

RESOLUTION NO. R-2025-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS APPROVING A FOURTH AMENDMENT TO THE DESTINATION AND MARKETING SERVICES AGREEMENT; ATTACHED AS EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTATION; PROVIDING FOR FINDINGS OF FACT; REPEALER; SEVERABILITY; EFFECTIVE DATE; PAPER NOTICE AND MEETING.

WHEREAS, the City of Bastrop and Visit Bastrop entered into that certain Destination and Marketing Services Agreement, ("Agreement") on September 12, 2017, for destination and marketing services to be provided by Visit Bastrop; and

WHEREAS, the City of Bastrop City Council and the Visit Bastrop Board of Directors signed the First Amendment to the Destination and Marketing Services Agreement between the City of Bastrop, Texas and Visit Bastrop on 15th of January, 2020, as provided herein; and

WHEREAS, the City of Bastrop City Council and the Visit Bastrop Board of Directors signed the Second Amendment to the Destination and Marketing Services Agreement between the City of Bastrop, Texas and Visit Bastrop on 10th of November, 2020, as provided herein; and

WHEREAS, the City of Bastrop City Council and the Visit Bastrop Board of Directors signed the Third Amendment to the Destination and Marketing Services Agreement between the City of Bastrop, Texas and Visit Bastrop on August 30th, 2021, as provided herein; and

WHEREAS, the City of Bastrop requested a fourth amendment to the terms of the Agreement, as provided herein.

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

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

Section 2. The City Council approves and authorizes the execution of the fourth amendment of the Visit Bastrop Destination and Marketing Services Agreement, attached hereto as Exhibit "A", on behalf of the City.

Section 3. Repealer: To the extent reasonably possible, resolutions are to be read together in harmony. However, all resolutions, or parts thereof, that are in

conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters regulated.

Section 4. Severability: Should any of the clauses, sentences, paragraphs, sections, or parts of this Resolution be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Resolution.

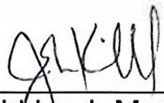
Section 5. Effective Date: This Resolution shall take effect upon the date of final passage noted below, or when all applicable publication requirements, if any, are satisfied in accordance with the City's Charter, its Code of Ordinances, and the laws of the State of Texas.

Section 6. Proper Notice & Meeting: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

DULY RESOLVED & ADOPTED by the City Council of the City of Bastrop, TX, on this, the 14th day of January, 2025.


[Signature Page Follows]

THE CITY OF BASTROP, TEXAS:




John Kirkland, Mayor Pro Tempore

ATTEST:



City Secretary
*for Assistant City Secretary
Victoria Benek*

APPROVED AS TO FORM:



City Attorney



DESTINATION MARKETING SERVICES AGREEMENT

between the
CITY OF BASTROP, TEXAS
& VISIT BASTROP

This Destination Marketing Services Agreement ("2025 Agreement") is hereby entered into by and between the City of Bastrop, Texas, a Texas municipal corporation ("City"), and the Bastrop Destination Marketing Organization, a Texas non-profit corporation ("Visit Bastrop"), each being a "Party" to this Agreement, and both being referred to collectively as the "Parties".

WHEREAS, a tourist is an individual who travels from the individual's residence to a different municipality, county, state, or country for business, pleasure, recreation, education, or culture; and

WHEREAS, the tourism industry is a vital economic generator the Bastrop community in terms of both Sales Taxes and Hotel Occupancy Taxes; and

WHEREAS, the City imposes a Hotel Occupancy Tax on persons who pay for the use of lodging establishments generally including hotels, motels, bed and breakfasts, and short-term rentals; and

WHEREAS, the City is authorized and capable of engaging directly in marketing activities that promote the Bastrop community and its lodging industry to tourists and those who attend conventions, including but not limited to branding the community as a desirable destination for tourists; and

WHEREAS, the City of Bastrop City Council ("City Council") prefers to outsource such marketing activities to a separate organization that will provide oversight to Bastrop's visitor assets and provide support to community assets, such as those engaged in the Arts, Entertainment, Film, History, Lodging, Nightlife, Outdoors Recreation, Restaurants, Retail, and Sports; and Convention Center Space

WHEREAS, the Bastrop Destination Marketing Organization was incorporated as a nonprofit corporation in 2017, under the assumed name of "Visit Bastrop", and has been conducting business as such since that time; and

WHEREAS, the City and Visit Bastrop entered into a Destination and Marketing Services Agreement, ("Original Agreement") on September 12, 2017; and

WHEREAS, the City and Visit Bastrop approved amendments to the terms of the Original Agreement in 2019, 2020, and 2021; and

WHEREAS, the Parties seek to repeal all prior agreements between them and enter into a new agreement that more clearly states the nature of the mutual arrangement, establishes certain operational requirements, and provides clear metrics that define success; and

WHEREAS, the City Council finds that the services provided for under this 2025 Agreement satisfy the mandates of Texas Tax Code chapter 351, including but not limited to the encouragement and promotion of tourism, conducting conventions, promoting the arts and historical restoration or preservation project and sporting events that increase economic activity at hotels and motels within the vicinity; and

WHEREAS, pursuant to the Bastrop Home Rule Charter, the City has the authority to enter into contracts pursuant to Section 2.01; and

WHEREAS, the City Council finds that the terms and conditions of this 2025 Agreement satisfy the City's *Hotel Occupancy Tax Use Policy*; and

WHEREAS, the City Council and the Visit Bastrop Board of Directors find this 2025 Agreement to be reasonable, prudent, necessary, and in the public interest.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the parties agree on the following modifications to the Agreement:

1. SCOPE OF SERVICES

1.1. Services to be Provided. Visit Bastrop agrees to provide the services described below:

- (a) Promote the Bastrop community as a destination for tourists; and
- (b) Increase the Bastrop community's visibility through media and public relations; and
- (c) Attract tourists to the City and its vicinity; and
- (d) Secure meetings, retreats, and conventions to the City and its vicinity via promotion of the Bastrop Exhibit and Convention Center; and
- (e) Produce marketing and imaging campaigns for the Bastrop community; and
- (f) Utilize research technology on economic trends, growth sectors, and regional competitive strengths and weaknesses to provide tourism forecasts to the City assist the City in making strategic decisions that support, provide for, or foster tourism; and
- (g) Serve as a liaison to community assets, local businesses, and City departments in furtherance of the services listed in this section; and
- (h) Provide tourism marketing to the City to jointly improve and maximize opportunities for community assets.

1.2. Benchmarks & Performance Measures. Visit Bastrop agrees to meet or exceed the benchmarks and performance measures included in *Attachment "A"*.

1.3. Additional Services. The City acknowledges that the City Manager may periodically request that Visit Bastrop perform services beyond those listed above. In such instances, if Visit Bastrop is willing and able to perform, the City Manager is authorized to provide

additional compensation to Visit Bastrop within the scope of the City Manager's expenditure authority and in accordance with the City's budget.

- 1.4. Contracting of Services.** The City acknowledges that Visit Bastrop may contract with vendors and entities unaffiliated with the City to perform or assist in the performance of some of the services provided for under this 2025 Agreement. Nothing herein shall be construed to allow for an assignment of this agreement.

2. OPERATIONS

- 2.1. Business Plan.** In May of each year, Visit Bastrop shall submit to the City Manager a Business Plan with a proposed budget that indicates in appropriate detail how the funding to be provided by the City for the upcoming fiscal year will be expended. This plan and proposed budget will be presented publicly at a Joint City Council meeting.

2.2. Financial Management.

- (a) Use of Funds.** Visit Bastrop shall expend funds provided by the City under this 2025 Agreement in strict compliance with the terms and conditions of the agreement, the Business Plan, and Texas Tax Code Chapter 351.
- (b) Segregation of Funds.** Visit Bastrop shall segregate all funds provided by the City under this 2025 Agreement into a separate account and shall not commingle with Visit Bastrop's General Fund or funds received from any other source.
- (c) Budget.** Visit Bastrop shall ensure that all expenditures are in accordance with an annual operating budget, which shall be a public document. Visit Bastrop shall submit a copy of each year's budget to the City along with any proposed amendments in advance of approval by the Visit Bastrop Board of Directors.
- (d) Annual Audit.** Visit Bastrop shall have an annual financial audit of its accounts performed by an independent Certified Public Accountant (CPA) who is not engaged to perform any routine bookkeeping or financial management services for Visit Bastrop. Visit Bastrop shall provide a copy of the annual audit report to the City. The audit report shall be a public document.
- (e) Financial Policies.** The Financial Policies of Visit Bastrop shall mirror the policies of the City of Bastrop, where HOT Funds are utilized. The use of HOT Funds for the purchasing of gifts shall be strictly prohibited. Utilization of any funds that are not HOT Funds may be used at the discretion of the board while keeping the public trust at the forefront of their decisions.
- (f) Investment Policy.** Visit Bastrop shall ensure that any investment of funds provided by the City to Visit Bastrop under this 2025 Agreement is performed in strict

compliance with the Texas Public Funds Investment Act, Texas Government Code Chapter 2256.

2.3. Board Operations.

- (a) **Bylaws.** Visit Bastrop shall ensure that a current copy of the Bylaws for the Board of Directors is submitted to the City Manager. Visit Bastrop shall ensure that a current copy of any proposed amendments to the Bylaws are submitted to the City Manager in advance of approval by the Board of Directors.
- (b) **Board Meetings.** Visit Bastrop shall ensure that the Board of Directors meets at least seven (7) times a year. The Board of Directors will receive routine updates on the organization's operations. While the Board may have an Executive Committee, the entire Board shall receive full briefings from staff and Board leadership, on a per meeting basis.
- (c) **Complete Board.** Visit Bastrop shall ensure that the Board of Directors shall diligently strive to maintain a complete Board of Directors by dutifully filling vacancies in a prompt and timely manner. There shall be a disinclination to allow vacant positions to linger. Recruitment, appointment, onboarding and training will be a priority for the Board of Directors.
- (d) **Board Education.** Visit Bastrop shall ensure that the Board of Directors shall receive training at least annually on the following topics: Texas Hotel Occupancy Tax Expenditures, Texas Open Meetings Act, Texas Public Information Act, Ethical Conduct for Board Members, and Best Practices for service on nonprofit boards.
- (e) **Open Meetings.** Visit Bastrop shall ensure that all meetings of the Board of Directors shall comply with the Texas Open Meetings Act, Texas Government Code Chapter 551.
- (f) **Joint Meeting.** The City Council and Visit Bastrop Board of Directors shall conduct one or more joint meetings annually to share objectives, provide operational updates, and achieve alignment of purpose in May of each year.

2.4. Transparency.

- (a) **Records Retention.** Visit Bastrop shall comply with the Texas Local Government Records Act, Texas Local Government Code Chapter 551.
- (b) **Open Records.** Visit Bastrop shall comply with the Texas Public Information Act, Texas Government Code Chapter 552.
- (c) **City Access.** Visit Bastrop shall promptly provide the City access to all records related to the terms or conditions of this 2025 Agreement, including but not limited to data

regarding services provided, funds received, and funds expended. Visit Bastrop agrees the City has a special right of access to examine, inspect, and audit all records regarding services provided or funds expended under this agreement. Upon receipt of written request by the City, Visit Bastrop shall either (1) make records available within ten (10) days for inspection or copying by the City at Visit Bastrop's place of business; or (2) transmit the data electronically to the City as instructed by City personnel.

- (d) **Confidentiality.** When necessary to protect legal data, trade secrets, sensitive financial or proprietary information benefiting a third party, the City and Visit Bastrop will cooperate in good faith to take reasonable steps to maintain the privileged and/or confidential nature of data in its possession, as may be allowed by law.

2.5. Reports to City.

- (a) **Monthly Reports.** Visit Bastrop shall submit written monthly reports to the City Manager summarizing services performed under this agreement, including relevant performance measures (benchmarks).
- (b) **Quarterly Reports.** Visit Bastrop shall submit in-person quarterly reports to the City Council summarizing services performed under this agreement, including relevant performance measures (benchmarks).
- (c) **Additional Reports.** Visit Bastrop shall timely inform the City regarding high-profile or significant efforts to attract tourists to the Bastrop community.

- 2.6. Personnel Policies.** The Personnel Policies of Visit Bastrop shall mirror the policies of the City of Bastrop.

- 2.7. Insurance.** Visit Bastrop shall maintain appropriate levels of general liability insurance based on the size of its operation and workforce. Visit Bastrop shall make certificates of coverage available to the City upon request.

3. COMPENSATION

- 3.1. Definitions.** For purposes of this 2025 Agreement, the following definitions are applicable.

Hotel Occupancy Tax (HOT) is the tax imposed by the City in accordance with Texas Tax Code Section 351.004 on persons who pay for the use of lodging establishments generally including hotels, motels, bed and breakfasts, and short-term rentals.

HOT Revenue is the revenue collected by lodging establishments then remitted to the City by the Office of the Texas Comptroller of Public Accounts in accordance with Texas Tax Code Chapter 351.

Available HOT Revenue is HOT Revenue minus an amount necessary for servicing or satisfying the City's outstanding debt and contractual obligations unrelated to Visit Bastrop that were secured by HOT Revenue as per the City's annual budget.

- 3.2. Targeted Appropriation.** The City shall target thirty-five percent (35%) of the net HOT Revenue collected by the City as an annual appropriation to Visit Bastrop. This amount shall not be more than \$1,250,000.00 of total HOT Revenues. Each year during the City's annual budget process, the targeted percentage will be considered in making an annual appropriation to be paid to Visit Bastrop under this Agreement.
- 3.3. Payment Schedule.** The City's annual appropriation to Visit Bastrop shall be paid in equal quarterly installments on the first day of each month (October, January, April, July).

4. DURATION

- 4.1. Initial Term.** The term of this 2025 Agreement shall commence on January 14, 2025, and will remain in full force and effect for 9 months, thus ending on September 30, 2025, unless earlier terminated as provided herein.
- 4.2. Automatic Renewal.** The term of this 2025 Agreement shall automatically renew for successive one-year periods, for up to three years, and thus be extended for an additional one-year (12-month) term unless a Party provides written notice of an intention to terminate the agreement. To be effective, a Party's notice of their intention to terminate the agreement must be received by the other Party no later than ninety (90) days prior to the end of the then-current term.
- 4.3. Appropriations.** All obligations of the City arising under this 2025 Agreement are subject to annual appropriations by the City Council.
- 4.4. Suspension.** Either Party may temporarily suspend payments due or services rendered (as may be appropriate) under this 2025 Agreement if the other Party breaches its obligations under this agreement and fails to cure or otherwise remedy the breach to the other Party's satisfaction. Prior to suspending payments, the non-breaching Party must first provide the other Party with written notification of the breach that shall serve as the basis of the suspension and inform them that they have thirty (30) days to cure or otherwise remedy the breach to the non-breaching Party's satisfaction.
- 4.5. Termination.**
- (a) Expiration.** This 2025 Agreement shall terminate upon expiration of the current term if a Party provided timely notice of an intention not to renew, as provided above.
- (b) Non-Appropriation.** This 2025 Agreement shall terminate if upon final approval of the annual budget for the upcoming fiscal year no or insufficient appropriations are

made by the City Council to fund Visit Bastrop's services under the agreement.

(c) Mutual Consent. This 2025 Agreement shall terminate by mutual consent if the Parties execute a joint notice of termination providing for the effective date and the Parties' intentions regarding then-pending services and appropriations.

(d) For Cause. This 2025 Agreement shall terminate upon a Party providing the other Party written notification of the occurrence of one or more of the following:

- (1) A Party being in default for failing to timely cure an incident of breach serving as a cause of suspension (as provided above).
- (2) Ceasing operations for a period exceeding twenty (20) days.
- (3) Selling or otherwise transferring all of the Party's assets.
- (4) Termination by Law in response to the enactment of a state or federal law that renders the lawful performance of any term or condition stated herein impossible.

5. MISCELLANEOUS

5.1. Assignment. This agreement is not assignable.

5.2. Independent Contractor. Visit Bastrop is an independent contractor. Nothing herein shall be construed to create a joint venture.

5.3. Repealer. The Parties agree that all previous agreements between them for destination marketing services and their amendments are hereby repealed in their entirety and hereafter shall have no further force or effect

5.4. Severability. In the event any section, subsection, paragraph, sentence, phrase, or word herein is held invalid, illegal, or unconstitutional, the balance of this Agreement shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

5.5. Controlling Law & Venue. This agreement shall be construed under the laws of the State of Texas. Venue for any action under this agreement shall be the State District Court of Bastrop County, Texas. This agreement is performable in Bastrop County, Texas.

5.6. Counterparts. This agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

5.7. Entirety. This agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to the matters in agreement, and except as otherwise provided herein may not be modified without written agreement of the parties to be attached to and made a part of agreement.

5.8. Amendment. This agreement may only be amended by written instrument approved by both Parties.


5.9. Effective Date. This agreement shall become effective on *January 14, 2025*, after having been executed by both Parties.

5.10. Back payment Clause. This agreement shall acknowledge that after the effective date of *January 14, 2025*, Visit Bastrop shall be issued a back payment of the October 2024 quarterly installment from the City's annual appropriation to Visit Bastrop for the payment that was not issued in October of 2024.

Signature Page to Follow


EXECUTED in duplicate originals this, the 14th day of January 2025.

CITY OF BASTROP:


Sylvia Carrillo (Jan 17, 2025 16:24 CST)

Sylvia Carrillo-Trevino, City Manager

ATTEST:


Victoria Psencik (Jan 27, 2025 08:58 CST)

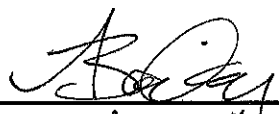
City Secretary

Victoria Psencik, Assistant City Secretary


VISIT BASTROP:


Lee Harle, Board Chairperson

ATTEST:


Name: Amy Bailey, Board Secretary

APPROVED AS TO FORM:


City Attorney

Benchmarks & Performance Measures



Performance Measures		Benchmarks
Sales	Leads	monthly & quarterly vs prior year
	Bid/Proposals	monthly & quarterly vs prior year
	Group Bookings	monthly & quarterly vs prior year
	Lost Opportunities	monthly & quarterly vs prior year
	Activities	monthly & quarterly vs prior year
Marketing/Communications	Website Traffic	monthly & quarterly vs prior year - Unique users, Pageviews, Average time on page
	Partner Referrals from our Website	monthly & quarterly vs prior year
	Newsletter Signups	monthly & quarterly / vs prior year - open rate
	Media/PR Placements	monthly & quarterly vs prior year - number of impressions
	Social Media Audience	monthly & quarterly vs prior year - total size (FB, Instagram, X, LinkedIn, You Tube), social engagement rate, total impressions
Hotel Performance	Occupancy	monthly & quarterly vs prior year
	Room Revenue	monthly & quarterly vs prior year
	Average Daily Rate (ADR)	monthly & quarterly vs prior year