

**MEMORANDUM OF UNDERSTANDING
BETWEEN BASTROP COUNTY, TEXAS
AND
A PARTY INTERESTED IN BIDDING ON
THE HISTORIC LOWER ELGIN ROAD TRUSS BRIDGE**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into as of the Effective Date set forth below, by and between a Bidder interested in the Property subject of this MOU (hereinafter the “Buyer”) and Bastrop County, Texas, a body corporate and politic of the State of Texas (hereinafter “County”). Together, both are referred to as the “Parties”.

RECITALS

WHEREAS, the County currently owns an asset commonly known as the **historical Lower Elgin Road Bridge**, which was built around 1890 and replaced by a new County road bridge in about 1998. After replacement, the old bridge has fallen into a state of disrepair. The bridge and associated real estate are legally described in Exhibit A hereto (the “Property”); and

WHEREAS, the old bridge was further damaged by floods in May, 2015 (and subsequent flood events on Wilbarger Creek) and Bastrop County has applied for and received approval for **FEMA and Texas Department of Agriculture** funds to have the old bridge restored to pre-flood condition as a pedestrian bridge; and

WHEREAS, the Bastrop County Commissioners Court has determined that the County no longer needs the Property for County purposes, that the Property is not required for the County’s foreseeable needs, and that it is in the best interest of the public to divest itself of the Property; and

WHEREAS, Bastrop County has offered to donate the property to at least two public or non-profit entities without success; and

WHEREAS, pursuant to Section 263.001 of the Local Government Code of Texas, the Commissioners Court may approve the sale of property and such sale made to a private entity must be by public auction. Such conveyance shall be formalized by a deed issued to the purchaser. Notice of the public auction of the property must be published as per Section 263.001(c) of the Code.

WHEREAS, under Section 263.004(a) of the Texas Local Government Code, the conveyance of real property may be made subject to restrictions, conditions, and limitations determined necessary or proper by the Commissioners Court, which must be set out clearly by substantial statement;

WHEREAS, Bastrop County wishes to sell the Property to an entity or organization that will preserve, care for, keep and maintenance it as a historic pedestrian bridge as hereinafter defined; and

WHEREAS, the County has determined that it is in the best interest of the County to convey the Property.

CONDITIONS AND RESTRICTIONS

NOW THEREFORE, in consideration of the above recitals, which are incorporated into this MOU, the County lays out the following terms and conditions of any sale of the Property to the private sector, as follows:

1. Upon acceptance of this MOU by at least one potential Buyer, the County will use FEMA and TDA funds, hire contractors to perform the scope of work approved in the Project Worksheet, pay for the work, and be reimbursed by FEMA/TDA and close out the PW and accounting for the improvements.
2. Bastrop County will then convey the Property to the highest Bidder at auction for the purposes described herein, and subject to the terms and conditions set forth in this MOU and those of FEMA / TDA. The Buyer must agree to accept the conveyance of the Property subject to all such terms and conditions. Conveyance of the Property will be made by Deed Without Warranty, in the form attached hereto as Exhibit B (the "Deed").
3. The Buyer must agree to secure, maintain, care for, and use the Property for the benefit of the citizens of Bastrop County, Texas as well as its own purposes. **The Buyer must acknowledge and accept the Property subject to the limitations, terms, and conditions of the FEMA and TDA grant funds used by the County to restore the historic bridge to pre-flood condition.** If the Buyer fails to use the Property in accordance with all these terms, the Property will revert to the County as provided in the Deed. Prior to conveyance by Deed, to the Buyer shall prepare an operations plan for review and approval by the County, providing that the Property be open to the public at all reasonable times. This operations plan will include hours of operations, opening and closing protocols, proof of liability insurance, signage, parking, and other operational items
4. In securing the Property during repairs, maintenance, and ongoing operations, the Buyer agrees to construct and maintain a 6 feet high security fence, with an appropriate gate, on and along the perimeter of the tract of land being transferred with the bridge, except on the side bounded by existing ranch fencing and across Wilbarger Creek. The purpose of this security fence is primarily to prevent children from accessing the County roadway adjacent to the Property and to keep people from accessing the Property without permission and when the facility is closed to the public.

5. After conveyance, the Buyer will be responsible for and will agree to assume all the costs arising in connection with the repair, maintenance, clean-up, upkeep, and use of the Property. Upon request by the County and by mutual coordination, the Buyer must agree to allow the County to use the Property, at no expense of the County, for events that are in the interest of the citizens of Bastrop County. The Buyer and the County will cooperate and negotiate in good faith to reach mutually-satisfactory arrangements for the County's use.
6. Except as specified in Paragraph 11, the Buyer will have sole obligation to perform due diligence to determine the physical and environmental condition of the Property and its suitability for the Buyer's intended uses, and that the conveyance of the Property will be made to the Buyer without warranty by the County. The Buyer has the right to conduct inspections of the Property to determine its physical and/or environmental condition, and to obtain and title insurance on the property prior to transfer of title, all at the Buyer's sole cost and expense. The Buyer will arrange with the County for access to the Property necessary to conduct any inspections or obtain information prior to transfer of title.
7. The Buyer may not remove the bridge from its current location without express written permission of the County, FEMA and TDA. If the bridge is ever removed from the site, ownership of the real property will revert back to the County.
8. The Parties will agree on a time and place for the execution and delivery of the Deed provided, however, that such transfer of title shall occur as soon as possible after the date that FEMA/TDA closes the PWs for repairs to the bridge. If the Parties have not otherwise agreed on a time and place for the transfer, then the transfer of title will occur at the County Judge's Office at 2:00 PM on the date that is 60 days after the date defined above.
9. THE PARTIES AGREE THAT, ONCE THE FEMA/TDA FUNDED IMPROVEMENTS ARE COMPLETED, THE SUBJECT PROPERTY OF THIS MOU WILL BE CONVEYED "AS IS, WHERE IS" WITH ALL FAULTS, BOTH LATENT AND PATENT, AND THAT THE COUNTY HAS MADE NO REPRESENTATIONS, DISCLOSURES, OR EXPRESS OR IMPLIED WARRANTIES REGARDING THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PROPERTY, ITS COMPLIANCE WITH APPLICABLE BUILDING CODE, LAND USE, ZONING AND OTHER LAWS, AND ITS SUITABILITY FOR THE BUYER'S INTENDED USE. THE BUYER ACKNOWLEDGES THAT IN ENTERING INTO THIS MOU AND ACCEPTING THE CONVEYANCE OF THE PROPERTY, IT IS NOT AND WILL NOT BE RELYING ON ANY REPRESENTATIONS, DISCLOSURES, OR EXPRESS OR IMPLIED WARRANTIES OR ANY OTHER INFORMATION REGARDING THE PROPERTY PROVIDED BY ANYONE, OTHER THAN THE BUYER'S OWN INSPECTION.

10. Each Party represents that (1) its governing body or owner has duly approved the conveyance and acceptance of the Property on the terms set forth in this MOU, and (2) it has not used a real estate broker in connection with the transfer of title to the Property.
11. Bastrop County will provide and pay the cost of a metes and bounds survey of the Property, prior to transfer of title and the preparation of the Deed. The Buyer will pay all other costs of title work, transfer costs and/or closing costs.
12. Exhibits to this MOU are incorporated herein for all relevant purposes. This MOU may only be amended by a written agreement signed by both Parties.
13. Notice to any party in connection with this MOU shall be in writing, and shall be delivered as follows:

To the County:

Bastrop County Courthouse
804 Pecan Street
Bastrop County, TX 78602
Attn: Paul Pape, County Judge
Email: paul.pape@co.bastrop.tx.us
Fax: 512-581-7103

To the Buyer:

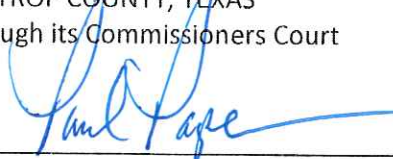
Studio Soup Holdings, LLC (d/b/a New Republic Studios)
1115 San Jacinto Blvd., Suite 130
Austin, TX 78701
Attn: John S. Robison, Chairman and CEO
Email: j.robison@newrepublicstudios.com
Phone: (512)648-1870

Notice given by hand delivery or through a courier service will be deemed delivered on the date on which it has been received as evidenced by written acknowledged of receipt at the time of delivery. Notice given in any other manner will be deemed delivered if and when actually received. Either Party may change the person to whom notice should be given, or the address for notice, by providing written notice in accordance with this paragraph 9.

14. This entire MOU is subject to FEMA and TDA approving the transfer of ownership of the Property under their funding program. If either FEMA or TDA fails to agree, this MOU shall not^{be} binding upon the County.
15. All of the terms and conditions of this MOU will survive the conveyance of the Property to the Buyer.
16. This MOU must be accepted and signed by a bidder at least three (3) days prior to the public auction referenced herein.

Executed on the date set forth to be effective as the Effective Date.

BASTROP COUNTY, TEXAS
through its Commissioners Court

By: 
Paul Pape, County Judge


Date: 8-27-18

Attest:


Bastrop County Clerk

Bidder and Potential Buyer
(through its governing body, if appropriate)

Studio Soup Holdings, LLC (d/b/a New Republic Studios)

By: 
John S. Robison, Chairman and CEO

Date: 8/23/18

Exhibit A
Description of the Property

A historic truss bridge spanning Wilbarger Creek in northwestern Bastrop County, located on County Road #55, also known as Lower Elgin Road. The Property consists of the truss bridge structure, approaches on each end of the truss structure, and the real estate (approximately 7/10th of an acre, on which the bridge is located (see Survey attached hereto).

