_\_2015
-  Proposed Service Area



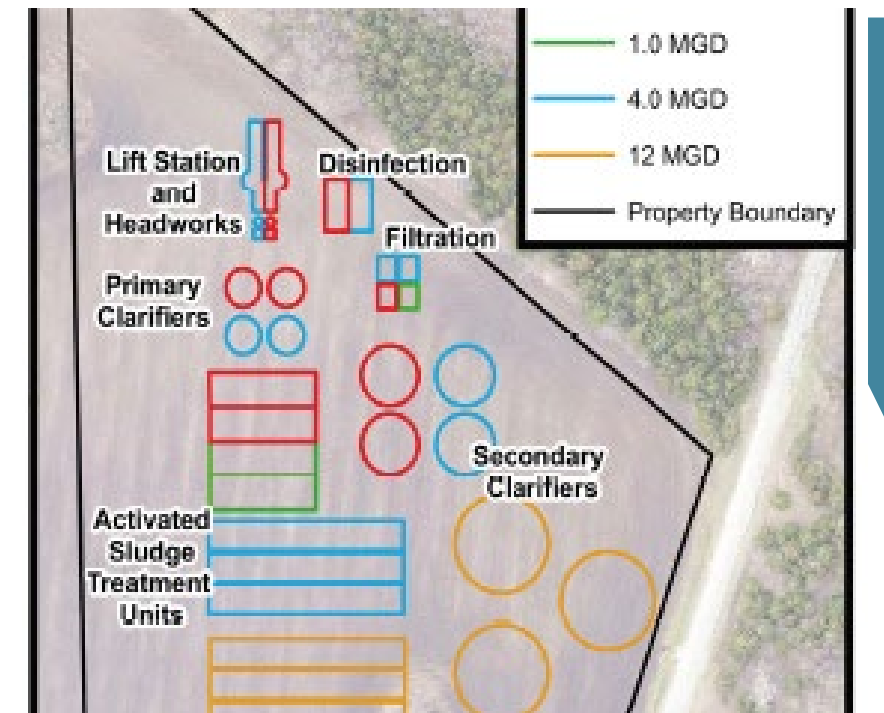
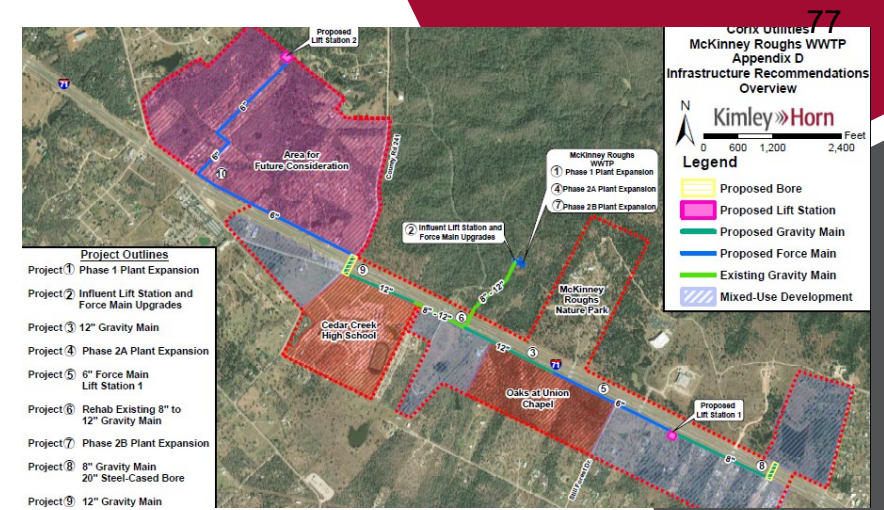
# Schedule and Deliverables

## Schedule - 6 Months

- Data Collection and Analysis – 4 months
- Study Report – 2 months

## Report

- Wastewater Flow Projections and Criteria
- Capital Improvement Plan and OPCCs



# Questions/Discussion

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BASTROP ECONOMIC DEVELOPMENT CORPORATION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH CORIX UTILITIES TO PERFORM A WASTEWATER STUDY IN BASTROP'S EXTRATERRITORIAL JURISDICTION (ETJ); AUTHORIZING ALL NECESSARY ACTIONS, INCLUDING EXECUTION OF NECESSARY DOCUMENTATION; AND, PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Bastrop Economic Development Corporation ("BEDC") is a public instrumentality and non-profit industrial development corporation duly established and operating under Texas Local Government Code, Chapters 501 and 505, *et seq.*, as amended, known as the Development Corporation Act of 1979 (the "Act"); and

**WHEREAS**, to fulfill its public purpose in attracting qualifying projects under Texas Local Government Code, Chapters 501 and 505, *et seq.*, as amended, the BEDC requires certain professional services, including without limitation, the contracting with and hiring of a utilities company to assist the BEDC in determining the long-term needs for sewer and wastewater in the City of Bastrop's extraterritorial jurisdiction ("ETJ"); and

**WHEREAS**, Corix Utilities ("Corix") maintains and possesses the sewer and wastewater certificate of convenience and necessity (CCN) that is exclusively within the City of Bastrop's Area A ETJ and abuts directly to the City of Bastrop's sewer and wastewater CCN; and

**WHEREAS**, the BEDC Board of Directors approved performing a wastewater study in the ETJ via Resolution R-2020-0030 on November 16, 2020; and

**WHEREAS**, pursuant to Texas Local Government Code Sec. 501.103 a "project" includes expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises related to streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; and

**WHEREAS**, Corix has provided the BEDC with a professional services agreement between Corix and Kimley Horn & Associates in the amount of \$94,300; and

**WHEREAS**, the board of directors hereby finds and determines that the expenditure herein is a required expenditure for purposes of promoting and developing new business enterprises as it will study the CCN area for purpose of expanding wastewater and sewer utilities infrastructure in the area for business development; and

**WHEREAS**, after careful evaluation and consideration by the Board, it has determined that these services and this support can be provided most beneficially, efficiently and economically under a third-party Professional Services Agreement with Corix to be executed by the Interim Chief Executive Officer or the Board Vice Chair on behalf of the BEDC.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BASTROP ECONOMIC DEVELOPMENT CORPORATION THAT:**

**SECTION 1.** The Board hereby finds that all the recitals above are true and correct and are incorporated herein as if restated in full.

**SECTION 2.** The Board hereby finds that the provision of certain professional services is necessary for the BEDC’s proper attraction and advancement of qualifying projects under Texas Local Government Code, Chapters 501 and 505, *et seq.*, as amended, and hereby authorizes the Interim Chief Executive Officer or Vice Chair to enter into a Professional Services Agreement with Corix, to be approved by BEDC’s attorney and the City Council of the City of Bastrop, in an amount not to exceed \$94,300.

**SECTION 3.** This Resolution is effective upon passage.

**PASSED AND APPROVED** on the \_\_\_\_\_ day of \_\_\_\_\_ 2021, by the Board of Directors of the Bastrop Economic Development Corporation.

BASTROP ECONOMIC  
DEVELOPMENT CORPORATION

\_\_\_\_\_  
Kevin Plunkett, Board Vice Chair

ATTEST:

\_\_\_\_\_  
Sam Kier, Board Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Denton, Navarro, Rocha, Bernal & Zech, P.C.  
Board Counsel



**Exhibit "A"**

**Professional Services Agreement with Corix**

DRAFT

**BASTROP ECONOMIC DEVELOPMENT CORPORATION**

**Agreement for Preparation of Bastrop County Regional Wastewater Master Plan**

THE STATE OF TEXAS     §  
  §  
BASTROP COUNTY         §

This Agreement for Preparation of Bastrop County Regional Wastewater Master Plan (*“Agreement”*) is made and entered by and between the **Bastrop Economic Development Corporation**, a Texas non-profit industrial development corporation (the *“BEDC”*) and **Corix Utilities (Texas), Inc.**, a Delaware Corporation (*“Corix”*). BEDC and Corix are individually referred to herein as a *“Party”* and collectively as the *“Parties”*.

**RECITALS**

WHEREAS, Corix is a retail public utility and the owner of multiple water and wastewater systems that it operates to provide retail water and sewer services to its customers, including water and wastewater systems located in Bastrop County, Texas;

WHEREAS, BEDC is an industrial development corporation created to enhance the quality of life in Bastrop County by advancing the investment, development, growth and relocation of companies within the area, including providing infrastructure required for economic development;

WHEREAS, in order to promote economic development within Bastrop County, the Parties desire to cause a qualified professional engineering consultant to prepare a “Wastewater Collection and Facility Master Plan” that will generally include the following components: (i) evaluation of the existing wastewater collection, treatment and disposal facilities within a study area in Bastrop County; (ii) evaluation of projected wastewater service needs based on land use assumptions within the study area; (iii) preparation of a wastewater collection system capital improvement plan to identify proposed wastewater collection infrastructure to meet projected demands for wastewater service from new development in the study area; and (iv) preparation of a plan for construction of one or more wastewater treatment plants to meet projected demands for wastewater service from new development in the study area (collectively, the *“Wastewater Master Plan,”* as more particularly described in **Exhibit “A”** attached hereto);

WHEREAS, the Parties desire to enter into this Agreement in order to set forth the terms and conditions pursuant to which Corix will retain a professional engineering consultant to undertake and complete the Wastewater Master Plan on behalf of the Parties, and BEDC will reimburse the costs incurred by Corix in connection therewith.

**AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

**Section 1. Duration.**

This Agreement shall become effective on the date of the last signing by a Party to the Agreement and shall remain in effect until final completion and acceptance of the Wastewater Master Plan unless terminated as provided for in this Agreement. Corix agrees that it shall not accept the Wastewater Master Plan prior to receiving final approval of BEDC, which approval shall not be unreasonably withheld, delayed or denied.

Deleted: upon execution by BEDC

**Section 2. Scope of Work.**

- (A) The Parties acknowledge that Corix previously executed a Professional Services Agreement (“PSA”) with Kimley-Horn & Associates, Inc. (“Professional”) that is Task Order based. Within ten (10) days after execution of this Agreement, Corix shall enter into a Task Order with Professional in the form attached hereto as Exhibit “A” setting forth the terms and conditions pursuant to which Professional shall prepare the Wastewater Master Plan on behalf of the Parties. By execution below, BEDC hereby approves the PSA and Task Order including the scope of work (“Scope of Work”), deliverables and compensation provisions set forth therein.
- (B) The anticipated submittal of all Wastewater Master Plan deliverables is immediately upon completion of the Wastewater Master Plan or as otherwise provided in the Task Order.
- (C) The quality of services to be provided by Professional under the Task Order shall be the professional skill and care ordinarily provided by competent engineering professionals practicing in the same or similar locality and under the same or similar circumstances and professional license, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent professional holding the same professional license.
- (D) The Professional shall prepare the Wastewater Master Plan in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the services set forth in the Task Order.
- (E) The Parties agree that the Professional may rely upon the accuracy of reports and surveys provided to it by Corix and the BEDC except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

Deleted:

**Section 3. Compensation.**

- (A) Corix shall pay the Professional for all services rendered under the Task Order in accordance with the compensation provisions of the PSA and Task Order. BEDC shall reimburse payments made by Corix to the Professional in the manner set forth in Exhibit “B” and as provided herein.
- (B) *Billing Period:* Corix may submit monthly, or less frequently, an invoice for reimbursement of payment made by Corix to Professional. Subject to Chapter 2251, Texas Government Code (the “Prompt Payment Act”), payment by BEDC to Corix is due within thirty (30) days of the BEDC’s receipt of Corix’s invoice. Interest on overdue payments shall be calculated in accordance with the Prompt Payment Act.
- (C) *Reimbursable Expenses:* Any and all reimbursable expenses related to the Wastewater Master Plan shall be accounted for in the invoices submitted by Corix to BEDC.

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**Section 4. Changes to the Wastewater Master Plan; Additional Work.**

- (A) *Changes to Work:* Corix shall cause Professional to make such revisions to any work that has been completed as are necessary to correct any errors or omissions as may appear in such work. If the BEDC finds it necessary to make changes to previously satisfactorily completed work or parts thereof, Corix shall engage the Professional to make such revisions if requested and as directed by the BEDC and such services will be considered as additional work and paid for as specified under the following paragraph.
- (B) *Additional Work:* The BEDC retains the right to make changes to the Scope of Work at any time by a written order. Work that is clearly not within the general description of the Scope of Work and does not otherwise constitute special services under this Agreement must be approved in writing by the BEDC by supplemental agreement before the additional work is undertaken by the Professional. If Corix or the Professional is of the opinion that any work is beyond that contemplated in this Agreement and the Scope of Work governing the Wastewater Master Plan and therefore constitutes additional work, Corix shall promptly notify the BEDC of that opinion, in writing. If the BEDC agrees that such work does constitute additional work, then Corix and the Professional shall execute a supplemental agreement for the additional work and Corix shall compensate the Professional for the additional work on the basis of the rates contained in the Scope of Work. BEDC shall reimburse all such payments and expenses in accordance with the methodology set forth in **Exhibit "B"** attached hereto. If the changes deduct from the extent of the Scope of Work, the contract sum shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement. Any work undertaken by Professional not previously approved by BEDC as additional work shall be at risk of Corix.

#### **Section 5. Time of Completion.**

The prompt completion of the services under the Scope of Work is critical to the BEDC. Unnecessary delays in providing services under a Scope of Work shall be grounds for termination of this Agreement without any or further liability to the BEDC other than a prorated payment for necessary, timely, and conforming work done by Professional prior to the time of termination. BEDC hereby approves the schedule for completion of services set forth in the Task Order.

#### **Section 6. Miscellaneous Provisions.**

- (B) *Ownership of Documents.* Upon completion or termination of this Agreement, all documents prepared by the Professional or furnished to the Professional by the BEDC shall be delivered to and become the property of the BEDC, Corix and Professional. All drawings, charts, calculations, plans, specifications and other data, including electronic files and raw data, prepared under or pursuant to this Agreement, shall be made available, upon request, to the BEDC without restriction or limitation on the further use of such materials; PROVIDED, HOWEVER, THAT SUCH MATERIALS ARE NOT INTENDED OR REPRESENTED TO BE SUITABLE FOR REUSE BY THE BEDC OR OTHERS. ANY REUSE WITHOUT PRIOR VERIFICATION OR ADAPTATION BY THE PROFESSIONAL FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT THE BEDC'S SOLE RISK AND WITHOUT LIABILITY TO CORIX OR TO THE PROFESSIONAL. Where applicable, Professional shall retain all pre-existing proprietary rights in the materials provided to Corix and to the BEDC but shall grant to Corix and to the BEDC a non-exclusive, perpetual, royalty-free license to use such proprietary information solely for the purposes for which the information was provided. Corix and the Professional may, at their own expense, have copies made of the documents or any other data furnished to the BEDC under or pursuant to this Agreement.

- (C) *Professional's Seal.* To the extent that the Professional has a professional seal, it shall be placed on all final deliverables furnished by the Professional to Corix and to the BEDC. All work and services provided under the PSA will be performed in a good and workmanlike fashion and shall conform to the accepted standards and practices of the Professional's industry. Corix and the BEDC acknowledge that Professional has no control over the methods or means of work nor the costs of labor, materials or equipment. Unless otherwise agreed in writing, any estimates of costs by the Professional are for informational purposes only and are not guarantees.
- (D) *Compliance with Laws.* Professional shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts, administrative, or regulatory bodies in any matter affecting the performance of the Task Order, including, without limitation, workers compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Professional shall furnish to Corix and the BEDC with satisfactory proof of compliance.
- (E) *Independent Contractor.* Professional is an independent contractor of Corix and is not an employee, agent, official or representative of the BEDC. Corix shall ensure that Professional shall not represent, either expressly or through implication, that Professional is an employee, agent, official or representative of the BEDC. Income taxes, self-employment taxes, social security taxes and the like are the sole responsibility of the Professional.
- (F) *Non-Collusion.* Corix represents and warrants that Corix has not given, made, promised or paid, nor offered to give, make, promise or pay any gift, bonus, commission, money or other consideration to any person as an inducement to or in order to obtain the work to be provided to the BEDC under this Agreement. Corix further agrees that it shall not accept any gift, bonus, commission, money, or other consideration from any person (other than from the BEDC pursuant to this Agreement) for any of the services performed by Professional under or related to this Agreement. If any such gift, bonus, commission, money, or other consideration is received by or offered to Corix or Professional, Corix shall immediately report that fact to the BEDC and, at the sole option of the BEDC, the BEDC may elect to accept the consideration for itself or to take the value of such consideration as a credit against the compensation otherwise owing to Corix, for reimbursement of payment to Professional, under or pursuant to this Agreement.
- (G) *Force Majeure.* If the performance of any covenant or obligation to be performed hereunder by any Party is (or by Professional under the PSA) delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions [such as, by way of illustration and not of limitation, severe rain storms or below freezing temperatures, or tornados] labor action, strikes or similar acts, moratoriums or regulations or actions by governmental authorities), the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The Party claiming delay of performance as a result of any of the foregoing force majeure events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven (7) days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the other party of the occurrence of a force majeure event causing such delay and the other Party shall not otherwise be aware of such force majeure event, the claiming Party shall not be entitled to avail itself of the provisions for the extension of performance contained in this subsection.
- (H) In the case of any conflicts between the terms of this Agreement and wording contained within the PSA, this Agreement shall govern. The Scope of Services in the Task Order is intended to detail

the technical scope of services, fee schedule, and contract time only for services to be performed by Professional and shall not dictate Agreement terms of the agreement between BEDC and Corix.

**Section 7. Termination.**

(A) This Agreement may be terminated:

- (1) By the mutual agreement and consent of both Corix and BEDC;
- (2) By either Party, upon the failure of the other party to fulfill its obligations as set forth in this Agreement;
- (3) By the BEDC, immediately upon notice in writing to Corix and a reasonable opportunity for Professional to cure, as consequence of the failure of Professional to perform the services contemplated by the Task Order in a timely or satisfactory manner;
- (4) By the BEDC, at will and without cause upon not less than thirty (30) days written notice to Corix; ~~or~~
- (5) By Corix after notice and reasonable opportunity to cure, if BEDC does not reimburse Corix for payment made to Professional in accordance with the terms and conditions of this Agreement.

Deleted: and

(B) If the BEDC terminates this Agreement pursuant to Section 5 or subsection ~~7(A)(2) or (3)~~, above, Corix shall not be entitled to any fees or reimbursable expenses other than for reimbursement of costs and expenses paid by Corix to Professional for services rendered prior to termination by ~~BECD~~. Further, upon termination of this Agreement by BEDC for any reason, Corix's obligation to reimburse ~~BECD~~ in accordance with **Exhibit "B"** shall terminate.

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**Section 8. Indemnification.** Corix shall indemnify and hold harmless the City of Bastrop, Texas, Economic Development Corporation and its officials, employees and agents (collectively referred to as "**Indemnitees**") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including reasonable attorney's fees) or liabilities (collectively referred to as "**Liabilities**") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance or non-performance of Corix's obligations under this Agreement but only to the extent caused by the negligent acts, errors or omissions, intentional torts, intellectual property infringement, or a failure to pay a sub-contractor or supplier committed by Corix or Corix's agent, consultant under contract, or another entity over which Corix exercises control (whether active or passive) of Corix or its employees, agents or sub-contractors, (ii) the failure of Corix to comply with any of the paragraphs herein or the failure of Professional to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal, state or local, in connection with the performance of this Agreement. Corix expressly agrees to indemnify and hold harmless the Indemnitees, or any one of them, from and against all liabilities which may be asserted by an employee or former employee of Corix, or any of its sub-contractors, as provided above, for which Corix's liability to such employee or former employee would otherwise be limited to payments under State Workers Compensation or similar laws. Nothing herein shall require

**Corix to indemnify, defend, or hold harmless any Indemnitee for the Indemnitee's own negligence or willful misconduct. Any and all indemnity provided for in this Agreement shall survive the expiration of this Agreement and the discharge of all other obligations owed by the Parties to each other hereunder and shall apply prospectively not only during the term of this Agreement but thereafter so long as any liability could be asserted in regard to any acts or omissions of Corix in performing services under this Agreement.**

**Section 9. Notices.** Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

**Section 10. No Assignment.** Neither Party shall have the right to assign that Party's interest in this Agreement without the prior written consent of the other Party.

**Section 11. Severability.** If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

**Section 12. Waiver.** Either BEDC or Corix shall have the right to waive any requirement contained in this Agreement that is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation.

**Section 13. Governing Law; Venue.** This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this Agreement are performable in Bastrop County, Texas, such that exclusive venue for any action arising out of this Agreement shall be in Bastrop County, Texas.

**Section 14. Paragraph Headings; Construction.** The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the negotiation and preparation of this Agreement and this Agreement shall not be construed either more or less strongly against or for either party.

**Section 15. Binding Effect.** Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal and legal representatives, successors and assigns.

**Section 16. Gender.** Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

**Section 17. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**Section 18. Exhibits.** All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

**Section 19. Entire Agreement.** It is understood and agreed that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally.

**Section 20. Relationship of Parties.** Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Agreement.

**Section 21. Dispute Resolution.** The Parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this Agreement, the Parties will first attempt to resolve the dispute by taking the following steps: (1) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied party to the other party, which notice shall request a written response to be delivered to the dissatisfied party not less than five (5) days after receipt of the notice of dispute. (2) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied party, the dissatisfied party shall give notice to that effect to the other Party whereupon each Party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the dispute. (3) If those persons cannot or do not resolve the dispute, then the Parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the dispute.

**Section 22. Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire.** Professional represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code, Conflicts of Interest Questionnaire and Chapter 2252 of the Texas Government Code, Form 1295 Certificate of interested Parties online filing with the Texas Ethics Commission.

<b>EXECUTED:</b>	
<b>BEDC:</b>	<b>CORIX UTILITIES (TEXAS), INC.:</b>
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
<u>Date:</u> _____	<u>Date:</u> _____

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**Deleted:** day of  
**Deleted:** , 2021.

**Deleted:** Cameron Cox

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**ADDRESS FOR NOTICE:**

**BEDC:**

City of Bastrop Economic Development Corporation  
Attn: Executive Director  
301 Highway 71 West, Suite 214  
Bastrop, Texas 78602

**PROFESSIONAL:**

Corix Utilities (Texas), Inc.  
Attn: Darrin Barker  
1812 Centre Creek Dr., #100,  
Austin, TX 78754  
[Click here to enter text.](#)

Deleted: Cameron Cox,

**With a copy to:**

BEDC Attorney  
City of Bastrop Economic Development Corporation  
2500 W. William Cannon, Suite 609  
Austin, Texas 78745

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DRAFT

**Exhibit “A”**

**TASK ORDER UNDER EXISTING PROFESSIONAL SERVICES  
AGREEMENT WITH KIMLEY-HORN & ASSOCIATES, INC.  
FOR BASTROP COUNTY REGIONAL WASTEWATER  
MASTER PLAN STUDY**

As more particularly described in the attached Task Order, Kimley-Horn & Associates, Inc. shall perform a Regional Wastewater Master Plan Study to identify the required wastewater infrastructure along the Highway 71 corridor west of Bastrop to serve future economic development.

DRAFT

**Exhibit “B”**  
**COMPENSATION & FEE SCHEDULE**

The Task Order attached as **Exhibit “A”** to this Agreement identifies the compensation to be paid by Corix to Kimley-Horn & Associates, Inc. (“*Professional*”) for preparation of the Wastewater Master Plan.

Not more frequently than monthly, Corix shall provide to BEDC a copy of each invoice for completed services by Professional under the PSA, along with evidence of payment by Corix to Professional for the services that are the subject of the invoice. Upon receipt of each invoice, BEDC shall reimburse Corix for all sums paid by Corix to Professional in accordance with the Prompt Payment Act.

Corix will subsequently reimburse BEDC all costs and expenses funded by BEDC under this Agreement in accordance with the terms of this paragraph. After completion of construction of any of the wastewater facilities identified in the Wastewater Master Plan, Corix shall reimburse BEDC for costs paid under this Agreement on a per living unit equivalent (“LUE”) basis according to the design capacity of the completed wastewater improvements. Specifically, the total payment made by BEDC under this Agreement shall be divided by the number of LUEs that the completed facilities are designed to serve in order to calculate a “per LUE” reimbursement amount. Thereafter, and not less frequently than once per calendar year, Corix shall provide payment to BEDC in a sum equal to the number of new service connections (expressed in LUEs) that connect to the completed wastewater improvements since the most recent preceding reimbursement payment multiplied by the per LUE reimbursement amount. In the event that wastewater facilities are constructed in phases, then a similar calculation shall be undertaken for each completed phase of facilities, and reimbursement by Corix shall continue as new connections are made to each phase of infrastructure until such time as BEDC has recovered all of the costs and expenses funded under this Agreement. Corix’s reimbursement obligation under this Agreement shall terminate upon the earlier of the following: (i) the date that BEDC has recovered all of the costs and expenses paid to Corix under this Agreement for services rendered by Professional under the Task Order; or (ii) ten (10) years after the effective date of this Agreement.

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## AGENDA MEMORANDUM

Meeting Date: April 19, 2021

Agenda Item: Discussion and possible action on an update about the MLK/Technology Drive Extension Project.

Prepared by: BEDC Staff

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At the March BEDC board meeting BEDC's Project Manager, Jean Riemenschneider, was asked to provide an update on this project.

Bowman Consulting will be in attendance at the meeting to give an update on the project. A detailed history of the project is included below.

### **Project History**

The MLK/Technology Expansion Project was presented to the BEDC Board in August 2017 by Shawn Kirkpatrick, BEDC's executive director from 2015 to 2018. Mr. Kirkpatrick explained that extending Technology Drive would create a second ingress and egress route in the Business Park, bringing the Park into compliance with the City of Bastrop's development regulations. It would also open up an additional 10 acres for development. The project would include roads, drainage, and related infrastructure improvements.

On August 21, 2017, the Board approved funding the project in the amount of \$1,600,000. (Resolution R-2017-0013) It qualified as a project authorized under Texas Local Government Code 501.103 and 505.159(b).

On October 16, 2017, the Board voted to amend the amount to include dark fiber and regional storm water detention, increasing the estimated cost of the project to \$1,854,800. The approved source of funding was \$1,425,388 from the BEDC FY 2017/2018 budget, and \$429,412 remaining from 2013 certificate of obligation bond funds. (Resolution R-2017-0019) The Board then approved a Professional Services Agreement (PSA) with Bowman Consulting. (Resolution R-2017-0020)

On March 19, 2018, the Board approved a change order in the amount of \$13,500 to survey the rights-of-way boundaries for MLK Street and Mill Street and prepare an engineering design survey, as the original documents could not be located on file at the City of Bastrop or Bastrop County. (Resolution R-2018-0001)



At the November 2020 board meeting, an update was given stating that the interlocal agreement between Bastrop County, City of Bastrop, and the BEDC was being redrafted.

Bowman Consulting will update the Board on the progress of the project since then.

Attachment:

Preliminary Opinion of Probable Cost for Technology Drive Extension from Bowman Consulting

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**Recommendation** – Staff’s recommendation is to receive the project updates from Bowman Consulting and discuss next steps, with the likelihood that the project will require action as an agenda item in the future.

**[RECOMMENDED MOTION]** – None at this time.



**PRELIMINARY OPINION OF PROBABLE COST for TECHNOLOGY DR EXTENSION**  
**13-Apr-21**

<b>COST SUMMARY</b>	
1.0 GENERAL CONDITIONS	\$76,000
2.0 EROSION CONTROL	\$218,041
3.0 ROADWAY AND ROUGH CUT	\$29,013
4.0 WASTEWATER IMPROVEMENTS	\$67,922
5.0 POTABLE WATER IMPROVEMENTS	\$141,886
6.0 DRAINAGE IMPROVEMENTS	\$180,300
7.0 DETENTION POND IMPROVEMENTS	\$380,110
8.0 ROADWAY IMPROVEMENTS	\$451,701
<b>ESTIMATED CONSTRUCTION COST</b>	<b>\$1,544,973</b>
<b>CONTINGENCY @ 10%</b>	<b>\$154,497</b>
<b>TOTAL ESTIMATED CONSTRUCTION COST</b>	<b>\$1,699,471</b>

The above opinion of probable construction cost is made by an engineer, not a professional construction contractor. The accuracy of estimates can not be guaranteed. The cost does not include inflation or contingency. The estimate is for costs in Q1, 2020. Because of the pandemic and uncertainty associated with its resolution. We are in a period of volatile construction costs. Future costs may be significantly increased over historical inflation trends. The Owner should add his own inflation and contingency items.

By: 

Date  
 April 14, 2021



Charles R. Wirtanen, PE

**PRELIMINARY OPINION OF PROBABLE COST for TECHNOLOGY DR EXTENSION****13-Apr-21**

4/12/2021

**1.0 GENERAL CONDITIONS**

Bid Item	Description		Unit Price	Quantity	Amount
1.1	Mobilization	LS	\$25,000.00	1	\$25,000
1.2	Supervision	LS	\$20,000.00	1	\$20,000
1.3	Survey	LS	\$8,000.00	1	\$8,000
1.4	Bonds	LS	\$23,000.00	1	\$23,000
<b>SUBTOTAL</b>					<b>\$76,000</b>

**2.0 EROSION CONTROL**

Bid Item	Description		Unit Price	Quantity	Amount
2.1	Stabilized Construction Entrance	EA	\$4,920.00	1	\$4,920
2.2	Tree Protection Fencing	LF	\$4.20	160	\$672
2.3	Silt Fence (w/ J-hooks)	LF	\$3.60	2,000	\$7,200
2.4	Rock Berm	LF	\$36.00	60	\$2,160
2.5	Inlet Protection	EA	\$120.00	4	\$480
2.6	Clear and Grub (excluding ROW)	AC	\$2,400.00	10.0	\$24,000
2.7	Place/compact Excess Material	CY	\$3.00	18,122	\$54,366
2.8	Material haul off	CY	\$18.00	1,000	\$18,000
2.9	Revegetate with Hydromulch in All Disturbed Areas	SY	\$3.00	33,014	\$99,043
1.10	SWPPP	LS	\$7,200.00	1	\$7,200
<b>SUBTOTAL</b>					<b>\$218,041</b>

**3.0 ROADWAY AND ROUGH CUT**

Bid Item	Description		Unit Price	Quantity	Amount
3.1	Clear and Grub ROW	SY	\$1.20	9,778	\$11,733
3.2	Excavation (including swales)	CY	\$4.80	1,800	\$8,640
3.3	Embankment	CY	\$3.60	2,400	\$8,640
<b>SUBTOTAL</b>					<b>\$29,013</b>

**PRELIMINARY OPINION OF PROBABLE COST for TECHNOLOGY DR EXTENSION**

**13-Apr-21**

**4.0 WASTEWATER IMPROVEMENTS**

Bid Item	Description	Unit	Unit Price	Quantity	Amount
4.1	8" SDR-35 PVC (0-8') including testing	LF	\$30.00	219	\$6,570
4.2	8" SDR-35 PVC (8-10') including testing	LF	\$36.00	162	\$5,832
4.3	8" SDR-35 PVC (10-12') including testing	LF	\$44.40	337	\$14,963
4.4	8" SDR-35 PVC (12-14') including testing	LF	\$54.00	200	\$10,800
4.5	4' Dia Standard Wastewater Manhole (8 ft. depth) including coating and testing	EA	\$3,600.00	3	\$10,800
4.6	Additional Vertical Feet of Manhole including coating and testing	VF	\$660.00	9.6	\$6,336
4.7	Single Gravity WW Service-Short	EA	\$1,320.00	2	\$2,640
4.8	Single Gravity WW Service-Long	EA	\$3,240.00	2	\$6,480
4.9	Trench Safety Systems for Wastewater Line	LF	\$1.20	918	\$1,102
4.10	Connect to Existing WW Stub	EA	\$2,400.00	1	\$2,400
<b>SUBTOTAL</b>					<b>\$67,922</b>

**5.0 POTABLE WATER IMPROVEMENTS**

Bid Item	Description	Unit	Unit Price	Quantity	Amount
5.1	12" C-900 DR-14 PVC WL including pipe, fittings, restraints, and all other appurtenances (all depths)	LF	\$60.00	1,050	\$63,000
5.2	6" C-900 DR-18 PVC WL including pipe, fittings, restraints, and all other appurtenances (all depths)	LF	\$36.00	92	\$3,312
5.3	12" Gate Valve, including all other appurtenances	EA	\$3,000.00	3	\$9,000
5.4	6" Gate Valve, including all other appurtenances	EA	\$2,100.00	3	\$6,300
5.5	6" Pressure Reducing Valve including installation in vault	LS	\$18,480.00	1	\$18,480
5.6	Standard Fire Hydrant Assembly, including pipe, fittings, restraints, valve, hydrant, and all other required appurtenances	EA	\$4,800.00	4	\$19,200
5.7	6" Ductile Iron Pipe, CI 350 for Long Fire Hydrant Leads	LF	\$42.00	80	\$3,360
5.8	Double Service (Short) 1" including pipe, valves, meter boxes and appurtenances	EA	\$2,400.00	2	\$4,800
5.9	Double Service (Long) 1" including pipe, valves, meter boxes and appurtenances	EA	\$3,000.00	2	\$6,000
5.10	Automatic Air Release Valve	EA	\$3,120.00	1	\$3,120
5.11	Trench Safety System for Water Line	LF	\$0.66	1,142	\$754
5.12	Connect to Existing Water Line	EA	\$2,280.00	2	\$4,560
<b>SUBTOTAL</b>					<b>\$141,886</b>



**PRELIMINARY OPINION OF PROBABLE COST for TECHNOLOGY DR EXTENSION****13-Apr-21****6.0 DRAINAGE IMPROVEMENTS**

Bid Item	Description		Unit Price	Quantity	Amount
6.1	18" RCP	LF	\$55.00	45	\$2,475
6.2	24" RCP	LF	\$65.00	125	\$8,125
6.3	9' x 5' Box Culvert	LF	\$750.00	120	\$90,000
6.4	10' Std. Curb Inlet	LF	\$5,800.00	2	\$11,600
6.5	PW Type 1 Hdwl for 8' x 4' BC (HW= 5 ft.)	EA	\$12,500.00	1	\$12,500
6.6	Grouted Boulder Drop Structure per Detail (Excl. 12" D50 Stone Rip Rap)	LS	\$25,000.00	1	\$25,000
6.7	12" Stone Rip Rap with 6" Bedding and Geotextile	SY	\$70.00	433	\$30,310
6.8	Trench Safety System for Storm Sewer Line	LF	\$1.00	290	\$290
<b>SUBTOTAL</b>					<b>\$180,300</b>

**7.0 DETENTION POND IMPROVEMENTS**

Bid Item	Description		Unit Price	Quantity	Amount
7.1	Clear and Grub	AC	\$1,440.00	3	\$4,608
7.2	Strip 4" top soil	CY	\$3.30	1,690	\$5,577
7.3	Excavation	CY	\$4.20	23,849	\$100,168
7.4	Embankment	CY	\$3.00	900	\$2,700
7.5	Outlet Structure	LS	\$48,000.00	1	\$48,000
7.6	Guard Rail Waco Type D	LF	\$180.00	67	\$12,060
7.7	Trickle Channel	SF	\$14.40	3,654	\$52,618
7.8	10' Maintenance Rd.	SY	\$14.40	1,111	\$16,000
7.9	12' Concrete Maintenance Access Drive and Pad	SY	\$12.00	1,143	\$13,716
7.10	12' Commercial Driveway with Gate	EA	\$9,600.00	2	\$19,200
7.11	36" RCP Storm Sewer Culvert	LF	\$156.00	82	\$12,792
7.12	8" Stone Rip Rap with 6" Bedding and Geotextile	SY	\$72.00	47	\$3,400
7.13	TxDOT Type CH-FW-0 HDWL for 36" RCP	EA	\$7,200.00	1	\$7,200
7.14	TxDOT Type CH-PW-S HDWL for 36" RCP	EA	\$7,680.00	1	\$7,680
7.15	Trench Safety	LF	\$1.20	82	\$98
	Detention Pond Re-vegetation	SY	\$4.80	15,478	\$74,293
<b>SUBTOTAL</b>					<b>\$380,110</b>

**PRELIMINARY OPINION OF PROBABLE COST for TECHNOLOGY DR EXTENSION**

**13-Apr-21**

**8.0 ROADWAY IMPROVEMENTS**

<b>Bid Item</b>	<b>Description</b>		<b>Unit Price</b>	<b>Quantity</b>	<b>Amount</b>
8.1	Subgrade Preparation (2' BOC)	SY	\$3.24	5,323	\$17,247
8.2	6" Cement Stabilized Sand Subgrade (2' BOC) (assumes 20% sand encountered)	SY	\$3.00	1,036	\$3,109
8.3	6" Rigid Concrete Pavement	SY	\$72.00	4,575	\$329,432
8.4	Integral Concrete Curb	LF	\$21.00	2,387	\$50,127
8.5	Median Pavers	SF	\$24.00	319	\$7,656
8.6	Concrete Valley Gutter	EA	\$8,726.40	1	\$8,726
8.7	Signage and Striping per Plans	LS	\$4,320.00	1	\$4,320
8.8	Saw Cut Ex. Pvmt	LF	\$3.00	145	\$435
8.9	Sleeves	LF	\$14.40	800	\$11,520
8.10	2" Street Light Conduit including Trench	EA	\$12.00	1,594	\$19,128
<b>SUBTOTAL</b>					<b>\$451,701</b>

## **AGENDA MEMORANDUM**

Meeting Date: April 19, 2021

Agenda Item: Discussion and possible action on an update about the Downtown Trail Expansion Project (River Loop Trail Project).

Prepared by: BEDC Staff

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At the March BEDC board meeting BEDC's Project Manager, Jean Riemenschneider, was asked to provide an update on this project.

Bowman Consulting will be in attendance at the meeting to give an update on the project. A detailed history of the project is included below.

### **Project History**

The Downtown Trail Expansion Project was presented to the BEDC Board on May 15, 2017, by Shawn Kirkpatrick, BEDC's executive director from 2015 to 2018. Mr. Kirkpatrick explained the project would create a 1.8-mile loop, connecting east and west of the Colorado River, and north and south of Hwy 71. He said he had received good feedback at a public input session about it; Bastrop citizens had been asking for a complete loop for some time, and the project would also address public safety concerns. The consensus of the Board was for the project to move forward.

The project was to be completed in three phases beginning with a stretch of sidewalk, between 6 feet and 10 feet wide, along Loop 150 between Texas 71 and Main Street. The second phase would run along Texas 71 as it crosses the Colorado River. The third phase would connect the two trails from Water Street, through Main Street to downtown.

The BEDC Board of Directors approved the Downtown Trail Expansion Project via Resolution R-2017-0009 on July 17, 2017, in an amount not to exceed \$680,000. The project was authorized under Texas Local Code (LGC) Sections 505.152 (projects related to recreational or community facilities) and 505.158 (projects related to business development in certain small municipalities).

A public hearing on the project was held at the July 2017 board meeting. The project was approved by City Council on August 22, 2017.

On September 18, 2017, the Board approved a Professional Services Agreement (PSA) with Bowman Consulting. (Resolution R-2017-0012)



The City of Bastrop was subsequently awarded two separate grants for the project. One grant was from Keep Bastrop County Beautiful (KBCB), in the amount of \$130,000. The other grant was from the Capital Area Metropolitan Planning Organization (CAMPO) in the amount of \$475,000.

NOTES: The CAMPO grant requires additional permitting and engineering that was not included in the original scope of work, because at the time the Project received Board approval the possibility of receiving grant funds was not part of the discussion. The City of Bastrop applied for and received the grant funds on behalf of the BEDC. The funds can be used for construction, not engineering costs. The City refers to the project as the “River Loop Trail Project.”

On May 21, 2018, the Board approved a change order in the amount of \$6,000, due to environmental permitting required for the CAMPO grant, which was not a part of the original scope of work. (Resolution R-2018-0006)

On July 15, 2019, the Board approved a change order in the amount of \$50,000 for construction drawings required by TxDOT for the CAMPO grant funding. (Resolution R-2019-0012)

An update was given at the February 2020 board meeting indicating that TxDOT had approved the project and construction was moving forward.

Bowman Consulting will update the Board on the progress of the project since then.

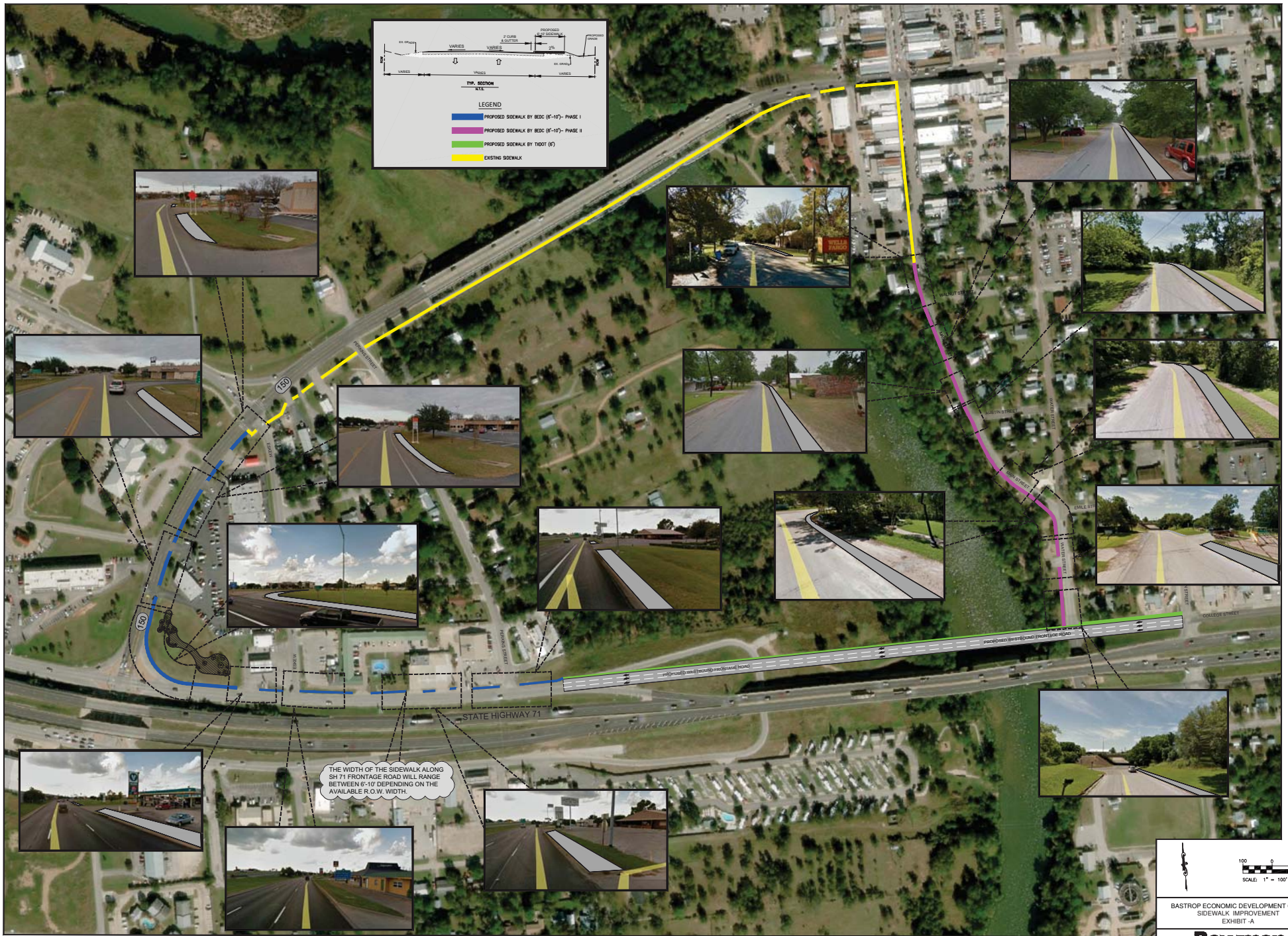
Attachment:  
Original map from 2017

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**Recommendation** – Staff’s recommendation is to receive the project updates from Bowman Consulting and discuss next steps, with the likelihood that the project will require action as an agenda item in the future.

**[RECOMMENDED MOTION]** – None at this time.





THE WIDTH OF THE SIDEWALK ALONG SH 71 FRONTAGE ROAD WILL RANGE BETWEEN 6'-10' DEPENDING ON THE AVAILABLE R.O.W. WIDTH.

- NOTE:
1. AERIAL IMAGE DATED 01/28/2017 WAS TAKEN FROM 2016/2017 ON 03/04/2021.
  2. STREET NAMES WERE TAKEN FROM GOOGLE EARTH ON 3/26/2021.

150 0 100  
SCALE: 1" = 100'

BASTROP ECONOMIC DEVELOPMENT CORP  
SIDEWALK IMPROVEMENT  
EXHIBIT-A

**Bowman CONSULTING**  
1120 S. Capital of Texas Hwy, • Building 3, Suite 200 • Austin, Texas 78746  
Phone: (512) 321-1100 • Fax: (512) 321-4102 • www.bowmanconsulting.com  
1695 Ever Registration No. E-4300

**Agenda Item: 3.8****AGENDA MEMORANDUM**

Meeting Date: April 19, 2021

Agenda Item: Receive updates from BEDC ad hoc committees.

Prepared by: BEDC Staff

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At the BEDC board meeting on March 22, Chair Nash appointed board members to serve on ad hoc committees. Those committee members are listed below.

This agenda item allows the committee members to provide updates to the Board.

Projects Committee

Ron Spencer

Bill Gossett

Kevin Plunkett (back-up #1)

Connie Schroeder (back-up #2)

Communications Committee

Kevin Plunkett

Charles Washington

Other board members as needed

Charles Washington will assist with the hiring of a new office manager.

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**Recommendation** – None.

**[RECOMMENDED MOTIONS]** – None.



## Agenda Item: 3.9

# AGENDA MEMORANDUM

Meeting Date: April 19, 2021

Agenda Item: Discussion and possible action on authorizing a BEDC board or staff member to hire an office manager for the BEDC office.

Prepared by: BEDC Staff

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Charles Washington has been assisting BEDC staff in the hiring of a new office manager.

An updated job description was posted on the BEDC's website and the position was advertised in three editions of the *Bastrop Advertiser* (April 3, 8, and 15) as well as the *Smithville Times* (April 8 and 15). It was also publicized on the BEDC's social media accounts.

In order to proceed with the hiring process as quickly as possible, staff is requesting that the Board grant the authority to hire a new office manager to either a BEDC board member or staff member.

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**Recommendation** – Authorize a BEDC board of staff member to hire a new office manager.

**[RECOMMENDED MOTIONS]** – I make the motion to authorize \_\_\_\_\_ to hire an office manager for the BEDC office.

