

City of Bastrop

Agenda Information Sheet:



Planning and Zoning Commission Meeting Date:

**January 26, 2017
Workshop Agenda Item B**

WORKSHOP: Discussion regarding the proposed Inter-Local Agreement (ILA) for Subdivision Regulation in Bastrop County and the City of Bastrop’s Extra-Territorial Jurisdiction (ETJ).

Item Summary:

Chapter 242 of the Texas Local Government Code allows (and requires) municipalities and counties to enter into an agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction. The City of Bastrop and Bastrop County had previously entered into such an agreement in 2006, and that agreement has since expired. The City and Bastrop County have negotiated a proposed ILA to replace the expired agreement. The Bastrop County Commissioner’s Court approved the ILA on September 12, 2016.

Agreement Summary:

The proposed ILA details the roles and responsibilities of the County and the City, and identifies the applicable regulations that will be applied to subdivisions developed within the City’s ETJ. The agreement does not apply to land that is subject to the rules of special districts, such as municipal utility districts.

In order to address the City’s unusually large ETJ, the agreement defines three ETJ Areas: Area “S”, Area “A”, and Area “B”. Each Area is classified by the applicable regulations and development process, as well as the entity responsible for approving and coordinating developments within each Area. The boundaries of each area may be adjusted as the City’s statutory ETJ (Area “S”) is expanded over time.

The following table summarizes the development process, applicable regulations, and responsible entity for each ETJ Area:

<u>Action</u>	<u>Area S</u>	<u>Area A</u>	<u>Area B</u>
<u>What Subdivision Standards Apply</u>	<u>City</u>	<u>City - Rural</u>	<u>County</u>
<u>Where to File Plat Application and Pay Fee</u>	<u>City</u>	<u>City</u>	<u>County</u>
<u>Where to Submit Construction Plan for Approval</u>	<u>City</u>	<u>City</u>	<u>County</u>
<u>Inspections Done by/ Insp. Fees Paid to</u>	<u>City</u>	<u>County</u>	<u>County</u>
<u>Plat Approval Provided by</u>	<u>City</u>	<u>City</u>	<u>County</u>
<u>Fiscal Assurance/Bonds Paid to & Held by</u>	<u>City/County Jointly</u>	<u>County</u>	<u>County</u>

City Contact:

Wesley Brandon, Director of Planning and Engineering
Planning and Development Department

Attachments:

Proposed Inter-Local Agreement, Map of Regulation Areas

City of Bastrop

City Limits, ETJ, and Subdivision Regulation Areas

BASTROP COUNTY
T E X A S

Subdivision Regulation
 Area A
 Area B
 Per October 2005 ETJ Partition Agreement

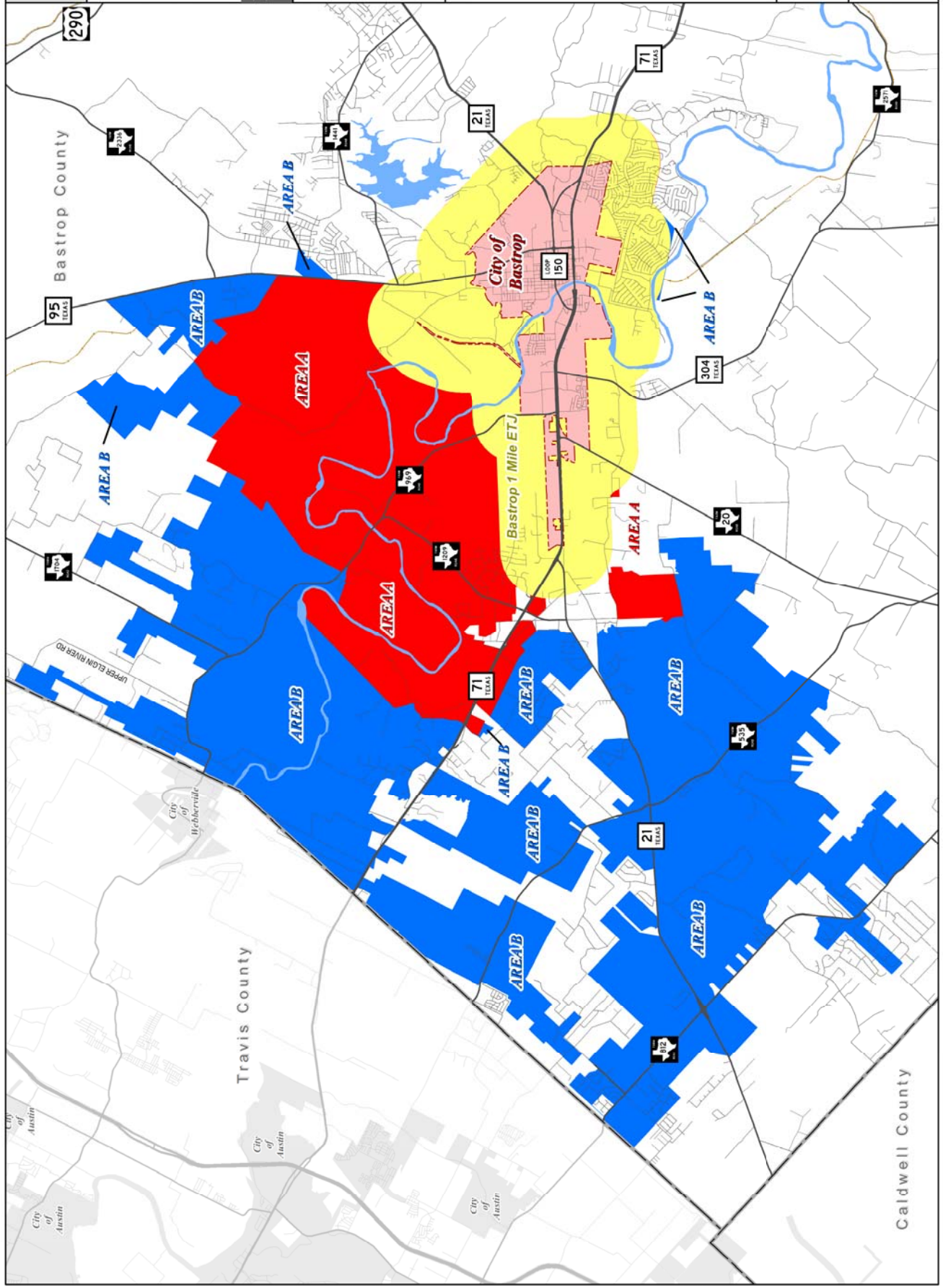
Bastrop City Limits
 Bastrop 1 Mile ETJ
 Other City Limits
 County Line
 River/Lake
 Highway
 Street
 Rail Line



Map Produced: 04/14/2016



Bastrop County provides this map "as is" and assumes no liability for any errors or omissions. The accuracy of the information is not guaranteed. This product is for informational purposes only and may not be used for legal, engineering or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



**INTERLOCAL AGREEMENT FOR SUBDIVISION REGULATION IN BASTROP COUNTY
AND THE CITY OF BASTROP, TEXAS'
EXTRATERRITORIAL JURISDICTION**

PREAMBLE AND PRELIMINARY RECITALS

THIS INTERLOCAL AGREEMENT for Subdivision Regulation in Bastrop County and the City of Bastrop, Texas' Extraterritorial Jurisdiction ("ETJ") ("Agreement"), is by and between Bastrop County, Texas ("County"), a duly organized and operating county of the State of Texas, and the City of Bastrop, Texas ("City"), a duly organized and operating Home Rule municipality of the State of Texas. The County and City may be referred to jointly as "Parties" and individually as a "Party," which terms shall include the elected officials, appointed officials, employees, agents, representatives, permitted assigns, and successors in interest of both Parties, as applicable.

WHEREAS, the Parties are governmental entities authorized to enter into this Agreement pursuant to State law found in Chapter 791 of the Texas Government Code ("Chapter791") and Chapter 242 of the Texas Local Government Code ("Chapter 242"), as amended, and further, the Parties have a long and successful history of working together for the public interest, and the execution and implementation of this Agreement is intended to advance that cooperative, good faith working relationship in the public interest, with particular focus on the development and regulation of subdivisions (as that term is defined by Chapter 212 and 232 of the Texas Local Government Code, as amended), in the unincorporated areas of Bastrop County, Texas, which fall within the City's ETJ (as that term is defined by Chapter 42 of the Texas Local Government Code, as amended), to promote the (1) health, safety, morals, and general welfare of the public, and (2) safe, orderly, and healthful development of those areas; and

WHEREAS, the Parties intend implementation of this Agreement to ensure fair and reasonable development regulations and procedures related to (1) subdivision, plats (including preliminary, final re-plats and amended plats), design and planning procedures, (2) roads, water, storm water, sewer, and (3) other utility, drainage, and transportation infrastructure, in developments situated in portions of Bastrop County, Texas, that also fall within the City's ETJ, which the Parties acknowledge and agree are worthwhile and important public objectives, that will be accomplished through the Parties' successful implementation of this Agreement.

NOW, THEREFORE, in consideration of the representations, obligations, promises, warranties, and conditions of this Agreement, and the consideration herein described, the sufficiency of which is acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. OBJECTIVE/PURPOSE OF AGREEMENT AND GEOGRAPHIC AREA COVERED.

1.1 It is the general objective of the Parties to the Agreement to detail the roles and responsibilities of the County and the City, and to identify the applicable regulations that will be applied by each, to all subdivisions that are developed in the City's ETJ that is located within Bastrop County, except as specifically exempted from this Agreement, as noted herein. The purpose of this Agreement is to ensure consistent regulation, clarity of applicability, and governmental responsibility and oversight for Developers, meaning land owners in the City's ETJ, who desire to comply with subdivisions, file plat applications, and do construction of subdivisions and infrastructure in these Areas.

1.1.1 This Agreement shall apply to the unincorporated land (i.e., not located within Bastrop's or any other city's municipal/corporate limits) located in Bastrop County, Texas, but that

is located inside the City's ETJ areas, as now existing or hereafter expanded or diminished as allowed by law. In the event that the City's ETJ changes during the term of the Agreement, the City will promptly notify the County of such change providing documentation related to same.

- 1.1.2 Notwithstanding anything stated in this Agreement to the contrary, this Agreement shall not apply to a tract of land in any part of the City's ETJ areas which is subject to: (1) land development pursuant to the statutes or rules of any special district as defined by Texas law; and (2) a land development agreement made under Subchapter G of Chapter 212 of the Texas Local Government Code, or other applicable provisions of the Texas Local Government Code.
- 1.2 The City of Bastrop has an unusually extensive ETJ, which overlays many acres of otherwise unincorporated Bastrop County. The "City's ETJ" shall mean the extraterritorial jurisdiction of the City as determined by Chapter 42 of the Texas Local Government Code ("LGC"), as amended, which, by law, includes both the City's Statutory ETJ area and the City's Voluntary ETJ area. For purposes of this Agreement, the Parties Agree that the City's ETJ is composed of the three (3) geographic Areas as shown on the attached Exhibit "A" ("ETJ Area Map" or "Map"), and as described below. The three (3) City ETJ Areas covered by this Agreement are:
 - 1.2.1 **AREA S:** The "City's Statutory ETJ," referred to herein as "**Area S**" shall mean the ETJ area of the City defined by Section 42.021 of the Texas Local Government Code, as amended, without inclusion of any Voluntary ETJ area authorized by application of other parts of Chapter 42 of the LGC, as amended. The City's Statutory ETJ area existing on the Effective Date is more particularly described on the attached Exhibit "A" Map, as the yellow-shaded portion of the Map identified as "Bastrop's 1 Mile ETJ." The City's Statutory ETJ area may be expanded or diminished as allowed by law, e.g., by annexation activities of the City, during the effective term of this Agreement.
 - 1.2.2 **AREA A:** The portion of the "City's Voluntary ETJ," referred to herein as "**Area A**" shall mean the ETJ area of the City defined by Sections 42.022 through 42.904 of the Texas Local Government Code, as amended, without inclusion of any Statutory ETJ area allowed by application of Section 42.021 of the LGC. The City's Voluntary ETJ that falls within Area "A", currently existing on the Effective Date is more particularly described on the attached Exhibit "A" Map as the red-shaded portion of the Map, labeled as "Area A." The City's Voluntary ETJ area may be expanded or diminished as allowed by law.
 - 1.2.3 **AREA B:** The portion of the "City's Voluntary ETJ," referred to herein as "**Area B**" shall mean the ETJ area of the City defined by Sections 42.022 through 42.904 of the Texas Local Government Code, as amended, without inclusion of any Statutory ETJ area allowed by application of Section 42.021 of the LGC. The City's Voluntary ETJ that falls within Area "B", currently existing on the Effective Date is more particularly described on the attached Exhibit "A" Map as the blue-shaded portion of the Map identified as "Area B." The City's Voluntary ETJ area may be expanded or diminished as allowed by law. If Voluntary ETJ is added during the Term of this Agreement, it shall be added as "Area B" and handled as same pursuant to this Agreement.

2. OVERVIEW OF SUBDIVISION ACTIONS CONTROLLED BY THE AGREEMENT.

- 2.1 The governmental subdivision standards and regulatory responsibilities set forth in this Agreement generally fall within the following six (6) categories:
 - 1) What Subdivision Standards will apply?
 - 2) Where does the Developer file and submit the Subdivision Application and Fee?

- 3) With which entity does the Developer submit Construction Plans for review and approval?
- 4) Will the County or the City perform the subdivision inspections and be paid the inspection fees?
- 5) Will the County or the City approve the subdivision plat under its governmental procedures?
- 6) Will the County or the City hold the applicable fiscal assurances/bonds during the platting and development of the subdivision?

Chapter 242 places a mandatory obligation on the Parties to enter into a written agreement for the regulation of subdivisions in the City's ETJ areas. For ease of reference only, the following chart generally describes the Parties' agreement related to the apportionment of responsibilities, as between the County and City, concerning the above noted subdivision activities:

<u>Action</u>	<u>Area S</u>	<u>Area A</u>	<u>Area B</u>
<u>What Subdivision Standards Apply</u>	<u>City</u>	<u>City</u> <u>Rural</u>	<u>County</u>
<u>Where to File Plat Application and Pay Fee</u>	<u>City</u>	<u>City</u>	<u>County</u>
<u>Where to Submit Construction Plan for Approval</u>	<u>City</u>	<u>City</u>	<u>County</u>
<u>Inspections Done by/ Insp. Fees Paid to</u>	<u>City</u>	<u>County</u>	<u>County</u>
<u>Plat Approval Provided by</u>	<u>City</u>	<u>City</u>	<u>County</u>
<u>Fiscal Assurance/Bonds Paid to & Held by</u>	<u>City/County</u> <u>Jointly</u>	<u>County</u>	<u>County</u>

3. TERM, TERMINATION, AND DEFAULT.

3.1. Term. The term of this Agreement shall begin on the Effective Date and shall run for a two (2) year term unless otherwise terminated by the Parties and shall automatically renew on its anniversary date every two (2) years, unless otherwise amended or terminated by the Parties, in writing.

3.2. Termination. This Agreement may be terminated as follows:

3.2.1 The Parties may unilaterally or mutually agree to terminate this Agreement, for cause or no cause, by giving the other party a minimum of ninety (90) days written notice of the desire to terminate. During the period prior to the termination the Parties shall work together to wind-up any then-existing subdivision matters and pending issues. However, because an agreement of this type is required by State law to be in place between the Parties, in the event either or both Parties provide notice of termination, both Parties agree that they will voluntarily initiate good faith discussions to negotiate the provisions of a new agreement to take the place of the terminated contract, if such is required by law at that time, within thirty (30) days of the termination date of the then existing Agreement, or as soon as is feasible thereafter.

3.2.2 Should a Party commit a default of this Agreement, the Parties shall communicate with each other in good faith to resolve the default. Should resolution not occur, the non-defaulting Party may terminate this Agreement by giving written default/termination notice to the defaulting

Party at least Ninety (90) days prior to the termination date chosen by the non-defaulting Party. During that Ninety (90) day period, the Parties shall reasonably work together to wind-up and conclude all pending issues related to the Agreement.

4. GENERAL PROVISIONS APPLICABLE TO ALL AREA SUBDIVISIONS.

4.1 The Parties have acknowledged, understand and agree that it is the City's policy, in appropriate circumstances, and as approved by the City, to allow developers to obtain construction plans and final plat approval without filing final plats in the County records, and without depositing fiscal assurance (bonds) for construction completion, conditioned on the requirement that no final plat may be recorded until such time as the subdivision improvements are completed and accepted by the City in accordance with the City's subdivision regulations.

4.2 Regardless of the Area that a Subdivision is located within, if a subdivision plat application or related plat documentation submitted to the applicable governmental entity is in compliance with all applicable development regulations and requirements of the entity overseeing that subdivision, then such application or related subdivision plats shall be approved by the responsible entity, for proper filing, as required by law.

5. REGULATION OF SUBDIVISIONS IN AREA S: Pursuant to this Agreement, a subdivision that is currently existing and/or depicted on the attached Map to fall within Area S, or that is located wholly or a majority of which is to be located in Area S (referred to herein as an "Area S Subdivision") shall be regulated as follows:

5.1 **APPLICABLE REGULATORY STANDARDS.** The City shall be responsible for performing its standard review for acceptance and approval of subdivision plat applications and related plat documentation pursuant to applicable State, Federal and City regulations set forth in the Bastrop Code of Ordinances, as amended, except as specifically otherwise noted herein. All required documents for a plat application and related plat approval for an Area S Subdivision shall be filed with the City for review and action, unless exempted from filing by the proper application of a federal or state statute, or authorized local regulation.

5.1.1 For all Area S Subdivisions, the City shall require Developers compliance with the City's public road, drainage and other public infrastructure development standards and subdivision standards and requirements.

5.1.1.1 For all Area S Subdivisions, when the City's ordinances or regulations require a developer to dedicate, construct, install, or improve public road, drainage, or other public infrastructure (including but not limited to lighting, signage, traffic lights, sidewalks, parking areas, storm sewers or other drainage infrastructure), and when the subdivision infrastructure will require future maintenance by a governmental entity after acceptance, the City shall require an expressly worded 'plat note' to be shown on the final, approved plat documentation stating that all public infrastructure shall be maintained by the Developer, until such time that it is accepted, if at all, by a governmental entity for maintenance.

5.2 **RESPONSIBLE ENTITY; SUBDIVISION APPLICATION/FEES; AND APPROVAL OF CONSTRUCTION PLANS.**

5.2.1 Developers shall submit all subdivision applications and construction plans related to Area S Subdivisions and plats to the City of Bastrop's Department of Planning and Development, at 1311 Chestnut Street, Bastrop, Texas 78602, for review and processing by the City.

5.2.1.1 For all Area S Subdivisions, within 10 days of its *receipt* of a subdivision plat application or related plat, the City shall deliver a courtesy copy of same to the County, complete with copies of all attached or related documents.

5.2.1.2 For all Area S subdivisions, within 10 days from its *action* on a subdivision plat application or related plat, the City shall deliver written notice of the action to the County, complete with copies of all documents which memorialize that action.

5.2.2 The City shall provide for the acceptance and administration of all required fee deposits from the Developer on all Area S Subdivisions.

5.3 INSPECTIONS AND COLLECTION OF INSPECTION FEES.

5.3.1 The City shall be responsible for performing all inspections on the subdivision construction, retaining all inspection fees paid by the developer related to the subdivision, and providing the County with copies of inspection reports for same on all Area S Subdivisions.

5.4 PLAT APPROVAL AUTHORITY; PROCEDURES USED.

5.4.1 The City shall provide for the administration and completion of any required subdivision construction agreement, phasing agreement and other planning and construction issues ancillary thereto for all Area S Subdivisions.

5.5 BONDS/INFRASTRUCTURE WARRANTY AND MAINTENANCE GUARANTY; FISCAL ASSURANCES.

5.5.1 Fiscal Security Deposits. The City shall be responsible for any requisite fiscal security deposits made by developers for the subdivision in Area S and for holding any applicable escrow fees deposited by developers for same, for the joint benefit of the Parties, as applicable.

5.5.2 Performance Bonding and Assurance. Unless otherwise approved as an exception to the City's standard fiscal assurance process, the City shall require, as a condition for plat approval, that developers who construct public road, utility, drainage, or other public infrastructure required for a subdivision located in Area S shall post fiscal assurance in a form and amount approved by the City, to assure final and complete construction of all required subdivision infrastructure. As appropriate and applicable, such fiscal assurance shall conform to the standards of the City's subdivision regulations.

5.5.3 Infrastructure Warranty and Maintenance Guaranty. The City shall require, as a condition for plat approval, that developers who construct public road, utility, drainage, or other public infrastructure required for a subdivision located in Area S shall provide to the City a post-inspection/post-acceptance infrastructure warranty and maintenance guarantees, made to the City and County as co-beneficiaries, as set forth in the City's Subdivision Code. As appropriate and applicable, such fiscal assurance shall conform to the standards of the City's subdivision regulations.

6. REGULATION OF SUBDIVISIONS IN AREA A. Pursuant to this Agreement, a subdivision that is currently existing and/or depicted on the attached Map to fall within Area A, or that is located wholly or a majority of which is to be located in Area A (referred to herein as an "Area A Subdivisions") shall be regulated as follows:

6.1 APPLICABLE REGULATORY STANDARDS. The City shall perform a review for acceptance and approval of subdivision plat applications and related plat documentation for Area A

Subdivisions, pursuant to the City of Bastrop's Rural Subdivision Standards, ("City's Rural Standards") except as specifically otherwise noted herein.

6.1.1 For Area A Subdivisions, the City shall require Developers compliance with the City's Rural Standards for public road, drainage and other public infrastructure development standards and subdivision standards and requirements.

6.1.1.1 For Area A Subdivisions, when the City's Rural Standards and regulations require a Developer to dedicate, construct, install, or improve public road, drainage, or other public infrastructure (including but not limited to lighting, signage, traffic lights, sidewalks, parking areas, storm sewers or other drainage infrastructure), and when the subdivision infrastructure will require future maintenance by a governmental entity after acceptance, the City shall require an expressly worded 'plat note' to be shown on the final, approved plat documentation stating that all public infrastructure shall be maintained by the developer, until such time that it is accepted, if at all, by a governmental entity for maintenance.

6.2 RESPONSIBLE ENTITY; SUBDIVISION APPLICATION/ FEES; AND APPROVAL OF CONSTRUCTION PLANS.

6.2.1 Developers shall submit all subdivision applications and construction plans related to all Area A Subdivisions to the City of Bastrop's Department of Planning and Development, at 1311 Chestnut Street, Bastrop, Texas 78602.

6.2.1.1 For Area A Subdivisions, within 10 days of its *receipt* of a subdivision plat application or related plat, the City shall deliver a courtesy copy of same to the County, complete with copies of all attached or related documents, and including construction documents.

6.2.1.2 For Area A Subdivisions, within 10 days from its *action* on a subdivision plat application or related plat, the City shall deliver written notice of the action to the County, complete with copies of all documents which memorialize that action.

6.2.2 The City shall provide for the acceptance and administration of all required fee deposits from the Developer for Area A Subdivisions.

6.3 INSPECTIONS AND COLLECTION OF INSPECTION FEES.

6.3.1 The City shall allow the Bastrop County Engineer (or designee) to perform construction inspections of the public road, drainage, or other public infrastructure required and constructed in Area A Subdivisions, in order to ensure Developers' compliance with all applicable design and construction standards and to form the basis for a recommendation to the Bastrop County Commissioners Court regarding whether said infrastructure should, or should not, be accepted by the County for public maintenance.

6.3.2 For Area A Subdivisions, the County shall perform all inspections on the subdivision construction, retain all inspection fees paid by the Developer related to the Subdivision, and provide the City with copies of the inspections reports for same.

6.3.3 If a Party believes that additional inspections are necessary or required, or a Party has not been provided with the inspection reports by the inspecting entity, then that Party may notify the other Party of its intention to inspect the subdivision, and request payment of reasonable fees for same, to be remitted by the non-inspecting entity, which payment shall be made within 10 days of submission of the necessary inspection report to the non-inspecting entity.

6.4 PLAT APPROVAL AUTHORITY; PROCEDURES USED.

6.4.1 The City shall provide for the administration and completion of any required subdivision construction agreement, phasing agreement and other planning and construction issues ancillary thereto related to Area A Subdivisions.

6.5 BONDS/INFRASTRUCTURE WARRANTY AND MAINTENANCE GUARANTY; FISCAL ASSURANCES.

6.5.1 Fiscal Security Deposits. The County shall be responsible for any requisite fiscal security deposits made by Developer for an Area A Subdivision and for holding and applicable escrow fees deposited by Developers for same, for the benefit of the Parties, as applicable.

6.5.2 Performance Bonding and Assurance. Unless otherwise approved as an exception to the County's standard fiscal assurance process, the County shall require, as a condition for plat approval, that Developers who construct public road, utility, drainage, or other public infrastructure required for an Area A Subdivision post fiscal assurance in a form and amount approved by the County, to assure final and complete construction of all required subdivision infrastructure. As appropriate and applicable, such fiscal assurance shall conform to the standards of the City's Rural Subdivision regulations.

6.5.3 Infrastructure Warranty and Maintenance Guaranty. The County shall require, as a condition for plat approval, that Developers who construct public road, utility, drainage, or other public infrastructure required for an Area A Subdivision shall provide to the County a post-inspection/post-acceptance infrastructure warranty and maintenance guarantees, made to the County as beneficiary as set forth in the City's Subdivision Code,. As appropriate and applicable, such fiscal assurance shall conform to the standards of the City's subdivision regulations.

7. REGULATION OF SUBDIVISIONS IN AREA B. Pursuant to this Agreement, a subdivision that is currently existing and/or depicted on the attached Map to fall within Area B, or that is located wholly or a majority of which is to be located in Area B (referred to herein as an "Area B Subdivision") shall be regulated as follows:

7.1 APPLICABLE REGULATORY STANDARDS. The County shall perform its standard review for acceptance and approval of subdivision plat applications and related plat documentation for an Area B Subdivision, pursuant to applicable State, Federal and County regulations set forth in the County's Subdivision Standards and regulations, as amended, except as specifically otherwise noted herein.

7.1.1 Regarding an Area B Subdivision, the County shall require Developers' compliance with the County's then existing subdivision regulations, as well as the County's then existing public road, drainage, and other public infrastructure development standards and requirements.

7.2 RESPONSIBLE ENTITY; SUBDIVISION APPLICATION/ FEES; AND APPROVAL OF CONSTRUCTION PLANS.

7.2.1 Developers shall submit all subdivision applications related to all Area B Subdivisions and plats to Bastrop County's Engineer, at 211 Jackson Street, Bastrop, Texas 78602.

7.2.1.1 Regarding an Area B Subdivision, within 10 days from its action on a subdivision plat application or related plat, the County shall deliver written notice of the action to the City, complete with copies of all documents which memorialize that action.

7.2.1.2 Regarding an Area B Subdivision, within 10 days from its action revising its subdivision or other development regulations, the County shall deliver written notice of the action to the City, complete with copies of all documents which memorialize that action.

7.2.2 All required documents for an Area B Subdivision plat application and related plat approval shall be filed with the County for review and County action, unless exempted from filing by the proper application of a federal or state statute, or authorized local regulation.

7.3 INSPECTIONS AND COLLECTION OF INSPECTION FEES.

7.3.1 The Bastrop County Engineer (or designee) shall perform construction inspections of the public road, drainage, or other public infrastructure required and constructed in a subdivision located in Area B, in order to ensure developer compliance with all applicable design and construction standards and to form the basis for a recommendation to the Bastrop County Commissioners Court regarding whether said infrastructure should, or should not, be accepted for public maintenance, and the County shall be entitled to retain inspection fees paid by developer, related to same.

7.3.2 The County shall promptly provide the City with copies of all inspection reports on all Area B Subdivisions, for the City's review and files.

7.4 PLAT APPROVAL AUTHORITY; PROCEDURES USED.

7.4.1 The County shall provide for the administration and completion of any required subdivision construction agreement, phasing agreement and other planning and construction issues ancillary thereto related to Area B Subdivisions.

7.5 BONDS/INFRASTRUCTURE WARRANTY AND MAINTENANCE GUARANTY; FISCAL ASSURANCES

7.5.1 Regarding all public road, drainage, or other public infrastructure required and constructed in a subdivision located in an Area B subdivision, all developer contracts with a contractor for subdivision infrastructure shall include: (a) a performance bond in the amount of the construction costs to ensure installation of the infrastructure, and (b) a warranty and maintenance bond, to the County, to warrant the materials, labor and workmanship of the installation related to the construction and maintenance for a period of time as set forth in the County's regulations.

7.5.2 Regarding an Area B Subdivision, the County shall provide for the administration and completion of: (a) any necessary subdivision construction contract agreement, phasing agreement, and other issues ancillary thereto; and (b) acceptance and administration of all required fee deposits from the developer and the administration of fiscal security regarding those deposits.

7.5.3 Regarding Area B Subdivision, public roads, utilities, drainage infrastructure, or other public infrastructure required for the subdivision, and as a condition for plat approval, the County shall require that a surety bond (or other financial guarantee in lieu of a bond), as authorized by state law, shall be executed in favor of the County. If a bond is required, it shall be in the form and include provisions as set forth in the County's Subdivision Regulation.

8. ADMINISTRATIVE PROVISIONS.

- 8.1. ENTIRE AGREEMENT. This instrument is intended by the Parties as the final, complete and exclusive statement of the terms and conditions of this Agreement and is intended to supersede all previous agreements and understandings between the Parties relating to its specific subject matter. No prior stipulation, agreement, understanding or course of dealing between the Parties with respect to the specific subject matter of this Agreement shall be valid or enforceable unless embodied in this Agreement. No amendment, modification or waiver of any provision of this Agreement shall be valid or enforceable unless in writing and signed by all Parties. Each of the Parties shall pay all of its own costs and expenses (including travel expenses and attorney's fees) incurred in negotiating and preparing this Agreement and carrying out the transactions contemplated by this Agreement.
- 8.2. SEVERABILITY. If any provision of this Agreement is held to be illegal, unenforceable or invalid, it shall be severed and the remaining provisions of this Agreement shall not be affected thereby and shall remain in full force and effect.
- 8.3. ATTORNEY FEES, INTEREST, AND EXPENSES. In the event a Party commits a default of this Agreement, and litigation is filed regarding this Agreement, the prevailing Party in the litigation shall be entitled to recover its reasonable and necessary attorney's fees, court costs, interest, and expenses allowed by law and incurred by said Party in that litigation.
- 8.4. NO WAIVER/ASSIGNMENT. The failure of a Party in any one or more instances to insist upon the performance of any provision of this Agreement shall not be construed as a waiver of that Party's rights with respect to that or any continuing or subsequent default of the Agreement, and the Agreement shall remain in full force and effect. This Agreement is not assignable without the express written consent of all Parties.
- 8.5. GOVERNING LAW. This Agreement shall be construed and interpreted in accordance with the law of the State of Texas.
- 8.6. SIGNATORY AUTHORITY; REPRESENTATIONS/WARRANTIES. This Agreement shall inure to the benefit of and be binding upon the Parties and their legal representatives, successors and permitted assigns, subject to the proper application of the doctrine of governmental immunity which protects both Parties. Each Party warrants and represents to each other the following:
- (a) The Party has read the Agreement in its entirety and understands all of its terms and provisions.
 - (b) The person signing this Agreement on behalf of the Party has the authority and power to execute it on behalf of the Party.
 - (c) This Agreement was approved by the governing body of the Party at a public meeting properly noticed and conducted pursuant to Chapter 551 of the Texas Government Code, the Texas Open Meetings Act.
 - (d) Pursuant to Texas Government Code Chapter 791, as amended, this Agreement: (1) is an authorized inter-local governmental contract; (2) provides for a governmental function and service that each Party is authorized to perform for the other Party; and (3) all monetary payment required by this Agreement to be paid from one Party to the other Party (i) shall constitute payment for the performing Party's performance of a governmental function and service to the paying Party, (ii) shall be paid from current revenues available to the paying Party, and (iii) are for an amount that fairly compensates the performing Party for said governmental function and service.
- 8.7. NOTICES. All notices required by this Agreement shall be in writing, correctly addressed to the

required addressee, and delivered by: (a) certified United States mail, return receipt requested; or (b) courier or hand-delivery. No notice required by this Agreement shall be effective if delivered *only* by facsimile, e-mail, or other electronic transmission. The addresses and designated notice representatives of the Parties for notice under this Agreement are as follows, and a Party may revise this information by giving the other Party 3 days advance written notice of the change:

If to the County:

County Judge
Bastrop County Courthouse
804 Pecan Street
Bastrop County, Texas
Bastrop, Texas 78602

If to the City:

City Manager
City Hall
1311 Chestnut Street
Bastrop, Texas 78602

Any notice required by this Agreement must be correctly addressed to the required addressee, and shall be deemed to have been given on the day the notice is delivered to the addressee by: (a) hand-delivery or courier service; or (b) United States certified mail, return receipt requested.

- 8.8. DOCUMENT CREATION, USAGE AND PREAMBLE INTERPRETATION. The rule of construction that ambiguities in a document are construed against the Party who drafted it shall not apply in interpreting this Agreement. As used in this Agreement, singular nouns and pronouns shall include the plural, and the masculine gender shall include the feminine gender, and vice versa, where necessary for a correct meaning. All statements made in the preamble and preliminary recitals of this Agreement, and all attached documents, are incorporated by reference for all purposes. The Parties agree that to the full extent possible, each has a duty to mitigate damages.
- 8.9. PERFORMANCE, VENUE, AND MEDIATION. This Agreement shall be performed in Bastrop County, Texas, and venue for any suit regarding this Agreement shall be in a court of competent jurisdiction in Bastrop County, Texas, or in the appropriate federal court designated for Bastrop County, Texas in the Western District of Texas. The Parties agree that prior to initiating the mandatory dispute resolution remedy set forth in Chapter 242 of the Texas Local Government Code, as amended, the Parties shall jointly participate in non-binding mediation to resolve any disputes related to this Agreement. In the event of such mediation, each Party shall pay its own expenses incurred for the mediation, including attorney fees, mediator fees, and travel expenses. The mediator shall be selected by the Parties; however, should the Parties fail to agree on a mediator, the dispute shall be submitted to the Center for Public Policy Dispute Resolution, School of Law, University of Texas at Austin, 727 East Dean Keeton Street, Austin, Texas 78705, for mediated resolution. Notwithstanding the above, a Party may file suit solely for injunction or mandamus relief regarding this Agreement without first submitting that dispute to mediation.
- 8.10. COUNTERPARTS AND CAPTIONS. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument. Signed counterparts of this Agreement may be delivered by facsimile or by scanned pdf image, each of which shall have the same force and effect as an original signed counterpart. Copies of signatures to this Agreement are effective as original signatures. The captions of the paragraphs or subparagraphs of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect the provisions of this Agreement.
- 8.11. DEFAULT SURVIVES TERMINATION. Notwithstanding anything to the contrary stated in this Agreement, and subject to the proper application of the doctrine of governmental immunity which protects both Parties, should a Party commit a default regarding any obligation, promise, representation, or warranty contained in this Agreement, including the payment or use of funds,

that default event, any related default claim, and this provision, shall survive the termination of this Agreement and can be asserted in litigation against the defaulting Party. A defaulted payment amount or other monetary default shall accrue prejudgment interest in favor of the non-defaulting Party at the highest amount allowed by law until the total default is paid in full.

- 8.12. TIME. Time is of the essence. Unless otherwise designated in this Agreement, all references in this Agreement to "days" shall mean calendar days. Business days, if used in this Agreement, shall exclude Saturdays, Sundays, and legal public holidays as then recognized and observed by the County. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday as then recognized and observed by the County, the date for performance will be the next following regular business day.
- 8.13. NO IMMUNITY WAIVER. By signing this Agreement, neither Party waives or relinquishes any protection afforded by the proper application of the doctrine of governmental immunity. Nothing in this Agreement shall be construed or interpreted as waiving or attempting to waive any protection afforded a Party by the proper application of the doctrine of governmental immunity.
- 8.14. NO SPECIAL RELATIONSHIPS. There are no third-party beneficiaries regarding this Agreement. The Parties' relationship is that of an ordinary, arms-length contractual relationship, and the Parties do not intend by this Agreement or otherwise to create the relationship of principal and agent, partner(s), joint venture(s), or any other special relationship.

THIS AGREEMENT is executed by the Parties and will become effective on the later of the dates shown below (the "Effective Date").

BASTROP COUNTY, TEXAS

By: *Paul Pape*
Paul Pape, County Judge
Bastrop County, Texas
Date: 9-12, 2016

CITY OF BASTROP, TEXAS

By: _____
Printed Name: _____
Title: _____
City of Bastrop, Texas
Date: _____, 2016

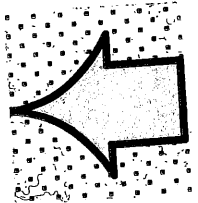
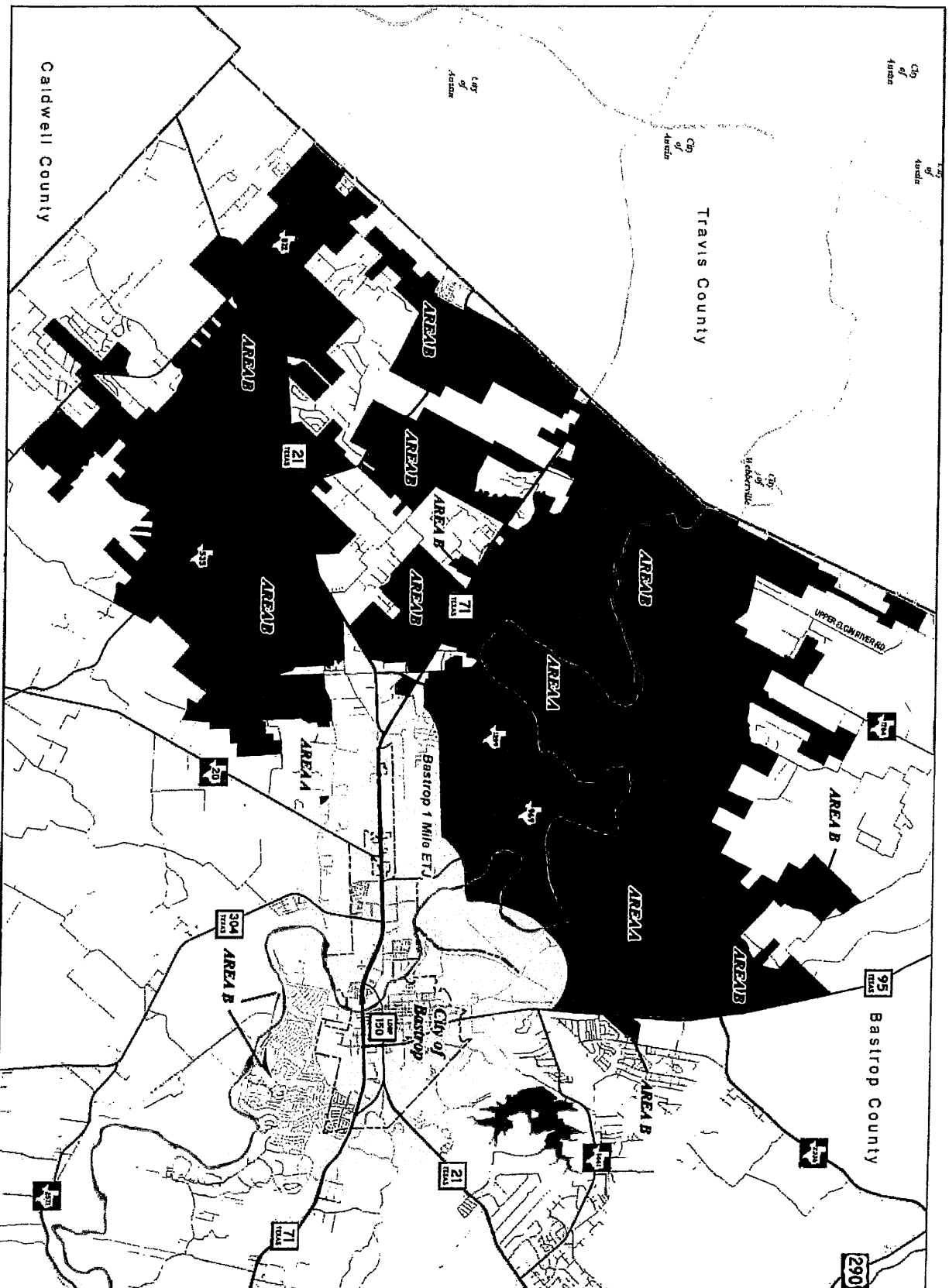


EXHIBIT A
(ETJ Area Map)



City of Bastrop

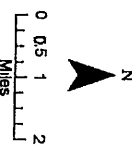
City Limits, ETJ, and Subdivision Regulation Areas

BASTROP COUNTY, LOUISIANA

Subdivision Regulation
 Area A
 Area B

Per October 2005 ETJ Partition Agreement

Bastrop City Limits
 Bastrop 1 Mile ETJ
 Other City Limits
 County Line
 River/Lake
 Highway
 Street
 Rail Line



Map Produced: 04/14/2016

BASTROP COUNTY TEXAS

Bastrop County provides this map as a public service and does not warrant the accuracy of the information shown on this map. It is derived from public records for an existing project and may not have been updated to reflect the most current information. It is intended to be used as a general reference only. No liability is assumed by the County for any errors or omissions on the ground survey and information only. No representation is made by the County for any other purposes.