

BUSINESS ITEMS



Fiscal Year 2015 Financial Statement Audit

City of Fulshear, Texas
City Council Presentation
July 19, 2016

whitleypenn 

Report of Independent Auditors (p. 1)

- Audit conducted in accordance with standards generally accepted in the United States
- Unmodified or “Clean” opinion on eight opinion units
- Highest level of assurance that can be given on financial statements
- Indicates that amounts reported are materially correct

Statement of Net Position (p. 12-13)

	Governmental	Business-type	Component
	Activities	Activities	Units
Cash and Investments	\$ 8,255,544	\$ 4,788,171	\$ 1,226,852
Receivables/Other	212,430	771,353	120,716
Capital Assets, Net	25,705,433	32,998,255	
Total Assets	34,173,407	38,557,779	1,347,568
Deferred Outflows	97,486		
Current Liabilities	1,310,658	427,446	11493
Long-term Liabilities	74,584		
Net pension liability	159,525		
Total Liabilities	1,544,767	427,446	11,493
Net Position	\$ 32,726,126	\$ 38,130,333	\$ 1,336,075

Changes in Net Position (p. 14-15)

	Governmental	Business-Type	Component
	Activities	Activities	Units
General Revenues	\$ 2,552,292	\$ 5,682	\$ 643,706
Charges for Services	3,135,489	3,395,191	
Operating Grants	29,246		
Capital Grants	2,798,155	2,806,881	
Program Expenses	(5,245,149)	(3,106,400)	(194,649)
Change in Net Position	3,270,033	3,101,354	449,057
Beginning Balance	29,426,093	35,028,979	887,018
Ending Balance	<u>\$ 32,696,126</u>	<u>\$ 38,130,333</u>	<u>\$ 1,336,075</u>

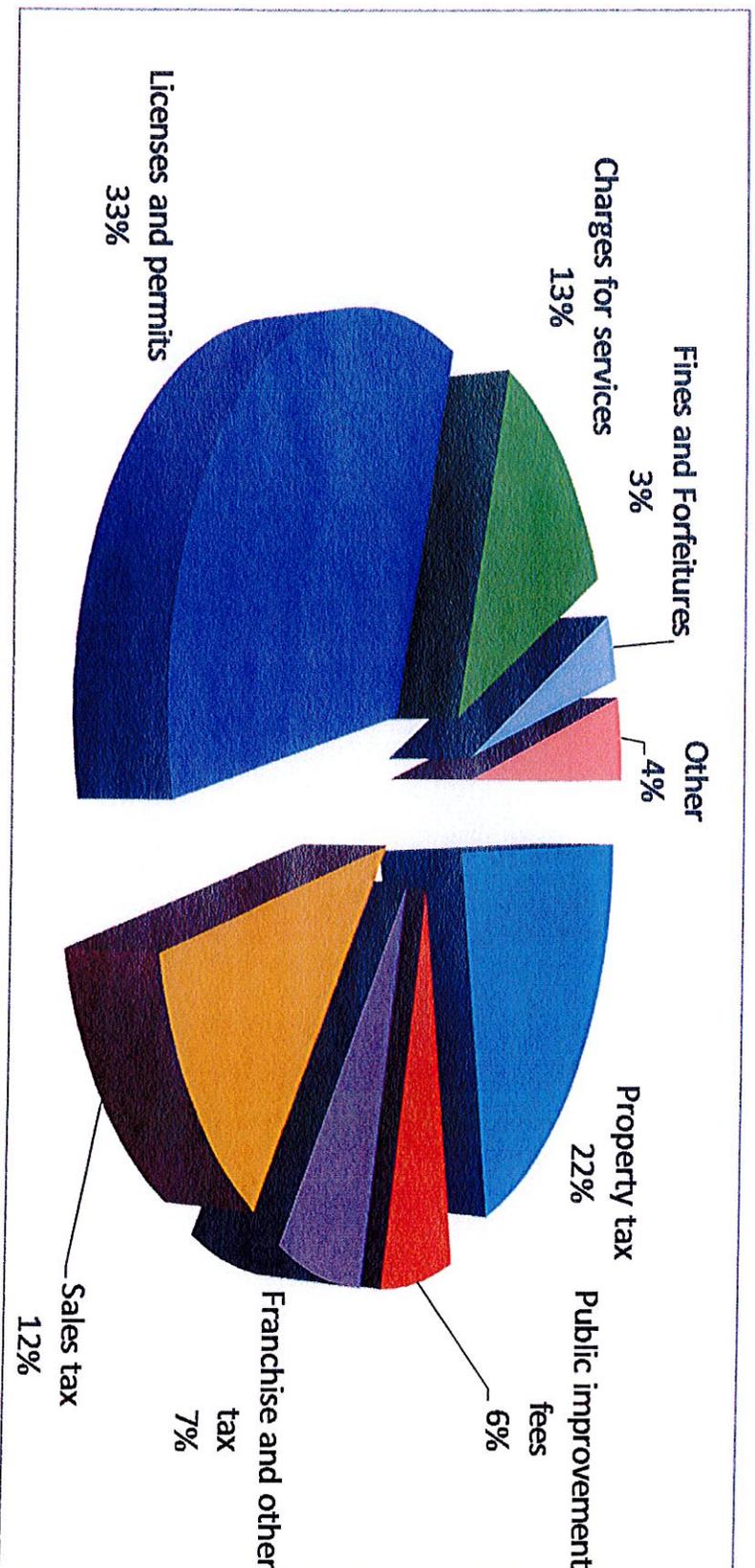
Cash and Investment Balances

Demand and Money Market Accounts	\$ 11,389,023
Certificates of Deposit	222,395
Texas CLASS	2,629,149
	<u>\$ 14,240,567</u>
Regional Park	\$ 1,453,900
Other	985,339
Economic Development	1,226,852
Fulshear Facility	294,309
Fulshear Facility - restricted	1,223,225
Cross Creek Ranch Facility	3,270,637
Unrestricted	5,786,305
	<u>\$ 14,240,567</u>

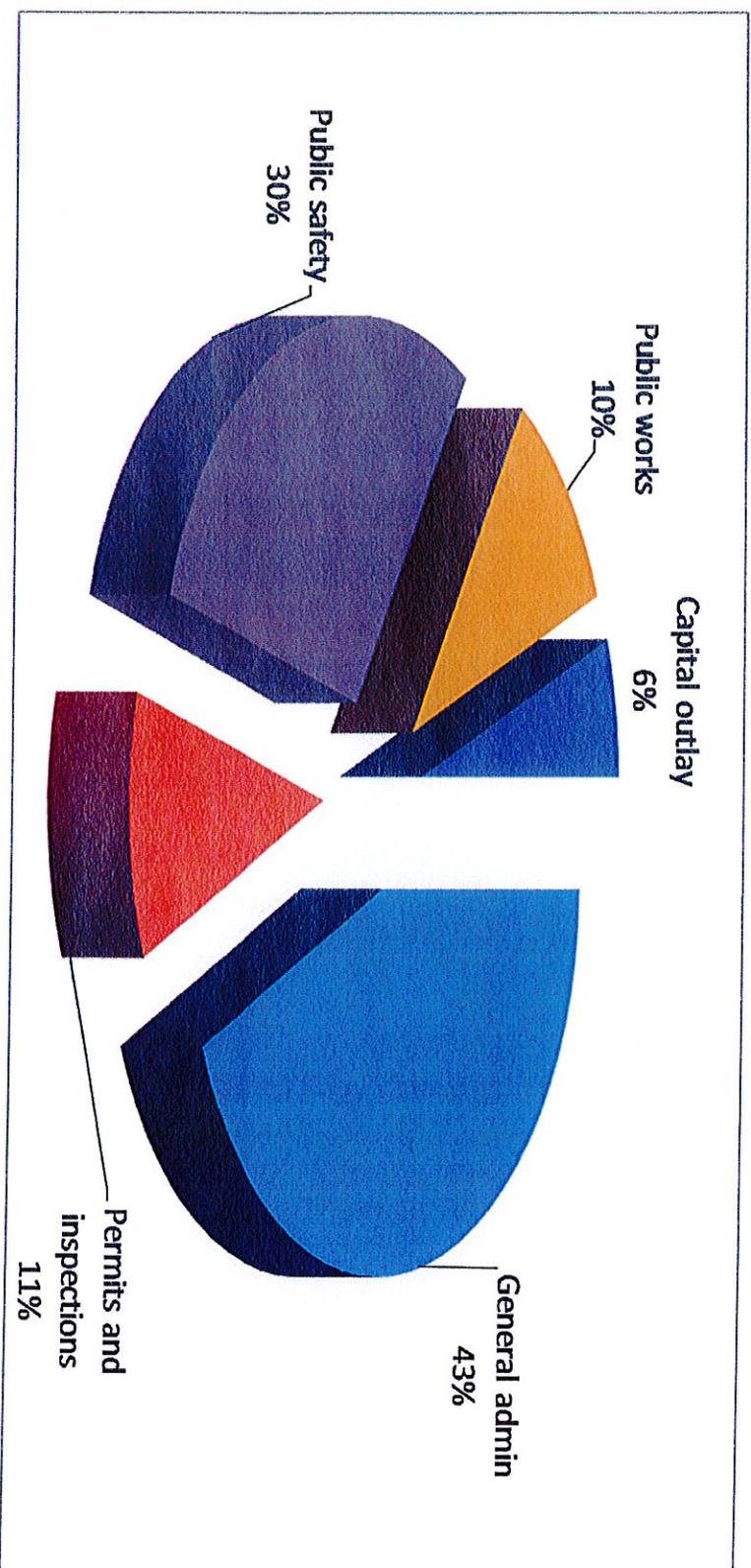
General Fund Balance (p. 16)

Restricted		\$	131,733
Unassigned			
Beginning	4,303,085		
Increase	1,004,125		
Ending			<u>5,307,210</u>
Total Fund Balance		\$	<u><u>5,438,943</u></u>

General Fund Revenue (p. 18)



General Fund Expenditures (p. 18)



Net Pension Liability – Last 2 Calendar Years

	<u>2014</u>	<u>2013</u>
Total Pension Liability	\$ 454,539	\$ 292,846
Plan Fiduciary Net Position	<u>295,014</u>	<u>168,333</u>
Net Pension Liability	<u>\$ 159,525</u>	<u>\$ 124,513</u>
Percentage Funded	65%	57%
Covered Employee Payroll	\$ 1,375,366	\$ 870,232
NPL as a % of Payroll	12%	14%

Required Communications

- Auditors' responsibility under U.S. Generally Accepted Auditing Standards
 - Consider internal controls for the purpose of determining audit procedures
 - Plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatements
 - Financial statements are the responsibility of management

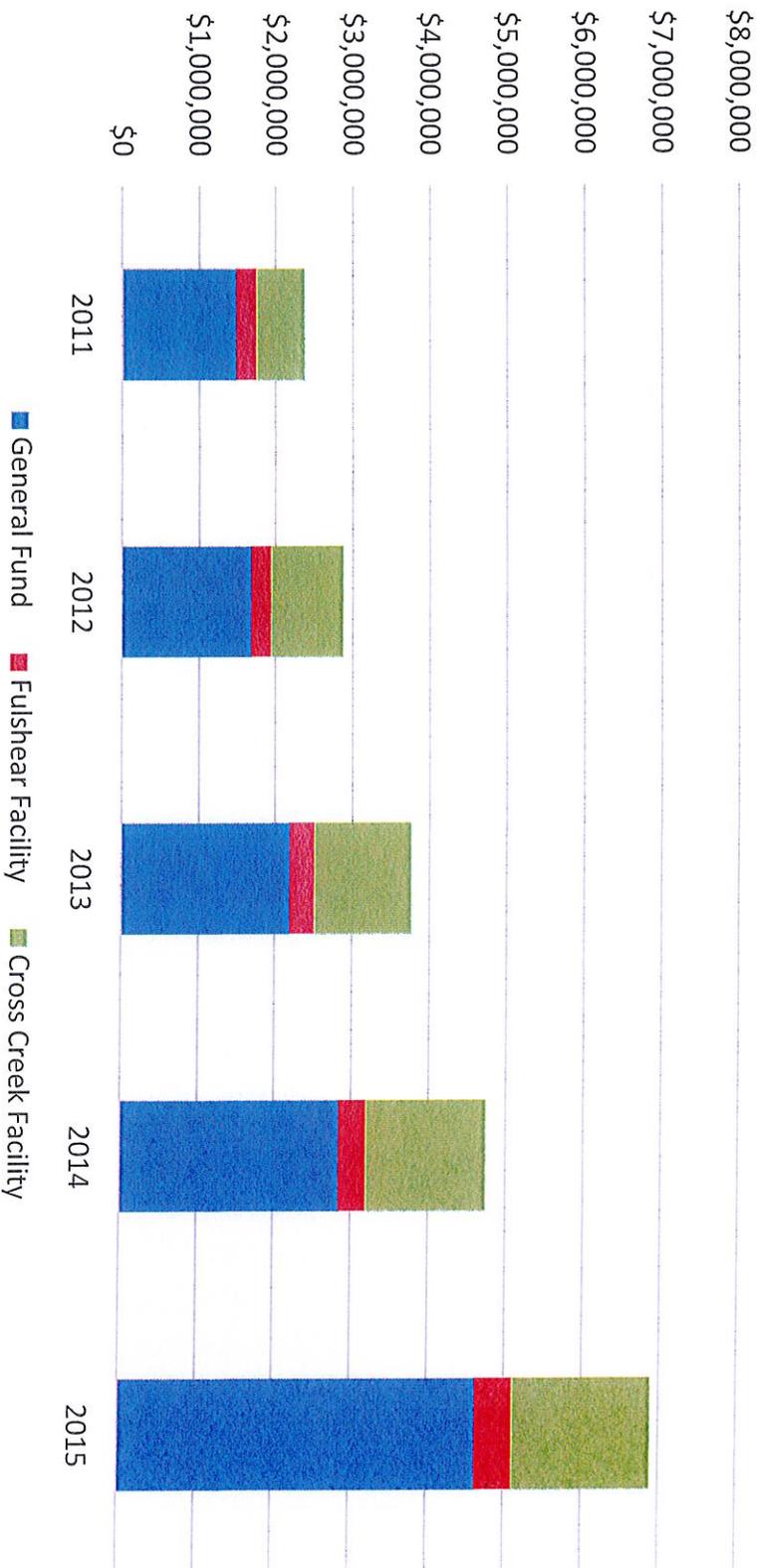
Required Communications

- Significant Accounting Policies
 - Policies and methods are appropriate and in accordance with industry standards
 - New recognition of Net Pension Liability of \$159,525 or 3% of General Fund Expenditures
- Judgments and Accounting Estimates
 - Management has reasonable basis for these estimates:
 - Allowance for uncollectable taxes
 - Useful lives of capital assets
 - Actuarial estimates related to pension plan

Required Communications

- No disagreements with management over:
 - Application of accounting principles
 - Judgments about accounting estimates
- No difficulties encountered with management in performing and completing the audit

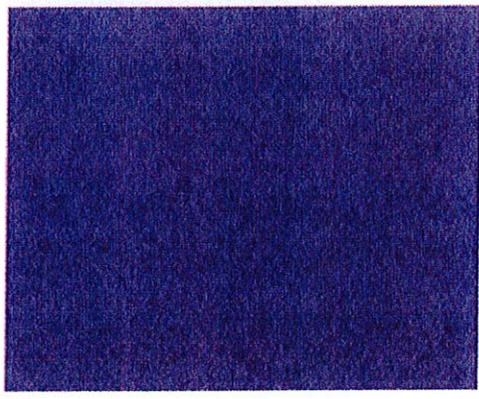
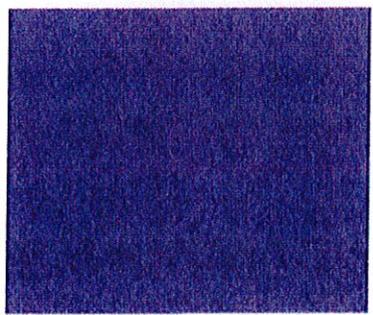
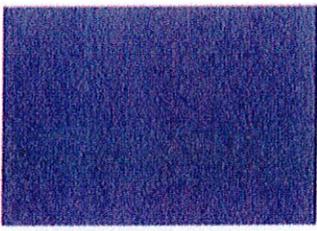
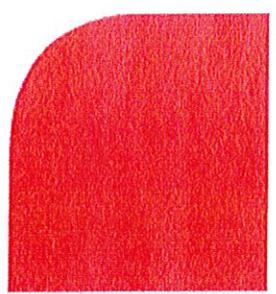
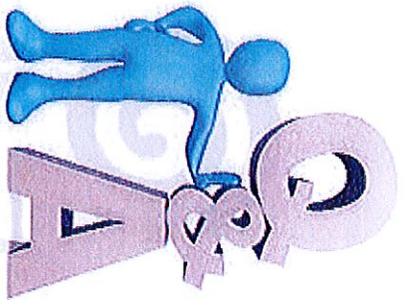
Expenditures – Last 5 Fiscal Years



Required Communications

- Not aware of any consultation with other accountants
- Significant written communications between auditor and management:
 - Engagement Letter
 - Management Representation Letter
- Independence
 - We confirm that we are independent accountants with respect to City of Fulshear, Texas

Questions?



CITY OF FULSHEAR, TEXAS

ANNUAL FINANCIAL REPORT

Year Ended September 30, 2015



CITY OF FULSHEAR, TEXAS
PRINCIPAL OFFICIALS
September 30, 2015

Governing Body

Jeff Roberts	Mayor
Erin Tristan	Mayor Pro-Tem and Council Member
Tricia Krenek	Council Member
Ramona Ridge	Council Member
Stephen Gill	Council Member
James Murdoch	Council Member

Other Principal Official

C.J. Snipes	City Administrator
D. Gordon Offord	City Secretary
Kristina J. Brashear	City Finance Director
J. Grady Randle	City Attorney

CITY OF FULSHEAR, TEXAS
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REPORT OF INDEPENDENT AUDITORS

To The Honorable Mayor and
City Council Members of the
City of Fulshear, Texas

Report on Financial Statements

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City of Fulshear, Texas (the "City") as of and for the year ended September 30, 2015, and the related notes to the financial statements, which collectively comprise the City's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City as of September 30, 2015, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

To The Honorable Mayor and
City Council Members of the
City of Fulshear, Texas

Emphasis of Matter

As discussed in Note 2 and Note 8 to the financial statements, the City adopted the provisions of Governmental Accounting Standards Board (GASB) Statement No. 68, *Accounting and Financial Reporting for Pensions, an amendment of GASB Statement No. 27* and GASB Statement No. 71, *Pension Transition for Contributions Made Subsequent to the Measurement Date* for the year ending September 30, 2015. Our opinions are not modified with respect to this matter.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 3 through 9, budgetary comparison information on pages 46 and 47, and pension system supplementary information on pages 48 and 49 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City's basic financial statements. The combining nonmajor fund financial statements and the discretely presented component unit fund financial statements are presented for purposes of additional analysis and are not a required part of the basic financial statements.

The combining nonmajor fund financial statements and the discretely presented component unit fund financial statements are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the combining nonmajor fund financial statements are fairly stated, in all material respects, in relation to the basic financial statements as a whole.



Houston, Texas
June 30, 2016

CITY OF FULSHEAR, TEXAS
MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

As management of the City of Fulshear (the "City"), we offer readers of the City's financial statements this narrative overview and analysis of the financial activities of the City for the fiscal year ended September 30, 2015.

Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to the City's basic financial statements. The City's basic financial statements are comprised of three components: (1) government-wide financial statements, (2) fund financial statements, and (3) notes to the financial statements. This report also contains other supplementary information in addition to the basic financial statements themselves.

Government-wide Financial Statements

The *government-wide financial statements* are designed to provide readers with a broad overview of the City's finances, in a manner similar to a private-sector business.

The *statement of net position* presents information on all of the City's assets, deferred outflows of resources and liabilities, with the difference between the three reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the City is improving or deteriorating.

The *statement of activities* presents information showing how the government's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event to the change occurs, *regardless of timing of related cash flows*. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in the future fiscal periods (e.g. municipal court fines).

Both of the government-wide financial statements distinguish functions of the City that are principally supported by taxes and intergovernmental revenues (*governmental activities*) from other functions that are intended to recover all or a significant portion of their costs through user fees and charges (*business-type activities*). The governmental activities of the City include general government, permits and inspections, public safety, and public works. The business-type activities of the City include water distribution, wastewater collection/treatment, and solid waste operating funds.

The government-wide financial statements include not only the City itself (known as *the primary government*), but also legally separate entities for which the City is financially accountable. Financial information for these *discretely presented component units* is reported separately from the financial information presented for the primary government itself. The City's two discretely presented component units consist of the following: Fulshear Development Corporation and The City of Fulshear Development Corporation.

The government-wide financial statements can be found on pages 12 through 15 of this report.

CITY OF FULSHEAR, TEXAS
MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

Fund Financial Statements

A *fund* is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The City, like other state and local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. All of the funds of the City can be divided into two categories: governmental funds and proprietary funds.

Governmental Funds

Governmental funds are used to account for essentially the same functions reported as *governmental activities* in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on *near-term inflows and outflows of spendable resources*, as well as on *balances of spendable resources* available at the end of the fiscal year. Such information may be useful in evaluating a government's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the government's near-term financing decisions. Both the governmental funds balance sheet and the governmental funds statement of revenues, expenditures and changes in fund balances provide a reconciliation to facilitate this comparison between governmental funds and governmental activities.

The City maintains four (4) individual governmental funds. Information is presented separately in the governmental fund balance sheet and in the governmental fund statement of revenues, expenditures, and changes in fund balances for the each of the four (4) funds with the General Fund considered to be a major fund.

The governmental funds financial statements can be found on pages 16 through 19 of this report.

Proprietary Funds

The City maintains one type of proprietary fund. Proprietary funds are used to report the same functions presented as the business-type activities in the government-wide financial statements. The City uses two enterprise funds to account for its water distribution, wastewater collection/treatment, and solid waste operations.

Proprietary fund financial statements provide the same type of information as the government-wide financial statements, only in more detail. The proprietary fund financial statements provide separate information for the Fulshear Facility Fund and CCR Facility Fund that are considered to be major funds of the City.

The basic enterprise fund financial statements can be found on pages 20 through 22 of this report.

Notes to the Basic Financial Statements

The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements. The notes to the financial statements can be found on pages 23 through 43 of this report.

CITY OF FULSHEAR, TEXAS
MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

Other Information

In addition to the basic financial statements and accompanying notes, this report also presents *required supplementary information* -- Schedules of Revenues, Expenditures, and Changes in Fund Balances - Budget and Actual for the General Fund and information concerning the City's progress in funding its obligation to provide pension benefits to its employees. Required supplementary information can be found on pages 46 through 49 of this report.

Government-wide Financial Analysis

As noted earlier, net position may serve over time as a useful indicator of government's financial position. In the case of the City of Fulshear, assets and deferred outflows exceeded liabilities by \$70.8 million as of September 30, 2015.

By far the largest portion of the City's net position, 83% reflects its net investment in capital assets (e.g., land, construction in progress, buildings, improvements other than buildings, machinery and equipment, and infrastructure), less any debt used to acquire those assets that is still outstanding. The City uses capital assets to provide services to citizens; consequently these assets are *not* available for future spending. Although the City's investment in its capital assets is reported net of related debt, it should be noted that the resources needed to repay this debt must be provided from other sources, since the capital assets themselves cannot be used to liquidate these liabilities.

CONDENSED SCHEDULE OF NET POSITION

September 30, 2015 and 2014

	Governmental Activities		Business-Type Activities		Total Primary Government	
	2015	2014*	2015	2014	2015	2014*
Current and other assets	\$ 8,437,974	\$ 5,995,345	\$ 5,559,524	\$ 4,735,971	\$ 13,997,498	\$ 10,731,316
Capital assets	25,705,433	23,797,616	32,998,255	30,581,919	58,703,688	54,379,535
Total Assets	34,143,407	29,792,961	38,557,779	35,317,890	72,701,186	65,110,851
Deferred Outflows of Resources						
Pension related	97,486	35,675			97,486	35,675
Current and other liabilities	1,310,658	240,827	427,446	288,911	1,738,104	529,738
Long-term liabilities	74,584	37,203			74,584	37,203
Net pension liability	159,525	124,513			159,525	124,513
Total Liabilities	1,544,767	402,543	427,446	288,911	1,972,213	691,454
Net position:						
Net investment in capital assets	25,705,433	23,797,616	32,998,255	30,581,919	58,703,688	54,379,535
Restricted	1,515,599	1,156,792	1,223,225	1,755,008	2,738,824	2,911,800
Unrestricted	5,475,094	4,471,685	3,908,853	2,692,052	9,383,947	7,163,737
Total Net Position	\$32,696,126	\$ 29,426,093	\$ 38,130,333	\$ 35,028,979	\$ 70,826,459	\$ 64,455,072

*During the fiscal year ended September 30, 2015, the City implemented GASB Statement No. 68 relating to the recognition of the net pension liability relating to City's employee retirement plan administered by the Texas Municipal Retirement System. Prior year liabilities have been presented in this schedule for comparative purposes.

An additional 4% portion of the City's net position represents resources that are subject to external restrictions on how they may be used. The remaining balance of unrestricted net position of \$9.4 million may be used to meet the government's ongoing obligations to citizens and creditors.

CITY OF FULSHEAR, TEXAS
MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

As of September 30, 2015, the City is able to report positive balances in all three categories of net position. The following table provides a summary of the City's operations for the year ended September 30, 2015:

CONDENSED SCHEDULE OF CHANGES IN NET POSITION

September 30, 2015 and 2014

	Governmental Activities		Business-Type Activities		Total Primary Government	
	2015	2014**	2015	2014	2015	2014**
Revenues						
Program revenue:						
Charges for services	\$ 3,135,489	\$ 2,639,713	\$ 3,395,191	\$ 3,271,568	\$ 6,530,680	\$ 5,911,281
Operating grants and contributions	29,246	30,259			29,246	30,259
Capital grants and contributions	2,798,155	6,595,732	2,806,881	9,085,540	5,605,036	15,681,272
General revenues:						
Property taxes	1,273,932	943,721			1,273,932	943,721
Sales taxes	665,127	522,563			665,127	522,563
Franchise taxes	380,718	197,620			380,718	197,620
Investment earnings	9,527	7,993	5,682	3,044	15,209	11,037
Other revenues	222,988	184,860		16,970	222,988	201,830
Total Revenues	8,515,182	11,122,461	6,207,754	12,377,122	14,722,936	23,499,583
Expenses:						
General government	2,039,436	1,256,952			2,039,436	1,256,952
Permits and inspections	528,461	376,897			528,461	376,897
Public safety	1,427,578	941,346			1,427,578	941,346
Public works	1,249,674	1,001,930			1,249,674	1,001,930
Interest on long-term debt		292				292
Water and sewer			3,106,400	2,573,262	3,106,400	2,573,262
Total Expenses	5,245,149	3,577,417	3,106,400	2,573,262	8,351,549	6,150,679
Increase in net position before transfers	3,270,033	7,545,044	3,101,354	9,803,860	6,371,387	17,348,904
Transfers		(257,644)		257,644		
Change in net position	3,270,033	7,287,400	3,101,354	10,061,504	6,371,387	17,348,904
Net Position - as originally reported	29,514,931	22,227,531	35,028,979	24,967,475	64,543,910	47,195,006
Change in accounting principles	(88,838)	(88,838)			(88,838)	(88,838)
Net Position - ending	\$ 32,696,126	\$ 29,426,093	\$ 38,130,333	\$ 35,028,979	\$ 70,826,459	\$ 64,455,072

**During the fiscal year ended September 30, 2015, the City implemented GASB Statement No. 68 relating to the recognition of the net pension liability relating to City's employee retirement plan administered by the Texas Municipal Retirement System. Prior year liabilities have been added to the ending Net Position balance but pension related activities have not been presented in this schedule as the information is not available. See Note 13 for more information.

CITY OF FULSHEAR, TEXAS
MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

Governmental activities

For the year ended September 30, 2015, revenues from governmental activities totaled \$8.5 million. Overall, governmental revenues decrease by 23% from the prior year due to a reduction in capital assets contributed by developers. Charges for services, which are the City's largest revenue source, increased by 19% due to an increase in permit and inspection revenues related to an increase in new development.

For the year ended September 30, 2015, expenses for governmental activities totaled \$5.2 million, which represents an increase of \$1,667,732 from the previous year. Public works expenses increased the most over the prior year, primarily due to construction costs incurred for business-type activities projects. General government expenses increased \$782,484. The increase is a result of increased activity due to growth in the area. Public safety increased by \$486,232 due to increased salaries and wages.

Business-type activities

Charges for services for business-type activities increased \$123,623 or 4% from the previous year due to an increase in water and sewer taps and the activity due to new development. Water and sewer expenses have increased by \$533,138. The increase is primarily due to increases in water pumpage and tapping fees as well as repair and maintenance related to the expansion of the City's water system.

Financial Analysis of the City's Funds

As noted earlier, fund accounting is used to demonstrate and ensure compliance with finance-related legal requirements.

Governmental Funds - The focus of the City's governmental funds is to provide information on near-term inflows, outflows and balances of spendable resources. Such information is useful in assessing the City's financing requirements. In particular, unassigned fund balance may serve as a useful measure of the City's net resources available for spending at the end of the year.

The City's governmental funds reflect a combined fund balance of \$7.1 million. Of this amount, \$1,453,900 is restricted for the City's regional park, \$271,113 is committed to capital projects, and \$5.3 million is unassigned. There was an increase in the combined fund balance of \$1.4 million from the prior year.

The general fund is the chief operating fund of the City. At the end of the current year, unassigned fund balance of the general fund was \$5.3 million. As a measure of the general fund's liquidity, it may be useful to compare unassigned fund balance to total fund expenditures. Unassigned fund balance represents 114% of total general fund expenditures. The general fund demonstrated an overall increase of \$1.00 million primarily due to an increase in the license and permits, property taxes, and charges for services.

Proprietary Funds - The City's proprietary funds financial statements provide the same type of information found in the government-wide financial statements, but in more detail.

CITY OF FULSHEAR, TEXAS
MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

General Fund Budgetary Highlights

There had been a planned decrease in budgeted fund balance in the amount of \$1.8 million in the general fund. However, actual fund balance increased by \$1,004,125 resulting in a positive variance of \$2,834,022 from budgeted as amended to actual.

Actual general fund revenues were above amended budgeted revenues by \$606,174 for 2015. This net positive variance includes positive variances of \$294,530 for property taxes and \$500,486 for licenses and permits along with negative variances for public improvement fees and charges for services.

Actual expenditures were less than budgeted amounts by \$525,717 for the fiscal year. The greatest positive variance was in general government.

Capital Assets

The City's investment in capital assets for its governmental and business-type activities as of September 30, 2015, amounted to \$25.7 million and \$33.0 million (net of accumulated depreciation), respectively. This investment in capital assets includes land, buildings and improvements, machinery and equipment, and infrastructure.

The following table shows the balances at September 30, 2015 and 2014:

	<u>2015</u>	<u>2014</u>
Governmental Activities		
Capital assets, not being depreciated:		
Land	\$ 920,650	\$ 711,640
Capital assets net of depreciation		
Buildings and improvements	529,729	561,431
Machinery and equipment	624,710	337,475
Infrastructure	<u>23,630,344</u>	<u>22,187,070</u>
Total capital assets - net of depreciation	<u>\$ 25,705,433</u>	<u>\$ 23,797,616</u>
 Business-Type Activities		
Capital assets, not being depreciated:		
Land	\$ 526,082	\$ 526,082
Construction in progress	701,350	-
Capital assets net of depreciation		
Buildings and improvements	35,519	38,278
Machinery and equipment	36,174	18,690
Infrastructure	<u>31,699,130</u>	<u>29,998,869</u>
Total capital assets - net of depreciation	<u>\$ 32,998,255</u>	<u>\$ 30,581,919</u>

Long-term liabilities

Detailed information about the City's long-term liabilities is presented in the notes to the financial statements.

CITY OF FULSHEAR, TEXAS

MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

Economic Factors and Next Year's Budgets and Rates

The City Council has adopted the City's 2016 budget. The approval of the budget provides funding for the City's operating and capital costs for the 2016 fiscal year. The City anticipates a 1 percent increase in expected total revenues and a 31 percent increase in expected total expenditures. The City's water, sewer, and garbage rates are reviewed by the City Council and adjusted based on current operating costs, customer demand and usage, and other pertinent factors affecting operations. Expenditures were increased as a direct result of the city's continuous growth and need for capital infrastructure improvements associated with streets and the expansion of its water systems.

The City of Fulshear is one of the most rapidly growing communities in the greater Houston area. As noted in a recent Wall Street Journal article, Fulshear has benefited greatly from the strong growth in the Energy Sector in recent months and has become one of the most sought housing markets in the Houston area. In 2014/2015 the City successfully negotiated three new development agreements for master planned communities within its city limits and extra territorial jurisdiction adding to the four that currently exist. This growth has sparked the recent increase in commercial development in Fulshear which the city anticipates will stem the local economy. In 2015 the City entered into a Chapter 380 agreement for Use Tax collection with Highland Homes. Under this agreement Highland and the City split the use tax collected on all materials used in the construction of homes in Fulshear.

Request for Information

This financial report is designed to provide a general overview of the City's finances. Questions concerning this report or requests for additional financial information should be directed to Kristina Brashear, City Finance Director, 30603 FM 1093, Fulshear, TX, 77441, telephone 281-346-1796, or for general City information, visit the City's website at www.fulsheartexas.gov .

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BASIC FINANCIAL STATEMENTS

CITY OF FULSHEAR, TEXAS
STATEMENT OF NET POSITION
September 30, 2015

	Primary Government		
	Governmental Activities	Business-Type Activities	Total
Assets			
Current assets:			
Cash and cash equivalents	\$ 8,225,544	\$ 3,564,946	\$ 11,790,490
Receivables, net	212,430	771,353	983,783
Restricted:			
Cash and cash equivalents		1,223,225	1,223,225
Total Current assets	8,437,974	5,559,524	13,997,498
Capital assets:			
Non-depreciable capital assets	920,650	1,227,432	2,148,082
Depreciable capital assets, net	24,784,783	31,770,823	56,555,606
Total Noncurrent assets	25,705,433	32,998,255	58,703,688
Total Assets	34,143,407	38,557,779	72,701,186
Deferred Outflows of Resources			
Deferred outflows - pension related	97,486		97,486
Liabilities			
Current liabilities:			
Accounts payable and accrued expenses	1,292,169	312,177	1,604,346
Customer deposits	18,489	115,269	133,758
Total current liabilities	1,310,658	427,446	1,738,104
Long-term liabilities:			
Due within one year	25,000		25,000
Due in more than one year	49,584		49,584
Net pension liability	159,525		159,525
Total long-term liabilities	234,109		234,109
Total Liabilities	1,544,767	427,446	1,972,213
Net Position			
Investment in capital assets	25,705,433	32,998,255	58,703,688
Restricted for:			
Regional park	1,515,599		1,515,599
Water and sewer construction		1,223,225	1,223,225
Unrestricted	5,475,094	3,908,853	9,383,947
Total Net Position	\$ 32,696,126	\$ 38,130,333	\$ 70,826,459

See Notes To Basic Financial Statements.

<u>Component Units</u>	
<u>Fulshear Development Corporation</u>	<u>City of Fulshear Development Corporation</u>
\$ 698,213	\$ 528,639
60,358	60,358
<u>758,571</u>	<u>588,997</u>
<u>758,571</u>	<u>588,997</u>
	11,493
	<u>11,493</u>
	<u>11,493</u>
<u>758,571</u>	<u>577,504</u>
<u>\$ 758,571</u>	<u>\$ 577,504</u>

CITY OF FULSHEAR, TEXAS
STATEMENT OF ACTIVITIES
For the Year Ended September 30, 2015

<u>Functions/Programs</u>	<u>Expenses</u>	<u>Program Revenue</u>		
		<u>Charges for Services</u>	<u>Operating Grants and Contributions</u>	<u>Capital Grants and Contributions</u>
Primary government				
Governmental Activities:				
General government	\$ 2,039,436	\$	\$	\$ 347,250
Permits and Inspections	528,461	2,570,046		
Public safety	1,427,578	193,757	29,246	
Public works	1,249,674	371,686		2,450,905
Total governmental activities	<u>5,245,149</u>	<u>3,135,489</u>	<u>29,246</u>	<u>2,798,155</u>
Business-Type Activities:				
Water and Sewer Operations	<u>3,106,400</u>	<u>3,395,191</u>		<u>2,806,881</u>
Total Primary Government	<u>\$ 8,351,549</u>	<u>\$ 6,530,680</u>	<u>\$ 29,246</u>	<u>\$ 5,605,036</u>
Component Units				
City of Fulshear Development Corporation	\$ 99,703	\$	\$	\$
Fulshear Development Corporation	<u>94,946</u>			
Total component units	<u>\$ 194,649</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>

General revenues:

Taxes:

- Property taxes
- Sales tax
- Franchise taxes
- Investment earnings
- Other revenues

Total general revenues

Change in net position

Net Position - beginning, as restated

Net Position - ending

See Notes to Basic Financial Statements.

<u>Net Revenue (Expense) and Changes in Net Position</u>			<u>Component Units</u>	
<u>Primary Government</u>			<u>Fulshear Development Corporation</u>	<u>City of Fulshear Development Corporation</u>
<u>Governmental Activities</u>	<u>Business-Type Activities</u>	<u>Total</u>		
\$ (1,692,186)		\$ (1,692,186)		
2,041,585		2,041,585		
(1,204,575)		(1,204,575)		
<u>1,572,917</u>		<u>1,572,917</u>		
<u>717,741</u>		<u>717,741</u>		
	<u>3,095,672</u>	<u>3,095,672</u>		
<u>717,741</u>	<u>3,095,672</u>	<u>3,813,413</u>		
			\$ (99,703)	\$ (94,946)
			<u>(99,703)</u>	<u>(94,946)</u>
1,273,932		1,273,932		
665,127		665,127	320,544	320,550
380,718		380,718		
9,527	5,682	15,209	819	1,343
<u>222,988</u>		<u>222,988</u>	<u>450</u>	
<u>2,552,292</u>	<u>5,682</u>	<u>2,557,974</u>	<u>321,813</u>	<u>321,893</u>
3,270,033	3,101,354	6,371,387	222,110	226,947
<u>29,426,093</u>	<u>35,028,979</u>	<u>64,455,072</u>	<u>536,461</u>	<u>350,557</u>
<u>\$ 32,696,126</u>	<u>\$ 38,130,333</u>	<u>\$ 70,826,459</u>	<u>\$ 758,571</u>	<u>\$ 577,504</u>

CITY OF FULSHEAR, TEXAS

BALANCE SHEET

GOVERNMENTAL FUNDS

September 30, 2015

	<u>General Fund</u>	<u>Capital Projects Fund</u>	<u>Nonmajor Funds</u>	<u>Total Funds</u>
Assets				
Cash and cash equivalents	\$ 5,807,082	\$ 923,640	\$ 1,272,427	\$ 8,003,149
Investments	108,927		113,468	222,395
Receivables, net	212,430			212,430
Due from other funds			994	994
Total Assets	<u>\$ 6,128,439</u>	<u>\$ 923,640</u>	<u>\$ 1,386,889</u>	<u>\$ 8,438,968</u>
Liabilities				
Accounts payable	\$ 636,619	\$ 652,527	\$ 3,023	\$ 1,292,169
Due to other funds	994			994
Customer deposits	18,489			18,489
Total Liabilities	<u>656,102</u>	<u>652,527</u>	<u>3,023</u>	<u>1,311,652</u>
Deferred Inflows of Resources				
Unavailable property taxes	33,394			33,394
Fund balances				
Restricted for:				
Regional Park	131,733		1,322,167	1,453,900
Municipal Court			61,699	61,699
Committed		271,113		271,113
Unassigned	5,307,210			5,307,210
Total Fund Balances	<u>5,438,943</u>	<u>271,113</u>	<u>1,383,866</u>	<u>7,093,922</u>
Total Liabilities, Deferred Inflows, and Fund Balances	<u>\$ 6,128,439</u>	<u>\$ 923,640</u>	<u>\$ 1,386,889</u>	<u>\$ 8,438,968</u>

See Notes to Basic Financial Statements.

CITY OF FULSHEAR, TEXAS

**RECONCILIATION OF THE GOVERNMENTAL FUNDS BALANCE SHEET
TO THE GOVERNMENTAL ACTIVITIES STATEMENT OF NET POSITION
September 30, 2015**

Total fund balance, governmental funds \$ 7,093,922

Amounts reported for governmental activities in the Statement of Net Position are different because:

Capital assets used in governmental activities are not current financial resources and therefore are not reported in this fund financial statement, but are reported in the governmental activities of the Statement of Net Position. 25,705,433

Uncollected long-term receivables are not available to pay current period expenditures and therefore are not reported in the fund financial statements, but are reported in the governmental activities of the Statement of Net Position. 33,394

Outflows of resources relating to pension plan activity are recognized as expenditures in the governmental fund financial statements when payments are made but are reported as deferred in the governmental activities of the statement of net position. 97,486

Some liabilities are not due and payable in the current period and are not included in the fund financial statement, but are included in the governmental activities of the Statement of Net Position.

Accrued compensated absences (74,584)
Net pension liability (159,525)

Net Position of Governmental Activities in the Statement of Net Position \$ 32,696,126

See Notes to Basic Financial Statements.

CITY OF FULSHEAR, TEXAS
STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES
GOVERNMENTAL FUNDS
For the Year Ended September 30, 2015

	<u>General Fund</u>	<u>Capital Projects Fund</u>	<u>Nonmajor Funds</u>	<u>Total Funds</u>
Revenues				
Taxes:				
Property	\$ 1,264,271	\$	\$	\$ 1,264,271
Sales	665,127			665,127
Franchise taxes	380,718			380,718
Public improvement fees	345,803			345,803
Licenses and permits	1,872,346			1,872,346
Charges for services	744,125			744,125
Fines and forfeitures	180,656		13,301	193,957
Investment earnings	7,030	227	2,272	9,529
Other revenues	222,635		356,105	578,740
Total Revenues	<u>5,682,711</u>	<u>227</u>	<u>371,678</u>	<u>6,054,616</u>
Expenditures				
Current:				
General administration	2,009,032	23	5,594	2,014,649
Permits and Inspections	517,507			517,507
Public safety	1,375,631		7,277	1,382,908
Public works	466,294			466,294
Capital Outlay	267,472	42,649		310,121
Total Expenditures	<u>4,635,936</u>	<u>42,672</u>	<u>12,871</u>	<u>4,691,479</u>
Revenues over (under) expenditures	<u>1,046,775</u>	<u>(42,445)</u>	<u>358,807</u>	<u>1,363,137</u>
Other Financing Sources (Uses)				
Transfers in		42,650		42,650
Transfers out	(42,650)			(42,650)
Total other financing sources (uses)	<u>(42,650)</u>	<u>42,650</u>		
Net Changes in Fund Balances	1,004,125	205	358,807	1,363,137
Fund Balances - beginning of year	<u>4,434,818</u>	<u>270,908</u>	<u>1,025,059</u>	<u>5,730,785</u>
Fund Balances - end of year	<u>\$ 5,438,943</u>	<u>\$ 271,113</u>	<u>\$ 1,383,866</u>	<u>\$ 7,093,922</u>

See Notes to Basic Financial Statements.

CITY OF FULSHEAR, TEXAS
RECONCILIATION OF THE STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES OF GOVERNMENTAL FUNDS TO THE
STATEMENT OF ACTIVITIES
For the Year Ended September 30, 2015

Net change in fund balances - total governmental funds: \$ 1,363,137

Amounts reported for Governmental Activities in the Statement of Activities are different because:

Governmental funds report outlays for capital assets as expenditures because such outlays use current financial resources. In contrast, the Statement of Activities reports only a portion of the outlay as expense. The capital asset expenditures are allocated over the assets' estimated useful lives as depreciation expense for the period.

This is the amount by which capital outlay of \$432,483 was exceeded by depreciation of \$962,183 in the current period. (529,700)

Governmental funds report the entire net sales price (proceeds) from sale of an asset as revenue because it provides current financial resources. In contrast, the Statement of Governmental activities reports only the gain or loss on the sale of the assets. Thus, the change in net position differs from the change in fund balance by the book value of the asset sold. -

Contributions of capital assets by developers are not reported in the governmental fund financial statements as they do not represent a flow of current resources. 2,450,905

Governmental funds do not present revenues (property taxes) that are not available to pay current obligations. In contrast, such revenues are reported in the Statement of Activities when earned. 9,661

Governmental funds report the payment of pension contributions as an expenditure. In contrast, the statement of activities treats such payments as a reduction in net pension liability. 69,687

Some expenses reported in the statement of activities do not require the use of current financial resources and these are not reported as expenditures in governmental funds:

Compensated absences	(37,381)
Pension expense	(42,888)

Change in net position of governmental activities \$ 3,283,421

See Notes to Basic Financial Statements.

CITY OF FULSHEAR, TEXAS
STATEMENT OF NET POSITION
PROPRIETARY FUNDS
September 30, 2015

	Enterprise Funds		Total Enterprise Funds
	Fulshear Facility	CCR Facility	
Assets			
Current assets:			
Cash and cash equivalents	\$ 294,309	\$ 3,270,637	\$ 3,564,946
Accounts receivable, net	96,884	674,469	771,353
Restricted assets:			
Cash and cash equivalents	1,223,225		1,223,225
Total current assets	<u>1,614,418</u>	<u>3,945,106</u>	<u>5,559,524</u>
Noncurrent assets:			
Capital assets:			
Land	60,292	465,790	526,082
Construction in progress	701,350		701,350
Infrastructure	2,878,053	29,887,484	32,765,537
Buildings	612,278	3,385,775	3,998,053
Equipment	81,617	25,276	106,893
Less accumulated depreciation	(2,821,260)	(2,278,400)	(5,099,660)
Total noncurrent assets	<u>1,512,330</u>	<u>31,485,925</u>	<u>32,998,255</u>
Total Assets	<u>\$ 3,126,748</u>	<u>\$ 35,431,031</u>	<u>\$ 38,557,779</u>
Liabilities			
Accounts payable and accrued liabilities	\$ 61,461	\$ 250,716	\$ 312,177
Customer deposits	18,276	96,993	115,269
Total Liabilities	<u>79,737</u>	<u>347,709</u>	<u>427,446</u>
Net Position			
Investment in capital assets	1,512,330	31,485,925	32,998,255
Restricted for:			
Water and sewer construction	1,223,225		1,223,225
Unrestricted	311,456	3,597,397	3,908,853
Total Net Position	<u>\$ 3,047,011</u>	<u>\$ 35,083,322</u>	<u>\$ 38,130,333</u>

See Notes to Basic Financial Statements.

CITY OF FULSHEAR, TEXAS
STATEMENT OF REVENUES, EXPENSES AND CHANGES
IN FUND NET POSITION
PROPRIETARY FUNDS
For the Year Ended September 30, 2015

	Enterprise Funds		Total Enterprise Funds
	Fulshear Facility	CCR Facility	
Operating Revenues			
Charges for sales and services	\$ 535,099	\$ 2,860,092	\$ 3,395,191
Operating Expenses			
Contractual services	152,970	383,492	536,462
Other operating	302,657	1,293,262	1,595,919
Utilities	30,167	99,168	129,335
Depreciation	745,087	99,597	844,684
	<u>1,230,881</u>	<u>1,875,519</u>	<u>3,106,400</u>
Operating income (loss)	<u>(695,782)</u>	<u>984,573</u>	<u>288,791</u>
Non-Operating Revenues			
Investment earnings	2,622	3,060	5,682
Total Non-Operating Revenues	<u>2,622</u>	<u>3,060</u>	<u>5,682</u>
Income (loss) before transfers and capital contributions	(693,160)	987,633	294,473
Capital contributions	<u>265,793</u>	<u>2,541,088</u>	<u>2,806,881</u>
Change in Net Position	(427,367)	3,528,721	3,101,354
Total Net Position - beginning of year	<u>3,474,378</u>	<u>31,554,601</u>	<u>35,028,979</u>
Total Net Position - end of year	<u>\$ 3,047,011</u>	<u>\$ 35,083,322</u>	<u>\$ 38,130,333</u>

See Notes to Basic Financial Statements.

CITY OF FULSHEAR, TEXAS
STATEMENT OF CASH FLOWS
PROPRIETARY FUNDS
For the Year Ended September 30, 2015

	Enterprise Funds		
	Fulshear Facility	CCR Facility	Total Enterprise Funds
Cash Flows From Operating Activities			
Receipts from customers and users	\$ 521,331	\$ 2,699,190	\$ 3,220,521
Payments to suppliers	(465,510)	(1,687,563)	(2,153,073)
Net cash provided by operating activities	<u>55,821</u>	<u>1,011,627</u>	<u>1,067,448</u>
 Cash Flows from Capital and Related Financing Activities			
Capital grants	265,793		265,793
Acquisition of and construction of capital assets	(701,327)	(18,580)	(719,907)
Net cash used by capital and related financing activities	<u>(435,534)</u>	<u>(18,580)</u>	<u>(454,114)</u>
 Cash Flows From Investing Activities			
Investment earnings	2,599	3,058	5,657
Net cash used by investing activities	<u>2,599</u>	<u>3,058</u>	<u>5,657</u>
 Net increase (decrease) in cash and cash equivalents	(377,114)	996,105	618,991
Cash and cash equivalents - beginning of year	<u>1,894,648</u>	<u>2,274,532</u>	<u>4,169,180</u>
Cash and cash equivalents - end of year	<u>\$ 1,517,534</u>	<u>\$ 3,270,637</u>	<u>\$ 4,788,171</u>
 Unrestricted cash and cash equivalents	\$ 294,309	\$ 3,270,637	\$ 3,564,946
Restricted cash and cash equivalents	1,223,225		1,223,225
Total cash and cash equivalents	<u>\$ 1,517,534</u>	<u>\$ 3,270,637</u>	<u>\$ 4,788,171</u>
 Reconciliation of operating income to net cash provided by operating activities			
Operating Income	\$ (695,782)	\$ 984,573	\$ 288,791
Adjustments to reconcile operating income to net cash provided by operating activities:			
Depreciation	745,087	99,597	844,684
(Increase) decrease in accounts receivable	(17,268)	(187,294)	(204,562)
Increase (decrease) in accounts payable	20,284	88,359	108,643
Increase (decrease) in customer deposits	3,500	26,392	29,892
Net cash provided by operating activities	<u>\$ 55,821</u>	<u>\$ 1,011,627</u>	<u>\$ 1,067,448</u>
 Noncash investing, capital, and financing activities:			
Contributions of capital assets	<u>\$ -</u>	<u>\$ 2,541,088</u>	<u>\$ 2,541,088</u>

See Notes to Basic Financial Statements.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 1 - Organization

The City of Fulshear, Texas, (the "City") was incorporated in 1977. The City Council is the principal legislative body of the City and is composed of five council members who serve two year terms. The mayor presides at the Council meetings. All powers of the City are vested in the City Council.

The City provides the following services: public safety to include police services, municipal court, streets, drainage, water and sewer services, solid waste collection and disposal, community development, and general administration.

Note 2 - Summary of Significant Accounting Policies

The financial statements of the City have been prepared in conformity with generally accepted accounting principles (GAAP) as applied to government units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The more significant of the government's accounting policies are described below.

A. Reporting Entity

The City is an independent political subdivision of the State of Texas 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 City of Fulshear Development Corporation and the Fulshear Development Corporation, although legally separate, are considered discretely presented component units and are part of the reporting entity. No other entities have been included in 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.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 2 - Summary of Significant Accounting Policies (continued)

Discretely Presented Component Units

City of Fulshear Development Corporation

After voter approval on August 29, 2007, the City formed the City of Fulshear Development Corporation (CDC), a 4A development corporation. The Board of Directors is appointed by and serves at the discretion of the City Council. City Council approval is required for budgets and bonded debt issuances. The CDC was created to manage and supervise the programs and activities with revenues from their portion (one half percent) of the sales tax increase of one percent, allowed by State of Texas law and approved by voters on August 29, 2007. The revenues are limited to manufacturing and industrial development.

Fulshear Development Corporation

After voter approval on August 29, 2007, the City formed the Fulshear Development Corporation (FDC), a 4B development corporation. The Board of Directors are appointed by and serve at the discretion of the City Council. City Council approval is required for budgets and bonded debt issuances. The FDC was created to manage and supervise the programs and activities with revenues from their portion (one half percent) of the sales tax increase of one percent, allowed by State of Texas law and approved by voters on August 29, 2007. The revenues are limited to quality of life improvements, including economic development that will attract and retain primary employers.

The component units are reported in separate columns to emphasize that they are legally separate from the City. In the event of dissolution, net position of the CDC and the FDC shall be conveyed back to the City. The operations of these component units are presented as governmental fund types and cover the year ended September 30, 2015.

B. Government-wide and Fund Financial Statements

The government-wide financial statements (i.e., the Statement of net position and the Statement of Changes in Net Position) report information on all of the nonfiduciary activities of the primary government. These statements include all activities of the primary government and its component units. For the most part, the effect of interfund activity has been removed from these statements. Governmental activities, which normally are supported by taxes and intergovernmental revenues, are reported separately from business-type activities, which rely to a significant extent on fees and charges for support.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment are offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function or segment. Program revenues include (1) charges to customers or applicants who purchase, use or directly benefit from goods, services, or privileges provided by a given function or segment and (2) grants and contributions that are restricted to meeting operational or capital requirements of a particular segment. Taxes and other items not properly included among program revenues are reported instead as general revenues.

Separate financial statements are provided for governmental funds and proprietary funds. Major individual governmental funds and the internal service fund are reported as separate columns in the fund financial statements. In the fund financial statements, the accounts of the City are organized on the basis of funds, each of which is considered a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, deferred inflows of resources, fund equity, revenues, and expenditures or expenses, as appropriate.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 2 - Summary of Significant Accounting Policies (continued)

B. Government-wide and Fund Financial Statements (continued)

The accounting and financial reporting treatment applied to a fund is determined by its measurement focus. The government-wide financial statements are reported using the economic resources measurement focus, as are the proprietary fund financial statements. The government-wide statements and proprietary fund statements are reported using the accrual basis of accounting. Revenues are recognized when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Sales taxes and franchise fees are recognized as revenues in the year that gives rise to the transaction. Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met.

Governmental fund financial statements are reported using the *current financial resources measurement focus* and the *modified accrual basis of accounting*. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available if they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the City considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting. However, debt service expenditures, as well as expenditures related to compensated absences and claims and judgments, are recorded only when payment is due. When both restricted and unrestricted resources are available for use, it is the City's policy to use restricted resources first, and then unrestricted resources as needed.

Sales taxes, franchise fees, licenses, municipal court revenues and interest associated with the current fiscal period are all considered to be susceptible to accrual and so have been recognized as revenues of the current fiscal period. All other revenue items are considered measurable and available only when cash is received by the government.

The City reports the following major governmental funds:

The *general fund* is used to account for all financial transactions not properly includable in other funds. The principal sources of revenues include local property taxes, sales and franchise taxes, licenses and permits, fines and forfeitures, and charges for services. Expenditures include general government, public safety, and public works. The general fund is always considered a major fund for reporting purposes.

The *capital projects fund* is used to account for amounts set aside by council for construction projects benefitting both the governmental and business-type activities,

Proprietary Fund Types

Proprietary funds are used to account for activities that are similar to those often found in the private sector. All assets, liabilities, equities, revenues, expenses, and transfers relating to the City's business activities are accounted for through proprietary funds. The measurement focus is on determination of net income, financial position, and cash flows. Proprietary funds distinguish operating revenues and expenses from non-operating items. Operating revenues include charges for services. Operating expenses include costs of materials, contracts, personnel, and depreciation. All revenues and expenses not meeting this definition are reported as non-operating revenues and expenses.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 2 - Summary of Significant Accounting Policies (continued)

B. Government-wide and Fund Financial Statements (continued)

The proprietary fund types used by the City include the following:

Enterprise Funds

The enterprise funds are used to account for the operations that provide water and wastewater collection, wastewater treatment operations and solid waste collection and disposal. The services are financed and operated in a manner similar to private business enterprises where the intent of the governing body is that the costs (expenses including depreciation) of providing goods or services to the general public on a continuing basis will be financed or recovered primarily through user charges. The Fulshear facility fund is utilized to supply the City and surrounding developments with water, sewer, and sanitation services. The Cross Creek Ranch facility fund is utilized to supply the Cross Creek Ranch development with water, sewer, and sanitation services. The Fulshear facility and Cross Creek Ranch facility funds are considered major funds for reporting purposes.

C. Measurement Focus, Basis of Accounting, and Financial Statement Presentation

The government-wide Statements of Net Position and Statements of Activities and all proprietary funds are accounted for on a flow of economic resources measurement focus and the accrual basis of accounting. With this measurement focus, all assets and all liabilities associated with the operations of these activities are included on the balance sheet. Government-wide and proprietary fund equity consists of net position. Operating statements present increases (i.e., revenues) and decreases (i.e., expenses) in net total assets.

The accounting and financial reporting treatment applied to a fund is determined by its measurement focus. All governmental funds are accounted for using a current financial resources measurement focus and the modified accrual basis of accounting. With this measurement focus, only current assets, current liabilities and deferred inflows of resources are generally included on the balance sheet. Operating statements of these funds present increases (i.e., revenues and other financing sources) and decreases (i.e., expenditures and other financing uses) in net current assets.

Under the modified accrual basis of accounting, revenues are recognized in the accounting period when they are susceptible to accrual (i.e., when they are measurable and available). "Measurable" means the amount of the transaction can be determined and "available" means collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the City considers revenues available if they are collected within 60 days of the end of the current fiscal period. Revenues susceptible to accrual include charges for services and interest on temporary investments.

Property taxes, sales taxes, franchise taxes, and interest associated with the current fiscal period are all considered to be susceptible to accrual and so have been recognized as revenues of the current fiscal period. Other receipts and other taxes become measurable and available when cash is received by the government and are recognized as revenue at that time. Under modified accrual accounting, expenditures are recognized in the accounting period in which the liability is incurred, if measurable, except for interest on general long-term debt, which is recognized when due.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 2 - Summary of Significant Accounting Policies (continued)

C. Measurement Focus, Basis of Accounting, and Financial Statement Presentation (continued)

Under the accrual basis of accounting, revenues are recognized in the accounting period in which they are earned and expenses are recognized in the accounting period in which they are incurred.

Proprietary funds distinguish operating revenues and expenses from nonoperating items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations.

D. Cash and Cash Equivalents

The City's cash and cash equivalents are considered to be cash on hand, demand deposits and short term investments with original maturities of three months or less from the date of acquisition. For the purpose of the statement of cash flows, the proprietary fund types consider temporary investments with maturity of three months or less when purchased to be cash equivalents.

E. Investments

The City reports all investments at fair value, except for "money market investments" and "2a7-like pools." Money market investments, which are short-term highly liquid debt instruments that may include U.S. Treasury and agency obligations, are reported at amortized costs. Investment positions in external investment pools that are operated in a manner consistent with the SEC's Rule 2a7 of the Investment Company Act of 1940, such as TexPool, are reported using the pools' share price.

The City has adopted a written investment policy regarding the investment of its funds as defined in the Public Funds Investment Act, Chapter 2256, Texas Government Code. In summary, the City is authorized to invest in the following:

- Direct obligations of the U.S. government
- Direct obligations of the State of Texas
- Collateralized certificates of deposit
- Statewide investment pools
- Repurchase agreements, reverse repurchase agreements, bankers' acceptances, and commercial paper
- Related no-load money market mutual funds

F. Due to and from Other Funds

Interfund receivables and payables arise from interfund transactions and are recorded by all funds affected in the period in which transactions are executed. These receivables and payables are, for the most part, eliminated from the Government-Wide Statement of Net Position and are recorded as "due from other funds" or "due to other funds" in the fund financial statements.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 2 - Summary of Significant Accounting Policies (continued)

G. Capital Assets

Capital assets, which include land, buildings and improvements, machinery and equipment, infrastructure, and construction in progress, are reported in the applicable governmental type activities columns in the government-wide financial statements. Capital assets are defined by the government as assets with an initial, individual cost of more than \$5,000 and an estimated useful life in excess of one year. All capital assets are valued at historical cost or estimated historical cost if actual historical cost is not available. Donated assets are valued at their fair market value on the date donated. Repairs and maintenance are recorded as expenses. Renewals and betterments are capitalized.

Major outlays for capital assets and improvements are capitalized as projects are constructed. Interest incurred during the construction phase of capital assets of governmental-type activities is not included as part of the capitalized value of the assets constructed.

Depreciation has been calculated on each class of depreciable property using the straight-line method. Estimated useful lives are as follows:

<u>Asset Description</u>	
Buildings	20 to 50 Years
Improvements other than buildings	5 to 50 Years
Machinery and equipment	5 to 10 Years
Water and sewer system	20 to 50 Years
Infrastructure	40 to 50 Years

H. Compensated Absences

It is the City's policy to permit employees to accumulate earned vacation, sick, and personal time. Vacation, sick, and personal time earned during the year is to be used in the following year. Unused vacation, sick leave, and personal time will expire within one year of the accrual. However, the Mayor has the authority to approve unused vacation time for compensation.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 2 - Summary of Significant Accounting Policies (continued)

I. Deferred Outflows/Inflows of Resources

In addition to assets, the statement of financial position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption of net position that applies to a future period(s) and so will not be recognized as an outflow of resources (expense/expenditure) until then. The government has one item that qualifies for reporting in this category:

- Deferred outflows of resources for pension -- Reported for the City in the government-wide financial statement of net position. This deferred outflow results from pension plan contributions made after the measurement date of the net pension liability, the results of differences between expected and actual actuarial experiences and the differences between projected and actual earnings on pension plan investments. The deferred outflows of resources related to pensions resulting from City contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability in the next fiscal year. The other pension related deferred outflows will be amortized over the expected remaining service lives of all employees (active and inactive employees) that are provided with pensions through the pension plan which is currently 8.6198 years for the City plan. Differences between projected and actual earnings on pension plan investments will be amortized over a closed five year period.

In addition to liabilities, the governmental funds balance sheet will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, *deferred inflows of resources*, represents an acquisition of net position or fund balance that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time. The city has one item that qualifies for reporting in this category:

- Deferred inflows of resources for unavailable revenues - Reported only in the governmental funds balance sheet, unavailable revenues from property taxes arise under the modified accrual basis of accounting. These amounts are deferred and recognized as an inflow of resources in the period that the amounts become available.

I. Use of Estimates

The preparation of financial statements, in conformity with generally accepted accounting principles, requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual amounts may differ from these estimates.

J. Long-Term Obligations

In the government-wide financial statements, long-term debt and other long-term obligations are reported as liabilities in the applicable governmental activities Statement of Net Position.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 2 - Summary of Significant Accounting Policies (continued)

K. Pensions

For purposes of measuring the net pension liability, deferred outflows of resources and deferred inflows of resources related to pensions, and pension expense, information about the Fiduciary Net Position of the Texas Municipal Retirement System (TMRS) and additions to/deductions from TMRS's Fiduciary Net Position have been determined on the same basis as they are reported by TMRS. For this purpose, plan contributions are recognized in the period that compensation is reported for the employee, which is when contributions are legally due. Benefit payments and refunds are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

L. Fund Equity

As of September 30, 2015, fund balances of the governmental funds are classified as follows:

Nonspendable - amounts that cannot be spent either because they are in nonspendable form or because they are legally or contractually required to be maintained intact.

Restricted - amounts that can be spent only for specific purposes because of constitutional provisions or enabling legislation or because of constraints that are externally imposed by creditors, grantors, contributors, or the laws or regulations of other governments.

Committed – amounts constrained for specific purposes as determined by the City itself, using the highest level of decision-making authority (i.e. City Council). To be reported as committed, amounts cannot be used for any other purposes unless the City takes the same highest level of action to remove or change the constraint. The City establishes (and modifies or rescinds) fund balance commitments by passage of a resolution. City council will approve obligations of funds, such as multi-year contracts, prior to the end of the fiscal year.

Unassigned - all other spendable amounts.

When an expenditure is incurred for purposes for which both restricted and unrestricted fund balance is available, the City considers restricted funds to have been spent first.

M. Net Position

Net position represents the differences between assets, deferred outflows and liabilities. Net investment in capital assets consists of capital assets, net of accumulated depreciation, reduced by the outstanding balances of any borrowing used for the acquisition, construction or improvements of those assets, and adding back unspent proceeds.

Net position is reported as restricted when there are limitations imposed on their use either through the enabling legislations adopted by the City or through external restrictions imposed by creditors, grantors or laws or regulations of other governments. When an expense is incurred for purposes for which both restricted and unrestricted net position are available, the City's policy is first to apply restricted net position.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 3 - Deposits and Investments

The City classifies deposits and investments for financial statement purposes as cash and cash equivalents, current investments, and non-current investments based upon both liquidity (demand deposits) and maturity date (deposits and investments) of the asset at the date of purchase. For this purpose an investment is considered a cash equivalent if when purchased it has maturity of three months or less. Investments are classified as either current investments or non-current investments. Current investments have maturity of one year or less and non-current investments are those that have a maturity of one year or more.

At September 30, 2015, the City had the following investments:

Investment Type	Fair Value	Weighted Average Maturities (Days)
Certificates of deposit	\$ 222,395	180
Texas CLASS public funds investment pool *	2,629,149	60
Total Fair Value	<u>\$ 2,851,544</u>	69

* Credit rating of AAAm by Standard & Poors

Interest rate risk. In accordance with its investment policy, the City manages its exposure to declines in fair values by structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations and invest operating funds primarily in short-term securities.

Custodial credit risk - deposits. In the case of deposits, this is the risk that in the event of a bank failure, the City's deposits may not be returned to it. The City's investment policy requires funds on deposit at the depository bank to be collateralized by securities. At September 30, 2015, cash deposits of the City and the Fulshear Development Corporation were entirely covered by FDIC insurance and collateralizing securities. A portion of the deposits of the City of Fulshear Development Corporation (\$278,639) is uncollateralized by FDIC insurance or collateralizing securities.

Management does not expect any losses as a result of the under collateralization of deposits in the name of the development corporations.

Custodial credit risk - investments. For an investment, this is the risk that, in the event of the failure of the counterparty, the City will not be able to recover the value of its investments or collateral securities that are in the possession of an outside party. The City's investment policy requires that it will seek to safekeeping securities at financial institutions, avoiding physical possession. Further, all trades, where applicable, are executed by delivery versus payment to ensure that securities are deposited in the City's safekeeping account prior to the release of funds.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 3 - Deposits and Investments (continued)

The Texas Cooperative Liquid Assets Securities System Trust - Texas (CLASS) is a public funds investment pool under Section 2256.016 of the Public Funds Investment Act, Texas Government Code, as amended (the "Act"). CLASS is created under an Amended and Restated Trust Agreement, dated as of December 14, 2011 (the "Agreement"), among certain Texas governmental entities investing in the pool (the "Participants"), Cutwater Investor Services Corporation as Program Administrator, and Wells Fargo Bank Texas, NA as Custodian. CLASS is not SEC registered and is not subject to regulation by the State of Texas. Under the Agreement, however, CLASS is administered and supervised by a seven-member board of trustees (the "Board"), whose members are investment officers of the Participants, elected by the Participants for overlapping two-year terms. In the Agreement and by resolution of the Board, CLASS has contracted with Cutwater Investors Service Corporation to provide for the investment and management of the public funds of CLASS. Separate financial statements for Texas CLASS may be obtained from CLASS' website at www.texasclass.com.

Note 4 - Receivables

Receivables are evaluated and an allowance for uncollectible accounts is set up when the collections are doubtful. Receivables as of September 30, 2015, are as follows:

	<u>General Fund</u>	<u>Fulshear Facility</u>	<u>CCR Facility</u>	<u>Total</u>
Property taxes	\$ 50,864	\$	\$	\$ 50,864
Other taxes	167,723			167,723
Accounts		101,527	674,469	775,996
Other	11,312			11,312
	<u>229,899</u>	<u>101,527</u>	<u>674,469</u>	<u>1,005,895</u>
Less: allowance for uncollectibles	<u>(17,469)</u>	<u>(4,643)</u>		<u>(22,112)</u>
	<u>\$ 212,430</u>	<u>\$ 96,884</u>	<u>\$ 674,469</u>	<u>\$ 983,783</u>

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 5 - Interfund Balances and Transfers

Interfund balances at September 30, 2015, were as follows:

<u>Payable Fund</u>	<u>Receivable Fund</u>
	<u>General Fund</u>
Municipal Court	\$ 994
	<u>\$ 994</u>

Amounts reported as “due to/from” are considered to be temporary loans and will be repaid during the following fiscal year.

Transfers between the primary government funds during the year were as follows:

<u>Transfer Out</u>	<u>Transfer In</u>	<u>Amounts</u>
General fund	Capital Projects	\$ 42,650
		<u>\$ 42,650</u>

The general fund made transfers to the regional park funds to reimburse the funds for amounts deposited into the general fund in previous years.

Transfers to the Fulshear facility enterprise fund have been made to recognize previous advances to the fund which are not likely to be paid back in the near future.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 6 - Capital Assets

Capital asset activity for the year ended September 30, 2015, was as follows:

	Balance 9/30/2014	Additions	Deletions	Balance 9/30/2015
Governmental Activities				
Capital assets, not being depreciated:				
Land	\$ 711,640	\$ 209,010	\$	\$ 920,650
Total capital assets, not being depreciated	<u>711,640</u>	<u>209,010</u>	<u></u>	<u>920,650</u>
Other capital assets:				
Buildings and improvements	983,616			983,616
Machinery and equipment	747,144	389,317	(13,388)	1,123,073
Infrastructure	25,253,614	2,285,061		27,538,675
Total other capital assets	<u>26,984,374</u>	<u>2,674,378</u>	<u>(13,388)</u>	<u>29,645,364</u>
Less accumulated depreciation for:				
Buildings and improvements	(422,185)	(31,702)		(453,887)
Machinery and equipment	(409,669)	(88,694)		(498,363)
Infrastructure	(3,066,544)	(841,787)		(3,908,331)
Total accumulated depreciation	<u>(3,898,398)</u>	<u>(962,183)</u>	<u></u>	<u>(4,860,581)</u>
Total other capital assets , net	<u>23,085,976</u>	<u>1,712,195</u>	<u>(13,388)</u>	<u>24,784,783</u>
Governmental Activities				
Capital Assets, Net	<u>\$ 23,797,616</u>	<u>\$ 1,921,205</u>	<u>\$ (13,388.00)</u>	<u>\$ 25,705,433</u>

Depreciation expense was charged to functions/programs of the primary government as follows:

Governmental Activities	
General government	\$ 63,060
Public safety	45,899
Permits	<u>3,128</u>
Total depreciation expense - governmental activities	<u>\$ 112,087</u>

Additions to the governmental activities capital assets for the 2015 fiscal year include approximately \$2.5 million of streets and other infrastructure relating to developer contributions.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 6 - Capital Assets (continued)

A summary of changes in capital assets for business-type activities as of September 30, 2015, is as follows:

	Balance 9/30/2014	Additions	Deletions	Balance 9/30/2015
Business-Type Activities				
Capital assets, not being depreciated:				
Land	\$ 526,082	\$	\$	\$ 526,082
Construction in progress		701,350		701,350
Total capital assets, not being depreciated	526,082	701,350		1,227,432
Other capital assets:				
Buildings	110,372			110,372
Machinery and equipment	88,313	18,580		106,893
Water and sewer system	34,112,130	2,541,088		36,653,218
Total other capital assets	34,310,815	2,559,668		36,870,483
Less accumulated depreciation for:				
Buildings	(72,094)	(2,759)		(74,853)
Machinery and equipment	(69,623)	(1,096)		(70,719)
Water and sewer system	(4,113,261)	(840,827)		(4,954,088)
Total accumulated depreciation	(4,254,978)	(844,682)		(5,099,660)
Total other capital assets, net	30,055,837	1,714,986		31,770,823
Total business-type activities	\$ 30,581,919	\$ 2,416,336	\$	\$ 32,998,255

Depreciation was charged to business-type functions as follows:

Business-Type Activities	
Fulshear facility fund	\$ 745,087
Cross Creek Ranch facility fund	99,597
Total business-type activities	
depreciation expense	\$ 844,684

Construction in progress for various projects as of September 30, 2015, is as follows:

Project Description	Authorized Contracts	Total in Progress	remaining Commitment
Water plant No. 1 extension	\$ 846,050	\$ 701,350	\$ 144,700

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 7 - Long-Term Debt

The following is a summary of changes in the City's total governmental long-term liabilities for the year ended. The City uses the general fund to liquidate governmental long-term liabilities.

	<u>Beginning Balance</u>	<u>Additions</u>	<u>Reductions</u>	<u>Ending Balance</u>	<u>Due Within One Year</u>
Governmental Activities:					
Compensated absences	\$ 37,203	\$ 62,300	\$ (24,919)	\$ 74,584	\$ 25,000
Governmental Activities	<u>\$ 37,203</u>	<u>\$ 62,300</u>	<u>\$ (24,919)</u>	<u>\$ 74,584</u>	<u>\$ 25,000</u>

Long-term liabilities applicable to the City's governmental activities are not due and payable in the current period and, accordingly, are not reported as fund liabilities in the governmental funds. The governmental activities compensated absences are liquidated by the general fund. Interest on long-term debt is not accrued in governmental funds, but rather is recognized as an expenditure when due.

Component Units

The component unit, City of Fulshear Development Corporation, obtained a loan in 2011 for \$450,000 with an interest rate of 3.25 percent from the Office of the Governor, Economic Development and Tourism Division. The loan was paid off in advance in June 2015.

Long-term debt activity for the year ended September 30, 2015 was as follows:

	<u>Beginning Balance</u>	<u>Additions</u>	<u>Reductions</u>	<u>Ending Balance</u>
Loan payable	378,961	\$	\$ (378,961)	\$ -
Governmental Activities	<u>\$ 378,961</u>	<u>\$</u>	<u>\$ (378,961)</u>	<u>\$</u>

Note 8 - Employee Retirement System

Texas Municipal Retirement System

Plan Description

The City participates as one of 860 plans in the nontraditional, joint contributory, hybrid defined benefit pension plan administered by the Texas Municipal Retirement System (TMRS). TMRS is an agency created by the State of Texas and administered in accordance with the TMRS Act, Subtitle G, Title 8, Texas Government Code (the TMRS Act) as an agent multiple-employer retirement system for municipal employees in the State of Texas. The TMRS Act places the general administration and management of the System with a six-member Board of Trustees. Although the Governor, with the advice and consent of the Senate, appoints the Board, TMRS is not fiscally dependent on the State of Texas. TMRS's defined benefit pension plan is a tax-qualified plan under Section 401 (a) of the Internal Revenue Code. TMRS issues a publicly available comprehensive annual financial report (CAFR) that can be obtained at www.tmrs.com.

All eligible employees of the city are required to participate in TMRS.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Benefits Provided

TMRS provides retirement, disability, and death benefits. Benefit provisions are adopted by the governing body of the City, within the options available in the state statutes governing TMRS.

At retirement, the benefit is calculated as if the sum of the employee's contributions, with interest, and the city-financed monetary credits with interest were used to purchase an annuity. Members may choose to receive their retirement benefit in one of seven actuarially equivalent payments options. Members may also choose to receive a portion of their benefit as a Partial Lump Sum Distribution in an amount equal to 12, 24, or 36 monthly payments, which cannot exceed 75% of the member's deposits and interest.

At the date the plan began, the City granted monetary credits for service rendered before the plan began of a theoretical amount equal to two times what would have been contributed by the employee, with interest, prior to establishment of the plan. Monetary credits for service since the plan began are 200% of the employee's accumulated contributions.

Beginning in 2014, the City granted an annually repeating (automatic) basis a monetary credit referred to as an updated service credit (USC) which is a theoretical amount which takes into account salary increases or plan improvements. If at any time during their career an employee earns a USC, this amount remains in their account earning interest at 5% until retirement. At retirement, the benefit is calculated as if the sum of the employee's accumulated contributions with interest and the employer match plus employer-financed monetary credits, such as USC, with interest were used to purchase an annuity.

A summary of plan provisions for the City are as follows:

Employee deposit rate	5%
Matching ratio (City to employee)	2 to 1
Years required for vesting	5
Service retirement eligibility	20 years at any age, 5 years at age 60 and above
Updated Service Credit	100% Repeating
Annuity Increase to retirees	Ad hoc

Employees covered by benefit terms –

At the December 31, 2014 valuation and measurement date, the following employees were covered by the benefit terms:

Retirees or beneficiaries currently receiving benefits	0
Inactive employees entitled to but not yet receiving benefits	5
Active employees	<u>31</u>
	<u>36</u>

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 8 - Employee Retirement System (continued)

Contributions

The contribution rates for employees in TMRS are either 5%, 6%, or 7% of employee gross earnings, and the city matching percentages are either 100%, 150%, or 200%, both as adopted by the governing body of the city. Under the state law governing TMRS, the contribution rate for each city is determined annually by the consulting actuary, using the Entry Age Normal (EAN) actuarial cost method. The actuarially determined rate is the estimated amount necessary to finance the cost of benefits earned by employees during the year, with an additional amount to finance any unfunded accrued liability.

Employees for the City were required to contribute 5% of their annual gross earnings during the fiscal year. For fiscal year 2015, the City made contributions of 3.76% for the months in 2014 and 4.70% for the months in 2015.

Net Pension Liability

The City's Net Pension Liability (NPL) was measured as of December 31, 2014, and the Total Pension Liability (TPL) used to calculate the Net Pension Liability was determined by an actuarial valuation as of that date.

Actuarial Assumptions

The Total Pension Liability in the December 31, 2014 actuarial valuation was determined using the following actuarial assumptions:

Inflation	3.0% per year
Overall payroll growth	3.50% to 12.00% including inflation
Investment Rate of Return	7.0%, net of pension plan investment expense, including inflation

Salary increases were based on a service-related table. Mortality rates for active members, retirees, and beneficiaries were based on the gender-distinct RP2000 Combined Healthy Mortality Table, with male rates multiplied by 109% and female rates multiplied by 103%. The rates are projected on a fully generational basis by scale BB to account for future mortality improvements. For disabled annuitants, the gender-distinct RP2000 Disabled Retiree Mortality Table is used, with slight adjustments.

Actuarial assumptions used in the December 31, 2014, valuation were based on the results of actuarial experience studies. This experience study was for the period January 1, 2006 through December 31, 2009, first used in the December 31, 2010 valuation. Healthy post-retirement mortality rates and annuity purchase rates were updated based on a Mortality Experience Investigation Study covering 2009 through 2011, and dated December 31, 2013. These assumptions were first used in the December 31, 2013 valuation, along with a change to the Entry Age Normal (EAN) actuarial cost method. Assumptions are reviewed annually. No additional changes were made for the 2014 valuation.

The long-term expected rate of return on pension plan investments is 7.0%. The pension plan's policy in regard to the allocation of invested assets is established and may be amended by the TMRS Board of Trustees. Plan assets are managed on a total return basis with an emphasis on both capital appreciation as well as the production of income, in order to satisfy the short-term and long-term funding needs of TMRS.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 8 - Employee Retirement System (continued)

Actuarial Assumptions (continued)

The long-term expected rate of return on pension plan investments was determined using a building-block method in which best estimate ranges of expected future real rates of return (expected returns, net of pension plan investment expense and inflation) are developed for each major asset class. These ranges are combined to produce the long-term expected rate of return by weighting the expected future real rates of return by the target asset allocation percentage and by adding expected inflation. The target allocation and best estimates of arithmetic real rates of return for each major asset class are summarized in the following table:

<u>Asset Class</u>	<u>Target Allocation</u>	<u>Long-Term Expected Real Rate of Return (Arithmetic)</u>
Domestic Equity	17.5%	4.80%
International Equity	17.5%	6.05%
Core Fixed Income	30.0%	1.50%
Non-core Fixed Income	10.0%	3.50%
Real Return	5.0%	1.75%
Real Estate	10.0%	5.25%
Absolute Return	5.0%	4.25%
Private Equity	5.0%	8.50%
Total	<u>100.0%</u>	

Discount Rate

The discount rate used to measure the Total Pension Liability was 7.0%. The projection of cash flows used to determine the discount rate assumed that employee contributions will remain at the current 7% and employer contributions will be made at the rates specified in statute. Based on that assumption, the pension plan's Fiduciary Net Position was projected to be available to make all projected future benefit payments of current plan members. Therefore, the long-term expected rate of return on pension plan investments was applied to all periods of projected benefit payments to determine the Total Pension Liability.

Sensitivity of the net pension liability to changes in the discount rate –

The following presents the net pension liability of the City, calculated using the discount rate of 7.0%, as well as what the City's net pension liability would be if it were calculated using a discount rate that is 1-percentage-point lower (6.0%) or 1-percentage-point higher (8.0%) than the current rate:

	<u>1% Decrease 6.00%</u>	<u>Current Single Rate Assumption 7.00%</u>	<u>1% Increase 8.00%</u>
Total Pension Liability	\$ 536,108	\$ 454,539	\$ 387,823
Plan Fiduciary Net Position	295,014	295,014	295,014
Net Pension Liability	<u>\$ 241,094</u>	<u>\$ 159,525</u>	<u>\$ 92,809</u>

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 8 - Employee Retirement System (continued)

Changes in the Net Pension Liability

	Increase (Decrease)		
	Total Pension Liability	Plan Fiduciary Net Position	Net Pension Liability
Beginning Balance	\$ 292,846	\$ 168,333	* \$ 124,513
Service Cost	93,711		93,711
Interest (on the Total Pension Liability)	23,662		23,662
Difference between expected and actual experience	47,654		47,654
Contributions – employer		51,713	(51,713)
Contributions – employee		68,767	(68,767)
Net investment income		9,644	(9,644)
Administrative Expense		(101)	101
Other		(8)	8
Benefit payments, including refunds of employee contributions	(3,334)	(3,334)	
Ending Balance	<u>\$ 454,539</u>	<u>\$ 295,014</u>	<u>\$ 159,525</u>

* In prior year report the Actuarial Value of Plan Assets under GASB 27 was reported at \$163,162. This figure represented investments valued using a 10 year smoothed market method for determining the future funding of the plan. That calculation differs from the Fiduciary Net Position amount shown above which presents plan investments at market value for reporting purposes under GASB 68.

Pension Plan Fiduciary Net Position

Detailed information about the pension plan’s Fiduciary Net Position is available in a separately-issued TMRS financial report. That report may be obtained on the Internet at www.tmr.com.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 8 - Employee Retirement System (continued)

Pension Expense and Deferred Outflows of Resources and Deferred Inflows of Resources Related to Pensions

For the year ended September 30, 2015, the City recognized pension expense of \$42,888.

At September 30, 2015, the City reported deferred outflows and inflows of resources related to pensions from the following sources:

	<u>Deferred Outflows of Resources</u>
Differences between expected and actual experience	\$ 42,125
Difference between projected and actual earnings	1,712
Pension contributions made after measurement date	<u>53,649</u>
	<u>\$ 97,486</u>

Deferred outflows of resources related to pensions resulting from contributions subsequent to the measurement date of December 31, 2014 will be recognized as a reduction of the net pension liability for the measurement year ending December 31, 2015 (i.e. recognized in the city's financial statements September 30, 2016). Other amounts reported as deferred outflows and inflows of resources related to pensions will be recognized in pension expense as follows:

<u>Fiscal Year</u>	<u>Net Deferred Outflows of Resources</u>
2016	\$ (5,956)
2017	(5,956)
2018	(5,956)
2019	(5,958)
2020	(5,528)
2021	(5,528)
2022	(5,528)
2023	<u>(3,427)</u>
	<u>\$ (43,837)</u>

Subsequent Event

Pursuant to TMRS policy of conducting experience studies every four years, the TMRS Board at their July 31, 2015 meeting determined that they would be changing certain actuarial assumptions including reducing the long term expected rate of return from the current 7% to 6.75% and changing the inflation assumption from 3% to 2.5%. Reduction of expected investment return and related discount rate will increase projected pension liabilities. Reducing the inflation assumption reduces liabilities as future annuity levels and future cost of living adjustments are not projected to be as large as originally projected. While the actual impact on the City's valuation for December 31, 2015 is not known the City does expect some downward pressure on its funded status and upward pressure on its 2017 actuarially determined contribution (ADC) due to this change.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 9 – Supplemental Death Benefits

The City also participates in the cost sharing multiple-employer defined benefit group-term life insurance plan operated by the Texas Municipal Retirement System (TMRS) known as the Supplemental Death Benefits Fund (SDBF). The City elected, by ordinance, to provide group-term life insurance coverage to both current and retired employees. The City may terminate coverage under and discontinue participation in the SDBF by adopting an ordinance before November 1 of any year to be effective the following January 1.

The death benefit for active employees provides a lump-sum payment approximately equal to the employee's annual salary (calculated based on the employee's actual earnings, for the 12-month period preceding the month of death); retired employees are insured for \$7,500; this coverage is an "other postemployment benefit," or OPEB.

The City contributes to the SDBF at a contractually required rate as determined by an annual actuarial valuation. The rate is equal to the cost of providing one-year term life insurance. The funding policy for the SDBF program is to assure that adequate resources are available to meet all death benefit payments for the upcoming year; the intent is not to pre-fund retiree term life insurance during employees' entire careers.

The City's contributions to the TMRS SDBF for the year ended 2015 was \$2,309 which equaled the required contribution amount.

Note 10 - Risk Management

The City is exposed to various risks of loss related to torts; theft of, damage to and destruction of assets; errors and omissions; and natural disasters for which the City participates along with 2,617 other entities in the Texas Municipal League's Intergovernmental Risk Pools (the "Pool"). The Pool purchases commercial insurance at group rates for participants in the Pool. The City has no additional risk or responsibility to the Pool, outside of the payment of insurance premiums. The City has not significantly reduced insurance coverage or had settlements which exceeded coverage amounts for the past three years.

Note 11 - Regional Park Fund

During 2004, the City entered into an agreement with Firethorne LTD, (the "Developer") whereby the Developer would pay a regional park fee for every lot per plat the Developer finalized. The terms of the agreement state that the regional park fees, plus interest earned, must be utilized in the development of a regional park within five years from the date the fees are paid to the City.

Otherwise, the funds must be returned to the lot owner of record at the five year anniversary date. Similar agreements were signed with TMI, Inc., Fulshear Land Investment Partners, LTD., and Taman-on Lakes, L.P., excluding the five year utilization clause. During the year ended September 30, 2015, the City received \$347,250 in regional park fees. Since the inception of the agreements, the City has received \$1,431,983. During the year ended September 30, 2015, the City expended \$5,594 of regional park contributions received on park maintenance and beautification. As of September 30, 2015, the City has restricted net position of \$1,322,167 related to regional park fees.

CITY OF FULSHEAR, TEXAS
NOTES TO FINANCIAL STATEMENTS (continued)

Note 12 - Developer Contributions Business-type Activities

The City receives funds under an agreement with the Fulshear Creek Crossing (FCC) developer whereby \$2,560 per final platted lot is remitted to the City. The contributions and interest earned are restricted for improvements to the City's water and sewer system as necessary to provide adequate water and sewer services to the FCC development. The contributions are recorded in the City's Fulshear facility enterprise fund.

Additionally, Lamar Consolidated Independent School District contributed \$920,000 for additional capacity needed at city facilities due to pending school construction.

At September 30, 2015, the Fulshear enterprise fund had restricted net position of \$1,223,225 from these contributions.

Note 13 – Prior Period Adjustment

Implementation of New Accounting Standards

The City has implemented the GASB Statement No. 68 *Accounting and Financial Reporting for Pensions, an amendment of GASB Statement No. 27* and GASB Statement No. 71, *Pension Transition for Contributions Made Subsequent to the Measurement Date*, for the year ending September 30, 2015. As a result the beginning net position of the City's governmental activities has been restated on the Statement of Activities to reflect the net pension liability and deferred outflows of resources relating to pension contributions made after the prior measurement date of the plan.

Summary

The following is a summary of the prior period adjustment to the net position of the governmental activities:

	Governmental Activities
Net Position as originally presented	\$ 29,514,931
Change in accounting principles	
Net pension liability at December 31, 2013	(124,513)
City contributions to the plan after measurement date	35,675
Prior period adjustment	<u>(88,838)</u>
Net Position as of September 30, 2014, as restated	<u>\$ 29,426,093</u>

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REQUIRED SUPPLEMENTARY INFORMATION

CITY OF FULSHEAR, TEXAS

GENERAL FUND

SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE

BUDGET AND ACTUAL

For the Year Ended September 30, 2015

	<u>Original Budget Amounts</u>	<u>Final Budget Amounts</u>	<u>Actual Amounts</u>	<u>Variance with Final Budget</u>
Revenues				
Taxes:				
Property	\$ 969,741	\$ 969,741	\$ 1,264,271	\$ 294,530
Sales	618,400	618,400	665,127	46,727
Franchise	348,564	348,564	380,718	32,154
Public improvement fees	550,000	550,000	345,803	(204,197)
Licenses and permits	1,371,860	1,371,860	1,872,346	500,486
Charges for services	871,495	871,495	744,125	(127,370)
Fines and forfeitures	104,300	104,300	180,656	76,356
Investment earnings	4,500	4,500	7,030	2,530
Other revenues	<u>237,677</u>	<u>237,677</u>	<u>222,635</u>	<u>(15,042)</u>
Total Revenues	<u>5,076,537</u>	<u>5,076,537</u>	<u>5,682,711</u>	<u>606,174</u>
Expenditures				
Current:				
General government	2,435,554	2,435,554	2,009,032	(426,522)
Permits and inspections	538,094	538,094	517,507	(20,587)
Public works	483,984	483,984	466,294	(17,690)
Public safety	1,436,548	1,436,548	1,375,631	(60,917)
Capital Outlay	<u>267,473</u>	<u>267,473</u>	<u>267,472</u>	<u>(1)</u>
Total Expenditures	<u>5,161,653</u>	<u>5,161,653</u>	<u>4,635,936</u>	<u>(525,717)</u>
Revenues over (under) expenditures	(85,116)	(85,116)	1,046,775	1,131,891
Other Financing Sources (Uses)				
Transfers out	<u>(1,744,781)</u>	<u>(1,744,781)</u>	<u>(42,650)</u>	<u>1,702,131</u>
Total other financing sources (uses)	<u>(1,744,781)</u>	<u>(1,744,781)</u>	<u>(42,650)</u>	<u>1,702,131</u>
Changes in fund balance	(1,829,897)	(1,829,897)	1,004,125	2,834,022
Fund Balance - Beginning of Year	<u>4,434,818</u>	<u>4,434,818</u>	<u>4,434,818</u>	
Fund Balance - End of Year	<u>\$ 2,604,921</u>	<u>\$ 2,604,921</u>	<u>\$ 5,438,943</u>	<u>\$ 2,834,022</u>

CITY OF FULSHEAR, TEXAS
NOTES TO REQUIRED SUPPLEMENTARY INFORMATION
For the year ended September 30, 2015

Annual budgets are adopted on a modified accrual basis of accounting for all of the City's funds. Annual appropriations lapse at fiscal year-end.

The Finance department is responsible for producing, monitoring, and reporting the City's annual operating budget. The City of Fulshear operates a fiscal year beginning October 1 through September 30 annually.

Each spring, the staff begins the annual process to determine the needs of the city. The requests are based on the programs and priorities that the city council has discussed or committed to in the past. A recommended budget is formed based on the projected revenue and submitted to the citizens and the city council. After input from the public and the staff the council has the opportunity to revise the budget to conform to its objectives.

Public hearings regarding the budget and tax rate are held in August/September and are open to the public. The city budget contains several different funds with the largest being the general fund which is used for general government services that do not need to be accounted for separately. Examples of general government services include public safety, street maintenance, and administrative activities.

Once adopted, the budget takes effect on the first of the fiscal year (October 1) and any major changes must be approved by the city council.

CITY OF FULSHEAR, TEXAS
REQUIRED PENSION SYSTEM SUPPLEMENTARY INFORMATION

TEXAS MUNICIPAL RETIREMENT SYSTEM (UNAUDITED)
SCHEDULE OF CHANGES IN NET PENSION LIABILITY AND RELATED RATIOS
Last Measurement Year

Total pension liability	<u>2014</u>
Service Cost	\$ 93,711
Interest (on the Total Pension Liability)	23,662
Difference between expected and actual experience	47,654
Benefit payments, including refunds of employee contributions	<u>(3,334)</u>
Net change in total pension liability	161,693
Total pension liability – beginning	<u>292,846</u>
Total pension liability – ending	<u>\$ 454,539</u>
Plan fiduciary net position	
Contributions – employer	\$ 51,713
Contributions – employee	68,767
Net investment income	9,644
Benefit payments, including refunds of employee contributions	(3,334)
Administrative Expense	(101)
Other	<u>(8)</u>
Net change in plan fiduciary net position	126,681
Plan fiduciary net position – beginning	<u>168,333</u>
Plan fiduciary net position – ending	<u>\$ 295,014</u>
Net pension Liability	\$ 159,525
Net plan fiduciary net position as a percentage of total pension liability	65%
Total covered employee payroll	\$ 1,375,366
Net pension liability as a percentage of total covered employee payroll	12%

CITY OF FULSHEAR, TEXAS
REQUIRED PENSION SYSTEM SUPPLEMENTARY INFORMATION

TEXAS MUNICIPAL RETIREMENT SYSTEM (UNAUDITED)

Last Five Fiscal Years

	<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>
Actuarial determined contribution	\$ 69,687	\$ 39,619	\$ 8,826	\$ 11,801	\$ 22,882
Contribution in relation to the actuarial determined contribution	<u>69,687</u>	<u>39,619</u>	<u>8,826</u>	<u>11,801</u>	<u>22,882</u>
Contribution deficiency (excess)	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Covered employee payroll (fiscal year)	\$ 1,568,017	\$ 870,232	\$ 703,095	\$ 583,368	\$ 85,673
Contributions as a percentage of covered employee payroll	4.44%	4.55%	1.26%	2.02%	26.71%

The City began participating in TMRS in fiscal year 2011, therefore no information is available prior to that date.

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OTHER SUPPLEMENTAL INFORMATION

CITY OF FULSHEAR, TEXAS
BALANCE SHEET
NONMAJOR GOVERNMENTAL FUNDS
September 30, 2015

	<u>Regional Park</u>	<u>Municipal Court</u>	<u>Total Nonmajor Funds</u>
Assets			
Cash and cash equivalents	\$ 1,211,083	\$ 61,344	\$ 1,272,427
Investments	113,468		113,468
Due from other funds		994	994
Total Assets	<u>\$ 1,324,551</u>	<u>\$ 62,338</u>	<u>\$ 1,386,889</u>
Liabilities			
Accounts payable	\$ 2,384	\$ 639	\$ 3,023
Total Liabilities	<u>2,384</u>	<u>639</u>	<u>3,023</u>
Fund balances			
Restricted for:			
Regional Park	1,322,167		1,322,167
Municipal Court		61,699	61,699
Total Fund Balances	<u>1,322,167</u>	<u>61,699</u>	<u>1,383,866</u>
Total Liabilities, Deferred Inflows, and Fund Balances	<u>\$ 1,324,551</u>	<u>\$ 62,338</u>	<u>\$ 1,386,889</u>

CITY OF FULSHEAR, TEXAS
STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES
NONMAJOR GOVERNMENTAL FUNDS
For the Year Ended September 30, 2015

	<u>Regional Park</u>	<u>Municipal Court</u>	<u>Total Nonmajor Funds</u>
Revenues			
Fines and forfeitures	\$	\$ 13,301	\$ 13,301
Investment earnings	2,200	72	2,272
Other revenues	347,250	8,855	356,105
Total Revenues	<u>349,450</u>	<u>22,228</u>	<u>371,678</u>
Expenditures			
Current:			
General administration	5,594		5,594
Public safety		7,277	7,277
Total Expenditures	<u>5,594</u>	<u>7,277</u>	<u>12,871</u>
Revenues over (under) expenditures	<u>343,856</u>	<u>14,951</u>	<u>358,807</u>
Net Changes in Fund Balances	343,856	14,951	358,807
Fund Balances - beginning of year	978,311	46,748	1,025,059
Fund Balances - end of year	<u>\$ 1,322,167</u>	<u>\$ 61,699</u>	<u>\$ 1,383,866</u>

CITY OF FULSHEAR, TEXAS
BALANCE SHEET AND STATEMENT OF NET POSITION
DISCRETELY PRESETNED COMPONENT UNITS
September 30, 2015

	<u>Fulshear Development Corporation</u>	<u>City of Fulshear Development Corporation</u>
Assets		
Cash and cash equivalents	\$ 698,213	\$ 528,639
Receivables, net	60,358	60,358
Total Assets	<u>\$ 758,571</u>	<u>\$ 588,997</u>
Liabilities		
Accounts payable	\$ -	\$ 11,493
Total Liabilities	<u> </u>	<u>11,493</u>
Fund balances		
Restricted for:		
Economic Development	<u>758,571</u>	<u>577,504</u>
Total Fund Balances	<u>758,571</u>	<u>577,504</u>
Total Liabilities and Fund Balances	<u>\$ 758,571</u>	<u>\$ 588,997</u>
Net position of component units	<u>\$ 758,571</u>	<u>\$ 577,504</u>

CITY OF FULSHEAR, TEXAS
STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES AND NET POSITION
DISCRETELY PRESENTED COMPONENT UNITS
For the Year Ended September 30, 2015

	Fulshear Development Corporation	City of Fulshear Development Corporation
Revenues		
Taxes:		
Sales	\$ 320,544	\$ 320,544
Investment earnings	819	1,349
Other revenues	450	
Total Revenues	<u>321,813</u>	<u>321,893</u>
Expenditures		
Current:		
General administration	99,703	85,291
Debt Service:		
Principal		378,961
Interest		9,655
Total Expenditures	<u>99,703</u>	<u>473,907</u>
Net Changes in Fund Balances	222,110	(152,014)
Fund Balances - beginning of year	<u>536,461</u>	<u>729,518</u>
Fund Balances - end of year	<u>\$ 758,571</u>	<u>\$ 577,504</u>
Net Change in Fund Balances - component units	\$ 222,110	\$ (152,014)
Amounts reported for the component unit in the Statement of Activities are different because:		
The component unit fund reports repayment of bond principal as an expenditures. In contrast, the Statement of Net Position shows this as a reduction of long-term liabilities.		
Repayment of principal on long-term debt		378,961
Changes in Net Position of Component Units	<u>\$ 222,110</u>	<u>\$ 226,947</u>

AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS

AGENDA OF:	July 19, 2016	AGENDA ITEM:	
DATE SUBMITTED:	July 14, 2016	DEPARTMENT:	Administration
PREPARED BY:	Michael Ross, Assistant City Manager	PRESENTER:	Michael Ross, Assistant City Manager
SUBJECT:	Proposed Location of Historic Section House		
ATTACHMENTS:	Aerial Exhibit		
EXPENDITURE REQUIRED:			\$0
AMOUNT BUDGETED:			\$0
ACCOUNT NO:			
ADDITIONAL APPROPRIATION REQUIRED:			\$0
ACCOUNT NO:			

EXECUTIVE SUMMARY

Attached is a proposed location of the Historic Section House. If approved this will allow for the permanent placement of the home instead of temporarily placing the home and then moving it again at a later date.

Placing the home at this location will require that one oak tree be relocated and will require the removal or relocation of three crepe myrtles and another tree in poor condition adjacent to the crepes in order to access the permanent site.

RECOMMENDATION

Staff recommends placing the home on the permanent site per the attached drawing. The house move is scheduled for the week of July 18, 2016.



New Location of Section House

© 2016 Google

Goog

1995

Imagery Date: 11/21/2015 20041150 2015 11/21/2015

THIRD AMENDMENT TO DEVELOPMENT AGREEMENT

This Third Amendment to Development Agreement (the "Amendment") is entered into effective as of the 19th day of July, 2016, by THE CITY OF FULSHEAR, TEXAS (the "City"), a general law municipality in Fort Bend County, Texas, acting by and through its governing body, the City Council of Fulshear, Texas, and CCR TEXAS HOLDINGS, LP, a Delaware limited partnership ("CCR" and its legal affiliates, collectively the "Developer") as successor in interest to TRENDMAKER HOMES INC. (f/k/a TMI, Inc.) d/b/a Trendmaker Development Company, a Texas corporation (the "Developer") and S. G. PARTNERS, LP, a Texas limited partnership (as successor in interest to THE STODDARD GROUP, LTD., a Texas limited partnership).

RECITALS

The City and CCR, or its predecessors in interest, previously entered into a Development Agreement dated November 16, 2006, a First Amendment to Development Agreement dated January 18, 2011, Second Amendment to Development Agreement dated December 13, 2011, and Memorandum of Agreement dated March 18, 2014 (collectively, the "Agreement").

The landowner of approximately 23.44 acres, as described in **Exhibit 1** attached hereto and incorporated herein (the "Additional Tract"), has petitioned Fort Bend County Municipal Utility District No. 171 to annex the Additional Tract, and the City has consented to such annexation.

The City and the Developer seek to amend the Agreement as provided herein.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the City and the Developer agree as follows:

Section 1. The final sentence of Section 3.04 (c) of the Agreement, is hereby amended to read as follows:

The Developer is authorized to assign or transfer to the developer(s)/landowner(s) of the Additional Tract (as defined in the First Amendment and this Amendment), or any other property annexed into one of the MUDs (if the City consents to such annexation into one of the MUDs), and/or to the MUD(s) some or all of the capacity in the water system (which includes, without limitation, water well(s) and water plant(s)), the wastewater system (which includes, without limitation, wastewater plant(s)), and/or the drainage system constructed by the MUDs pursuant to the Utility Agreement, as amended.

Section 2. This Amendment shall bind and inure to the benefit of the City and the Developer, and their successors and assigns. In addition to the City and the Developer, Designated Mortgagees, and their respective successors or assigns, shall also be deemed beneficiaries to this Amendment. The terms of this Amendment shall constitute covenants running with the land comprising the Property and shall be binding on all future Developers and owners of any portion of the Property, other than Ultimate Consumers.

Section 3. Except as modified by this Amendment, any capitalized terms used in this Amendment have the same meaning given them in the Agreement. Except as modified by this Amendment, all of the terms and conditions of the Agreement remain in full force and effect. The Agreement, as amended hereby, may be modified only by a written instrument signed by the City and Developer, and no other party is required to sign such instrument.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the undersigned parties have executed this Amendment as of the date set forth above.

CITY OF FULSHEAR, TEXAS

By: _____
Jeff Roberts, Mayor

ATTEST:

By: _____
City Secretary

CCR TEXAS HOLDINGS, LP,
a Delaware limited partnership

By: Johnson/CCR GP,LLC,
its general partner

By: _____
Name: _____
Title: _____

EXHIBIT 1

ST FAUSTINA CATHOLIC CHURCH
23.44 ACRES

JULY 16, 2015
JOB NO. 3251-00

DESCRIPTION OF A 23.44 ACRE TRACT OF LAND SITUATED
IN THE J.C. MCDONALD SURVEY, ABSTRACT NO. 290
FORT BEND COUNTY, TEXAS

BEING a 23.44 acre (1,021,075 square feet) tract of land situated in the J.C. McDonald Survey, Abstract No. 290 of Fort Bend County, Texas and being the remainder of a called 25.28 acre tract of land described in a deed to Most Reverend John L. Morkovsky bishop of The Diocese of Galveston-Houston of The Roman Catholic Church recorded in Volume 1099, Page Number 790 of the Fort Bend County Deed Records (F.B.C.D.R.), said 23.44 acre tract of land described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron pipe found for the southeast corner of the remainder of a called 42.53 acre tract of land recorded under Fort Bend County Clerk's File Number (F.B.C.C.F. No.) 2012038960 in the northerly right-of-way of F.M 359 & F.M. 1093 (120 foot wide) recorded In Volume 243, Page 169, of the F.B.C.D.R. and being the southwest corner of the herein described tract;

THENCE, N 02°20'56" W, a distance of 1,547.05 feet along the east line of said 42.53 acre remainder tract and the east line of CROSS CREEK RANCH WATER PLANT No. 1, recorded under Plat No. 200700243 of the Fort Bend County Plat Records (F.B.C.P.R.) to a 5/8-inch iron rod with Brown & Gay Cap set for the northwest corner of the herein described tract in an angle point in the south line of CREEKSIDE AT CROSS CREEK RANCH SECTION TWO, recorded under Plat No. 20070241 of the F.B.C.P.R.;

THENCE, N 87°42'35" E, a distance of 674.56 feet along said south line to a 5/8-inch iron rod found for the northeast corner of the herein described tract, same being the northwest corner of a called 13.000 acre tract recorded under F.B.C.C.F. No. 2000008641;

THENCE, S 02°09'19" E, along the common line of said 13.000 acre tract and the herein described tract a distance of 1,491.90 feet to a 1/2-inch iron pipe with Brown & Gay Cap set for the southeast corner of the herein described tract in the north right-of-way line of said F.M 359 & F.M. 1093 from which a found 5/8-inch iron rod with Clark Surveying cap bears N 14°00'02" W, 0.44 feet;

THENCE, S 83°00'02" W, a distance of 671.73 feet along said north right-of-way line, to the **POINT OF BEGINNING** and containing 23.44 acres (1,021,075 square feet) of land.

Bearing orientation is based on the Texas Coordinate System, South Central Zone 4204, NAD-83.




Paul A. Jurica Jr. RPLS No. 4264
Brown & Gay Engineers, Inc.
10777 Westheimer Road, Suite 400
Houston, Texas 77042
Telephone: (281) 558-8700
TBPLS Licensed Surveying Firm No. 10106500

THIRD AMENDMENT TO UTILITY AGREEMENT BETWEEN FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 171 AND CITY OF FULSHEAR

This Third Amendment (this "Amendment") to Utility Agreement Between Fort Bend County Municipal Utility District No. 171 and the City of Fulshear, Texas, is effective as of the 1st day of August, 2016, and is by and between the City of Fulshear, Texas (the "City") and Fort Bend County Municipal Utility District No. 171 (the "District").

Recitals:

The City and the District previously executed a Utility Agreement dated December 18, 2007 ("Original Agreement"), as amended by a First Amendment dated May 19, 2009 and Second Amendment dated January 18, 2011 (the "Second Amendment"). The Original Agreement and amendments thereto are collectively referred to herein as the "Utility Agreement". The landowner of approximately 23.44 acres, as described in **Exhibit 1** attached hereto and incorporated herein ("Additional Tract"), has petitioned Fort Bend County Municipal Utility District No. 171 to annex the Additional Tract, and the City has consented to such annexation. The City and District seek to amend the Utility Agreement as provided herein.

Agreement:

For and in consideration of the mutual promises, obligations, covenants and benefits hereinafter set forth, the District and the City contract and agree as follows:

1. The definitions of the following terms used in the Utility Agreement are amended to read as follows:

Development Property means: (i) the approximately 3,199.01 acres described in the definition of "Development Property" in the Original Agreement, (ii) the 70.71 acre tract described in the definition of "Additional Tract" in the Second Amendment, (iii) the Additional Tract described in this Amendment, and (iv) any other property hereafter annexed into one of the municipal utility districts within the Master District service area (if the City consents to such annexation).

Project means all of the land described in the definition of "Development Property," above.

2. The City agrees that the District is authorized to annex the Additional Tract into the boundaries of the District. Upon such annexation by the District, the rights, benefits, duties, and obligations of the District and the City with respect to the Additional Tract, the existing and future property located thereon, and the development of the Additional Tract, shall be governed by the terms and provisions of the Utility Agreement in the same manner as all other property in the District.

3. For purposes of notice pursuant to Section 3.06 of the Original Agreement, the District's address, unless changed as allowed in said Section 3.06, shall be as follows:

Fort Bend County Municipal Utility District No. 171
c/o Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
Attn: Alex Garcia

4. Except as modified by this Amendment, any capitalized terms used in this Amendment have the same meaning given them in the Utility Agreement. Except as modified by this Amendment, all of the terms and conditions of the Utility Agreement remain in full force and effect. The Utility Agreement, as amended hereby, may be modified only by a written instrument signed by the District and the City, and no other party(ies) are required to sign such instrument.

[EXECUTION PAGES FOLLOW]

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 171

By: _____
President

ATTEST/SEAL:

By: _____
Secretary

CITY OF FULSHEAR

Mayor

ATTEST/SEAL:

City Secretary

EXHIBIT 1

ST FAUSTINA CATHOLIC CHURCH
23.44 ACRES

JULY 16, 2015
JOB NO. 3251-00

DESCRIPTION OF A 23.44 ACRE TRACT OF LAND SITUATED
IN THE J.C. MCDONALD SURVEY, ABSTRACT NO. 290
FORT BEND COUNTY, TEXAS

BEING a 23.44 acre (1,021,075 square feet) tract of land situated in the J.C. McDonald Survey, Abstract No. 290 of Fort Bend County, Texas and being the remainder of a called 25.28 acre tract of land described in a deed to Most Reverend John L. Morkovsky bishop of The Diocese of Galveston-Houston of The Roman Catholic Church recorded in Volume 1099, Page Number 790 of the Fort Bend County Deed Records (F.B.C.D.R.), said 23.44 acre tract of land described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron pipe found for the southeast corner of the remainder of a called 42.53 acre tract of land recorded under Fort Bend County Clerk's File Number (F.B.C.C.F. No.) 2012038960 in the northerly right-of-way of F.M 359 & F.M. 1093 (120 foot wide) recorded in Volume 243, Page 169, of the F.B.C.D.R. and being the southwest corner of the herein described tract;

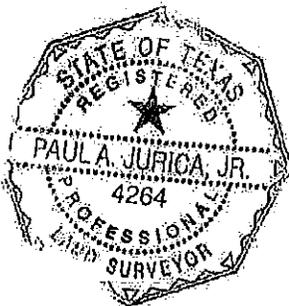
THENCE, N 02°20'56" W, a distance of 1,547.05 feet along the east line of said 42.53 acre remainder tract and the east line of CROSS CREEK RANCH WATER PLANT No. 1, recorded under Plat No. 200700243 of the Fort Bend County Plat Records (F.B.C.P.R.) to a 5/8-inch iron rod with Brown & Gay Cap set for the northwest corner of the herein described tract in an angle point in the south line of CREEKSIDE AT CROSS CREEK RANCH SECTION TWO, recorded under Plat No. 20070241 of the F.B.C.P.R.;

THENCE, N 87°42'35" E, a distance of 674.56 feet along said south line to a 5/8-inch iron rod found for the northeast corner of the herein described tract, same being the northwest corner of a called 13.000 acre tract recorded under F.B.C.C.F. No. 2000008641;

THENCE, S 02°09'19" E, along the common line of said 13.000 acre tract and the herein described tract a distance of 1,491.90 feet to a 1/2-inch iron pipe with Brown & Gay Cap set for the southeast corner of the herein described tract in the north right-of-way line of said F.M 359 & F.M. 1093 from which a found 5/8-inch iron rod with Clark Surveying cap bears N 14°00'02" W, 0.44 feet;

THENCE, S 83°00'02" W, a distance of 671.73 feet along said north right-of-way line, to the **POINT OF BEGINNING** and containing 23.44 acres (1,021,075 square feet) of land.

Bearing orientation is based on the Texas Coordinate System, South Central Zone 4204, NAD-83.




Paul A. Jurica, Jr. RPLS No. 4264
Brown & Gay Engineers, Inc.
10777 Westheimer Road, Suite 400
Houston, Texas 77042
Telephone: (281) 558-8700
TBPLS Licensed Surveying Firm No. 10106500

THIRD AMENDMENT TO UTILITY AGREEMENT BETWEEN FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 169 AND CITY OF FULSHEAR

This Third Amendment (this "Amendment") to Utility Agreement Between Fort Bend County Municipal Utility District No. 169 and the City of Fulshear, Texas, is effective as of the 1st day of August, 2016, and is by and between the City of Fulshear, Texas (the "City") and Fort Bend County Municipal Utility District No. 169 (the "District").

Recitals:

The City and the District previously executed a Utility Agreement dated December 18, 2007 ("Original Agreement"), as amended by a First Amendment dated April 21, 2009 and Second Amendment dated January 18, 2011 (the "Second Amendment"). The Original Agreement and amendments thereto are collectively referred to herein as the "Utility Agreement". The landowner of approximately 23.44 acres, as described in **Exhibit I** attached hereto and incorporated herein ("Additional Tract"), has petitioned Fort Bend County Municipal Utility District No. 171 to annex the Additional Tract, and the City has consented to such annexation. The City and District seek to amend the Utility Agreement as provided herein.

Agreement:

For and in consideration of the mutual promises, obligations, covenants and benefits hereinafter set forth, the District and the City contract and agree as follows:

1. The definitions of the following terms used in the Utility Agreement are amended to read as follows:

District Facilities or System means the Water System, Sanitary Sewer System and Drainage System, including all portions of same constructed or acquired by the District in its capacity as Master District to serve the Additional Tract and/or the other areas of the Development Property.

Development Property means: (i) the approximately 3,199.01 acres described in the definition of "Development Property" in the Original Agreement, (ii) the 70.71 acre tract described in the definition of "Additional Tract" in the Second Amendment, (iii) the Additional Tract described in this Amendment, and (iv) any other property hereafter annexed into one of the municipal utility districts within the Master District service area (if the City consents to such annexation).

Project means all of the land described in the definition of "Development Property," above.

Development means the Development Property, as defined by this Amendment.

2. In the event the District annexes additional land into its boundaries, with City consent to such annexation, the rights, benefits, duties, and obligations of the District and the City with respect to such annexed land, the existing and future property located thereon, and the development of land included in such annexation, shall be governed by the terms and provisions of the Utility Agreement in the same manner as all other property in the District.
3. For purposes of notice pursuant to Section 3.06 of the Original Agreement, the District's address, unless changed as allowed in said Section 3.06, shall be as follows:

Fort Bend County Municipal Utility District No. 169
c/o Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
Attn: Alex Garcia

4. Except as modified by this Amendment, any capitalized terms used in this Amendment have the same meaning given them in the Utility Agreement. Except as modified by this Amendment, all of the terms and conditions of the Utility Agreement remain in full force and effect. The Utility Agreement, as amended hereby, may be modified only by a written instrument signed by the District and the City, and no other party(ies) are required to sign such instrument.

[EXECUTION PAGES FOLLOW]

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 169

By: _____
President

ATTEST/SEAL:

By: _____
Secretary

CITY OF FULSHEAR

Mayor

ATTEST/SEAL:

City Secretary

EXHIBIT 1

ST FAUSTINA CATHOLIC CHURCH
23.44 ACRES

JULY 16, 2015
JOB NO. 3251-00

DESCRIPTION OF A 23.44 ACRE TRACT OF LAND SITUATED
IN THE J.C. MCDONALD SURVEY, ABSTRACT NO. 290
FORT BEND COUNTY, TEXAS

BEING a 23.44 acre (1,021,075 square feet) tract of land situated in the J.C. McDonald Survey, Abstract No. 290 of Fort Bend County, Texas and being the remainder of a called 25.28 acre tract of land described in a deed to Most Reverend John L. Morkovsky bishop of The Diocese of Galveston-Houston of The Roman Catholic Church recorded in Volume 1099, Page Number 790 of the Fort Bend County Deed Records (F.B.C.D.R.), said 23.44 acre tract of land described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron pipe found for the southeast corner of the remainder of a called 42.53 acre tract of land recorded under Fort Bend County Clerk's File Number (F.B.C.C.F. No.) 2012038960 in the northerly right-of-way of F.M 359 & F.M. 1093 (120 foot wide) recorded in Volume 243, Page 169, of the F.B.C.D.R. and being the southwest corner of the herein described tract;

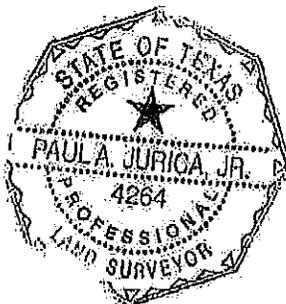
THENCE, N 02°20'56" W, a distance of 1,547.05 feet along the east line of said 42.53 acre remainder tract and the east line of CROSS CREEK RANCH WATER PLANT No. 1, recorded under Plat No. 200700243 of the Fort Bend County Plat Records (F.B.C.P.R.) to a 5/8-inch iron rod with Brown & Gay Cap set for the northwest corner of the herein described tract in an angle point in the south line of CREEKSIDE AT CROSS CREEK RANCH SECTION TWO, recorded under Plat No. 20070241 of the F.B.C.P.R.;

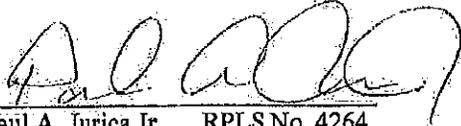
THENCE, N 87°42'35" E, a distance of 674.56 feet along said south line to a 5/8-inch iron rod found for the northeast corner of the herein described tract, same being the northwest corner of a called 13.000 acre tract recorded under F.B.C.C.F. No. 2000008641;

THENCE, S 02°09'19" E, along the common line of said 13.000 acre tract and the herein described tract a distance of 1,491.90 feet to a 1/2-inch iron pipe with Brown & Gay Cap set for the southeast corner of the herein described tract in the north right-of-way line of said F.M 359 & F.M. 1093 from which a found 5/8-inch iron rod with Clark Surveying cap bears N 14°00'02" W, 0.44 feet;

THENCE, S 83°00'02" W, a distance of 671.73 feet along said north right-of-way line, to the **POINT OF BEGINNING** and containing 23.44 acres (1,021,075 square feet) of land.

Bearing orientation is based on the Texas Coordinate System, South Central Zone 4204, NAD-83.




Paul A. Jurica Jr. RPLS No. 4264
Brown & Gay Engineers, Inc.
10777 Westheimer Road, Suite 400
Houston, Texas 77042
Telephone: (281) 558-8700
TBPLS Licensed Surveying Firm No. 10106500

SECOND AMENDMENT TO UTILITY AGREEMENT BETWEEN FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 170 AND CITY OF FULSHEAR

This Second Amendment (this "Amendment") to Utility Agreement Between Fort Bend County Municipal Utility District No. 170 and the City of Fulshear, Texas, is effective as of the 1st day of August, 2016, and is by and between the City of Fulshear, Texas (the "City") and Fort Bend County Municipal Utility District No. 170 (the "District").

Recitals:

The City and the District previously executed a Utility Agreement dated November 11, 2009 ("Original Agreement"), as amended by a First Amendment dated January 18, 2011 (the "First Amendment"). The Original Agreement and First Amendment are collectively referred to herein as the "Utility Agreement". The landowner of approximately 23.44 acres, as described in **Exhibit 1** attached hereto and incorporated herein ("Additional Tract"), has petitioned Fort Bend County Municipal Utility District No. 171 to annex the Additional Tract, and the City has consented to such annexation. The City and District seek to amend the Utility Agreement as provided herein.

Agreement:

For and in consideration of the mutual promises, obligations, covenants and benefits hereinafter set forth, the District and the City contract and agree as follows:

1. The definitions of the following terms used in the Utility Agreement are amended to read as follows:

Development Property means: (i) the approximately 3,199.01 acres described in the definition of "Development Property" in the Original Agreement, (ii) the 70.71 acre tract described in the definition of "Additional Tract" in the First Amendment, (iii) the Additional Tract described in this Amendment, and (iv) any other property hereafter annexed into one of the municipal utility districts within the Master District service area (if the City consents to such annexation).

Project means all of the land described in the definition of "Development Property," above.

2. In the event the District annexes additional land into its boundaries, with City consent to such annexation, the rights, benefits, duties, and obligations of the District and the City with respect to such annexed land, the existing and future property located thereon, and the development of land included in such annexation, shall be governed by the terms and provisions of the Utility Agreement in the same manner as all other property in the District.

3. For purposes of notice pursuant to Section 3.06 of the Original Agreement, the District's address, unless changed as allowed in said Section 3.06, shall be as follows:

Fort Bend County Municipal Utility District No. 170
c/o Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
Attn: Alex Garcia

4. Except as modified by this Amendment, any capitalized terms used in this Amendment have the same meaning given them in the Utility Agreement. Except as modified by this Amendment, all of the terms and conditions of the Utility Agreement remain in full force and effect. The Utility Agreement, as amended hereby, may be modified only by a written instrument signed by the District and the City, and no other party(ies) are required to sign such instrument.

[EXECUTION PAGES FOLLOW]

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 170

By: _____
President

ATTEST/SEAL:

By: _____
Secretary

CITY OF FULSHEAR

Mayor

ATTEST/SEAL:

City Secretary

EXHIBIT 1

ST FAUSTINA CATHOLIC CHURCH
23.44 ACRES

JULY 16, 2015
JOB NO. 3251-00

DESCRIPTION OF A 23.44 ACRE TRACT OF LAND SITUATED
IN THE J.C. MCDONALD SURVEY, ABSTRACT NO. 290
FORT BEND COUNTY, TEXAS

BEING a 23.44 acre (1,021,075 square feet) tract of land situated in the J.C. McDonald Survey, Abstract No. 290 of Fort Bend County, Texas and being the remainder of a called 25.28 acre tract of land described in a deed to Most Reverend John L. Morkovsky bishop of The Diocese of Galveston-Houston of The Roman Catholic Church recorded in Volume 1099, Page Number 790 of the Fort Bend County Deed Records (F.B.C.D.R.), said 23.44 acre tract of land described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron pipe found for the southeast corner of the remainder of a called 42.53 acre tract of land recorded under Fort Bend County Clerk's File Number (F.B.C.C.F. No.) 2012038960 in the northerly right-of-way of F.M 359 & F.M. 1093 (120 foot wide) recorded in Volume 243, Page 169, of the F.B.C.D.R. and being the southwest corner of the herein described tract;

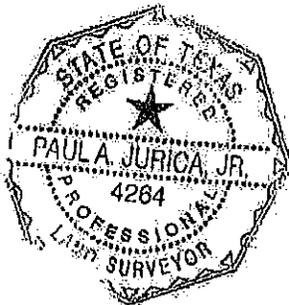
THENCE, N 02°20'56" W, a distance of 1,547.05 feet along the east line of said 42.53 acre remainder tract and the east line of CROSS CREEK RANCH WATER PLANT No. 1, recorded under Plat No. 200700243 of the Fort Bend County Plat Records (F.B.C.P.R.) to a 5/8-inch iron rod with Brown & Gay Cap set for the northwest corner of the herein described tract in an angle point in the south line of CREEKSIDE AT CROSS CREEK RANCH SECTION TWO, recorded under Plat No. 20070241 of the F.B.C.P.R.;

THENCE, N 87°42'35" E, a distance of 674.56 feet along said south line to a 5/8-inch iron rod found for the northeast corner of the herein described tract, same being the northwest corner of a called 13.000 acre tract recorded under F.B.C.C.F. No. 2000008641;

THENCE, S 02°09'19" E, along the common line of said 13.000 acre tract and the herein described tract a distance of 1,491.90 feet to a 1/2-inch iron pipe with Brown & Gay Cap set for the southeast corner of the herein described tract in the north right-of-way line of said F.M 359 & F.M. 1093 from which a found 5/8-inch iron rod with Clark Surveying cap bears N 14°00'02" W, 0.44 feet;

THENCE, S 83°00'02" W, a distance of 671.73 feet along said north right-of-way line, to the **POINT OF BEGINNING** and containing 23.44 acres (1,021,075 square feet) of land.

Bearing orientation is based on the Texas Coordinate System, South Central Zone 4204, NAD-83.




Paul A. Jurica Jr. RPLS No. 4264
Brown & Gay Engineers, Inc.
10777 Westheimer Road, Suite 400
Houston, Texas 77042
Telephone: (281) 558-8700
TBPLS Licensed Surveying Firm No. 10106500

SECOND AMENDMENT TO UTILITY AGREEMENT BETWEEN FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 172 AND CITY OF FULSHEAR

This Second Amendment (this "Amendment") to Utility Agreement Between Fort Bend County Municipal Utility District No. 172 and the City of Fulshear, Texas, is effective as of the 8th day of August, 2016, and is by and between the City of Fulshear, Texas (the "City") and Fort Bend County Municipal Utility District No. 172 (the "District").

Recitals:

The City and the District previously executed a Utility Agreement dated May 14, 2010 ("Original Agreement"), as amended by a First Amendment dated January 18, 2011 (the "First Amendment"). The Original Agreement and First Amendment are collectively referred to herein as the "Utility Agreement". The landowner of approximately 23.44 acres, as described in **Exhibit 1** attached hereto and incorporated herein ("Additional Tract"), has petitioned Fort Bend County Municipal Utility District No. 171 to annex the Additional Tract, and the City has consented to such annexation. The City and District seek to amend the Utility Agreement as provided herein.

Agreement:

For and in consideration of the mutual promises, obligations, covenants and benefits hereinafter set forth, the District and the City contract and agree as follows:

1. The definitions of the following terms used in the Utility Agreement are amended to read as follows:

Development Property means: (i) the approximately 3,199.01 acres described in the definition of "Development Property" in the Original Agreement, (ii) the 70.71 acre tract described in the definition of "Additional Tract" in the First Amendment, (iii) the Additional Tract described in this Amendment, and (iv) any other property hereafter annexed into one of the municipal utility districts within the Master District service area (if the City consents to such annexation).

Project means all of the land described in the definition of "Development Property," above.

2. In the event the District annexes additional land into its boundaries, with City consent to such annexation, the rights, benefits, duties, and obligations of the District and the City with respect to such annexed land, the existing and future property located thereon, and the development of land included in such annexation, shall be governed by the terms and provisions of the Utility Agreement in the same manner as all other property in the District.

3. For purposes of notice pursuant to Section 3.06 of the Original Agreement, the District's address, unless changed as allowed in said Section 3.06, shall be as follows:

Fort Bend County Municipal Utility District No. 172
c/o Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
Attn: Alex Garcia

4. Except as modified by this Amendment, any capitalized terms used in this Amendment have the same meaning given them in the Utility Agreement. Except as modified by this Amendment, all of the terms and conditions of the Utility Agreement remain in full force and effect. The Utility Agreement, as amended hereby, may be modified only by a written instrument signed by the District and the City, and no other party(ies) are required to sign such instrument.

[EXECUTION PAGES FOLLOW]

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 172

By: _____
President

ATTEST/SEAL:

By: _____
Secretary

CITY OF FULSHEAR

Mayor

ATTEST/SEAL:

City Secretary

EXHIBIT 1

ST FAUSTINA CATHOLIC CHURCH
23.44 ACRES

JULY 16, 2015
JOB NO. 3251-00

DESCRIPTION OF A 23.44 ACRE TRACT OF LAND SITUATED
IN THE J.C. MCDONALD SURVEY, ABSTRACT NO. 290
FORT BEND COUNTY, TEXAS

BEING a 23.44 acre (1,021,075 square feet) tract of land situated in the J.C. McDonald Survey, Abstract No. 290 of Fort Bend County, Texas and being the remainder of a called 25.28 acre tract of land described in a deed to Most Reverend John L. Morkovsky bishop of The Diocese of Galveston-Houston of The Roman Catholic Church recorded in Volume 1099, Page Number 790 of the Fort Bend County Deed Records (F.B.C.D.R.), said 23.44 acre tract of land described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron pipe found for the southeast corner of the remainder of a called 42.53 acre tract of land recorded under Fort Bend County Clerk's File Number (F.B.C.C.F. No.) 2012038960 in the northerly right-of-way of F.M 359 & F.M. 1093 (120 foot wide) recorded In Volume 243, Page 169, of the F.B.C.D.R. and being the southwest corner of the herein described tract;

THENCE, N 02°20'56" W, a distance of 1,547.05 feet along the east line of said 42.53 acre remainder tract and the east line of CROSS CREEK RANCH WATER PLANT No. 1, recorded under Plat No. 200700243 of the Fort Bend County Plat Records (F.B.C.P.R.) to a 5/8-inch iron rod with Brown & Gay Cap set for the northwest corner of the herein described tract in an angle point in the south line of CREEKSIDE AT CROSS CREEK RANCH SECTION TWO, recorded under Plat No. 20070241 of the F.B.C.P.R.;

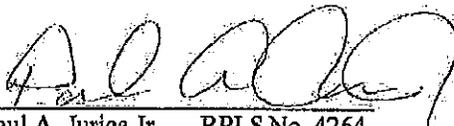
THENCE, N 87°42'35" E, a distance of 674.56 feet along said south line to a 5/8-inch iron rod found for the northeast corner of the herein described tract, same being the northwest corner of a called 13.000 acre tract recorded under F.B.C.C.F. No. 2000008641;

THENCE, S 02°09'19" E, along the common line of said 13.000 acre tract and the herein described tract a distance of 1,491.90 feet to a 1/2-inch iron pipe with Brown & Gay Cap set for the southeast corner of the herein described tract in the north right-of-way line of said F.M 359 & F.M. 1093 from which a found 5/8-inch iron rod with Clark Surveying cap bears N 14°00'02" W, 0.44 feet;

THENCE, S 83°00'02" W, a distance of 671.73 feet along said north right-of-way line, to the **POINT OF BEGINNING** and containing 23.44 acres (1,021,075 square feet) of land.

Bearing orientation is based on the Texas Coordinate System, South Central Zone 4204, NAD-83.




Paul A. Jurica Jr. RPLS No. 4264
Brown & Gay Engineers, Inc.
10777 Westheimer Road, Suite 400
Houston, Texas 77042
Telephone: (281) 558-8700
TBPLS Licensed Surveying Firm No. 10106500

SECOND AMENDMENT TO UTILITY AGREEMENT BETWEEN FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 173 AND CITY OF FULSHEAR

This Second Amendment (this "Amendment") to Utility Agreement Between Fort Bend County Municipal Utility District No. 173 and the City of Fulshear, Texas, is effective as of the 10th day of August, 2016, and is by and between the City of Fulshear, Texas (the "City") and Fort Bend County Municipal Utility District No. 173 (the "District").

Recitals:

The City and the District previously executed a Utility Agreement dated May 14, 2010 ("Original Agreement"), as amended by a First Amendment dated January 18, 2011 (the "First Amendment"). The Original Agreement and First Amendment are collectively referred to herein as the "Utility Agreement". The landowner of approximately 23.44 acres, as described in Exhibit 1 attached hereto and incorporated herein ("Additional Tract"), has petitioned Fort Bend County Municipal Utility District No. 171 to annex the Additional Tract, and the City has consented to such annexation. The City and District seek to amend the Utility Agreement as provided herein.

Agreement:

For and in consideration of the mutual promises, obligations, covenants and benefits hereinafter set forth, the District and the City contract and agree as follows:

1. The definitions of the following terms used in the Utility Agreement are amended to read as follows:

Development Property means: (i) the approximately 3,199.01 acres described in the definition of "Development Property" in the Original Agreement, (ii) the 70.71 acre tract described in the definition of "Additional Tract" in the First Amendment, (iii) the Additional Tract described in this Amendment, and (iv) any other property hereafter annexed into one of the municipal utility districts within the Master District service area (if the City consents to such annexation).

Project means all of the land described in the definition of "Development Property," above.

2. In the event the District annexes additional land into its boundaries, with City consent to such annexation, the rights, benefits, duties, and obligations of the District and the City with respect to such annexed land, the existing and future property located thereon, and the development of land included in such annexation, shall be governed by the terms and provisions of the Utility Agreement in the same manner as all other property in the District.

3. For purposes of notice pursuant to Section 3.06 of the Original Agreement, the District's address, unless changed as allowed in said Section 3.06, shall be as follows:

Fort Bend County Municipal Utility District No. 173
c/o Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
Attn: Alex Garcia

4. Except as modified by this Amendment, any capitalized terms used in this Amendment have the same meaning given them in the Utility Agreement. Except as modified by this Amendment, all of the terms and conditions of the Utility Agreement remain in full force and effect. The Utility Agreement, as amended hereby, may be modified only by a written instrument signed by the District and the City, and no other party(ies) are required to sign such instrument.

[EXECUTION PAGES FOLLOW]

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 173

By: _____
President

ATTEST/SEAL:

By: _____
Secretary

CITY OF FULSHEAR

Mayor

ATTEST/SEAL:

City Secretary

EXHIBIT 1

ST FAUSTINA CATHOLIC CHURCH
23.44 ACRES

JULY 16, 2015
JOB NO. 3251-00

DESCRIPTION OF A 23.44 ACRE TRACT OF LAND SITUATED
IN THE J.C. McDONALD SURVEY, ABSTRACT NO. 290
FORT BEND COUNTY, TEXAS

BEING a 23.44 acre (1,021,075 square feet) tract of land situated in the J.C. McDonald Survey, Abstract No. 290 of Fort Bend County, Texas and being the remainder of a called 25.28 acre tract of land described in a deed to Most Reverend John L. Morkovsky bishop of The Diocese of Galveston-Houston of The Roman Catholic Church recorded in Volume 1099, Page Number 790 of the Fort Bend County Deed Records (F.B.C.D.R.), said 23.44 acre tract of land described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron pipe found for the southeast corner of the remainder of a called 42.53 acre tract of land recorded under Fort Bend County Clerk's File Number (F.B.C.C.F. No.) 2012038960 in the northerly right-of-way of F.M 359 & F.M. 1093 (120 foot wide) recorded In Volume 243, Page 169, of the F.B.C.D.R. and being the southwest corner of the herein described tract;

THENCE, N 02°20'56" W, a distance of 1,547.05 feet along the east line of said 42.53 acre remainder tract and the east line of CROSS CREEK RANCH WATER PLANT No. 1, recorded under Plat No. 200700243 of the Fort Bend County Plat Records (F.B.C.P.R.) to a 5/8-inch iron rod with Brown & Gay Cap set for the northwest corner of the herein described tract in an angle point in the south line of CREEKSIDE AT CROSS CREEK RANCH SECTION TWO, recorded under Plat No. 20070241 of the F.B.C.P.R.;

THENCE, N 87°42'35" E, a distance of 674.56 feet along said south line to a 5/8-inch iron rod found for the northeast corner of the herein described tract, same being the northwest corner of a called 13.000 acre tract recorded under F.B.C.C.F. No. 2000008641;

THENCE, S 02°09'19" E, along the common line of said 13.000 acre tract and the herein described tract a distance of 1,491.90 feet to a 1/2-inch iron pipe with Brown & Gay Cap set for the southeast corner of the herein described tract in the north right-of-way line of said F.M 359 & F.M. 1093 from which a found 5/8-inch iron rod with Clark Surveying cap bears N 14°00'02" W, 0.44 feet;

THENCE, S 83°00'02" W, a distance of 671.73 feet along said north right-of-way line, to the **POINT OF BEGINNING** and containing 23.44 acres (1,021,075 square feet) of land.

Bearing orientation is based on the Texas Coordinate System, South Central Zone 4204, NAD-83.




Paul A. Jurica, Jr. RPLS No. 4264
Brown & Gay Engineers, Inc.
10777 Westheimer Road, Suite 400
Houston, Texas 77042
Telephone: (281) 558-8700
TBPLS Licensed Surveying Firm No. 10106500

AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS

AGENDA OF:	July 19, 2016	AGENDA ITEM:	IV B
DATE SUBMITTED:	July 15, 2016	DEPARTMENT:	Police Department
PREPARED BY:	Lynn Raymer Exec. Assistant	PRESENTER:	Kenny Seymour Chief of Police
SUBJECT:	Interlocal Agreement with Harris County District Attorney Regarding Forfeiture of Contraband		
ATTACHMENTS:			
EXPENDITURE REQUIRED:			\$0
AMOUNT BUDGETED:			\$0
FUNDING ACCOUNT:			
ADDITIONAL APPROPRIATION REQUIRED:			\$0
FUNDING ACCOUNT:			

EXECUTIVE SUMMARY

The Interlocal Agreement with Harris County District Attorney office defines and addresses the disposition of seized contraband, the forfeiture of property, the process for Fulshear Police Department's claim on said property, as well as the duration of the Agreement with Fulshear Police Department.

This amendment pertains to the approval of an Interlocal Agreement with Harris County District Attorney office regarding the Forfeiture of Contraband in Harris County and the benefit to Fulshear Police Department.

RECOMMENDATION

Staff recommends that City Council adopt this amendment.

Lynn Raymer

From: Poggioli, Pamela <POGGIOLI_PAMELA@dao.hctx.net>
Sent: Tuesday, June 14, 2016 10:27 AM
To: Kenny Seymour
Cc: Lynn Raymer; Poggioli, Pamela
Subject: HCDAO Local Agreement
Attachments: Fulshear PD AGMT.pdf

Greetings,

The Harris County Sheriff's Department submitted an Asset Forfeiture case to the Harris County District Attorney's Office in which your agency is to receive a share. Attached please find the Local Agreement between the Harris County District Attorney's Office and your agency. Chapter 59 of the Texas Code of Criminal Procedure requires that an executed Local Agreement must be on file before any and all funds and/or property can be distributed to the law enforcement agency designated to receive any portion of these funds and/or property. **We ask that you please sign the attached agreement and return an original to our office (to the attention of Pamela Poggioli) as soon as possible.**

After I have it counter-signed, I will return a fully-executed copy for your files. Should you have any questions, please let us know.

Thank you,
Pamela Poggioli, CP
CERTIFIED PARALEGAL
Harris County District Attorney's Office
Asset Forfeiture Division
1201 Franklin
Houston, Texas 77002
(713) 274-5570 phone
(713) 755-6863 fax
poggioli_pamela@dao.hctx.net

This e-mail is the work product of the Harris County District Attorney's Office prepared in anticipation of or in the course of preparing for criminal and/or civil litigation. This e-mail reflects the mental impressions or legal reasoning of an attorney representing the State of Texas or her staff. This e-mail is not subject to public disclosure without the express permission of the Harris County District Attorney or her designated representative.

**INTERLOCAL AGREEMENT WITH RESPECT
TO THE FORFEITURE OF CONTRABAND**

WHEREAS, pursuant to Chapter 59 of the Texas Code of Criminal Procedure, an attorney representing the state may enter into a local agreement with a law enforcement agency, including a municipal police department, regarding the disposition of forfeited contraband; and

WHEREAS, the Harris County District Attorney, being an attorney representing the state, and the Fulshear Police Department, being a municipal police department, by and through the City Council of the City of Fulshear, Texas, being the governing body of the municipality in which the Fulshear Police Department has jurisdiction, desire to enter into this interlocal agreement pursuant to Chapter 59 of the Texas Code of Criminal Procedure, and Chapter 791 of the Texas Government Code;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE TERMS, RIGHTS, AND DUTIES STATED HEREIN, THE PARTIES AGREE AS FOLLOWS:

This writing is an interlocal agreement and memorandum of understanding, hereinafter referred to as Agreement, between the attorney representing the state, hereinafter referred to as the District Attorney, and the Fulshear Police Department, hereinafter referred to as FPO, pursuant to the terms and provisions of the Texas Code of Criminal Procedure, Chapter 59 and of the Texas Government Code, Chapter 791.

I. DEFINITIONS

In this agreement the following definitions shall apply:

- A. "Attorney representing the State" means the elected Harris County District Attorney or any of her authorized Assistant District Attorneys.
- B. "FPO" means the agency head of the Fulshear Police Department.
- C. "Contraband", "interest holder", "owner", and "seizure" shall have the same meaning as defined in Article 59.01, Texas Code of Criminal Procedure.
- D. "Forfeitures pending" means any forfeiture matter that the District Attorney has received notice of seizure in accordance with this agreement.
- E. "Use Letter" means a document which sets out the FPO's request as to the disposition of property, the sharing of proceeds with another agency, or both.

II. SEIZURE OF CONTRABAND

- A. Notification of Seizure - When contraband is seized pursuant to Chapter 59 of the Texas Code of Criminal Procedure by FPO, the seizing officers shall promptly notify the District Attorney of the seizure as follows:
 - 1. The seizing officer shall notify the District Attorney in writing within seven days following the seizure, either in person or by facsimile addressed to Harris County District Attorney, 1201 Franklin, Suite 600, Houston, Texas 77002, Attention: Asset

Forfeiture, facsimile # (713) 755-6863. This document shall be referred to as the "Notice of Seizure." The "Notice of Seizure" shall contain:

- A. A statement under oath and notarized that contains a schedule and inventory of the property seized pursuant to Article 59.03(c) of the Code of Criminal Procedure and this agreement; and
 - B. An acknowledgment by FPO that the listed items were seized and the reasons those items were seized pursuant to Chapter 59 of the Code of Criminal Procedure.
2. The "Notice of Seizure" shall be accompanied by a packet of information which will contain the following:
- A. A representation by FPO as to whether or not the listed items are being held as evidence pursuant to a pending criminal investigation or criminal prosecution.
 - B. A representation by FPO that the listed items are to be kept and maintained at FPO's expense so as to protect the seized property pending final disposition of the suit for forfeiture.
 - C. Notice as to the place and location where the property is presently stored and kept, and under whose custody and control those items are maintained.
 - D. The name and address, if known, of the person found in possession of the property, or if no person was found in possession of said property, the seizing officer shall so state.
 - E. The name and address, if known, of the owner of the property seized, or if the name and address of the owner is unknown to the seizing officers and by the use of due diligence may not be reasonably ascertained, the seizing officer shall so state.
 - F. The name and address, if known, of any person who claims a security interest in the property and the amount of such interest.
 - G. The marital status of any person found in possession of said seized property, or who may be claiming any interest in said property as the owner or lien holder, and whether or not FPO has any investigative report or records indicating that such person has been investigated for any act of family violence as defined by Section 71.004, Family Code.
 - H. If any of the seized property is money, the seizing officer shall provide evidence of the deposit of the funds in the Wells Fargo Bank, 1500 Waugh Drive, Houston,

Texas, 77019, in a certificate of deposit styled "Harris County District Attorney, Custodian for FPO, Incident Report Number [number applicable to seizure]".

- I. If the seized property contains securities, negotiable instruments, or stocks, the said property shall be delivered to the Office of the District Attorney, Attn: Asset Forfeiture, 1201 Franklin, Suite 600, Houston, Texas 77002.

- B. Disposition of Seized Property Prior to Forfeiture. All property, except money, securities, negotiable instruments, or stocks, seized by FPO pursuant to this agreement and Chapter 59, Texas Code of Criminal Procedure, both tangible, real and mixed, shall be safely kept by FPO, under seal, and in a manner that reasonably protects the seized property from damage or abuse pending final disposition of the forfeiture action, unless otherwise ordered by the court, or subject to replevy in accordance with Article 59.02 Texas Code of Criminal Procedure. The safekeeping shall be at the sole cost and expense of FPO.

Money seized pursuant to this agreement and Chapter 59, Texas Code of Criminal Procedure, shall be deposited by FPO after the seizure, in the Wells Fargo Bank, 1500 Waugh Drive, Houston, Texas 77019, in a certificate of deposit styled "Harris County District Attorney, Custodian for FPO, Incident Report Number [number applicable to seizure]". Evidence of the certificate of deposit shall be furnished to the District Attorney.

Securities, negotiable instruments, or stocks seized by FPO shall be delivered to the Office of the District Attorney, Attn: Asset Forfeiture, 1201 Franklin, Suite 600, Houston, Texas 77002.

III. DISPOSITION OF FORFEITED PROPERTY

- A. Real and Personal Property - Upon a final adjudication determining that real or personal property, other than money securities, negotiable instruments, and stocks, shall be forfeited to the State, the District Attorney shall dispose of such property as follows:
 1. The District Attorney shall transfer the forfeited property to FPO for the official use by the agency, if:
 - A. Within sixty days (60) of the date of the seizure, FPO has given written notice in the form of a "Use Letter" addressed and delivered to the District Attorney that FPO wants to use such property for official purposes; and
 - B. FPO agrees to satisfy any and all storage and maintenance costs; and
 - C. The property is free of any interest of an interest holder, or FPO agrees to purchase the non-forfeitable interest of an interest holder; and
 - D. The District Attorney waives its 30% interest in the property pursuant to Chapter 59 of the Texas Code of Criminal Procedure and this agreement.
 2. The District Attorney may transfer said property to any agency or political subdivision employing peace officers if:
 - A. FPO has notified the District Attorney in writing that FPO does not want to use or operate the property and will waive FPO's seventy percent (70%) interest in the

property pursuant to Chapter 59 of the Texas Code of Criminal Procedure and this agreement, or

- B. FPO notifies the District Attorney within sixty (60) days of the date of seizure of the percentage of interest that any other agency may have in the property. The specific percentage of interest that each agency has in the property should be included in the form of a "Use Letter" addressed and delivered to the District Attorney, or
 - C. FPO has not notified the District Attorney within sixty days (60) of the date of seizure of FPO's desire to use such property for official purposes in the form of a "Use Letter" addressed and delivered to the District Attorney.
- 3. Three out of every ten motor vehicles shall be forfeited to the District Attorney for official use and operation, unless expressly waived by the District Attorney's Office. FPO may select, at its sole discretion, which three out of every ten motor vehicles are forfeited to the District Attorney.
 - 4. The District Attorney shall cause the property designated by Court order to be sold following the date of the final judgment of forfeiture as soon thereafter as reasonably practicable. The method of sale will be determined by the District Attorney and may be done by auction or other means determined by the District Attorney to be a fiscally responsible manner and in accordance with law as provided in such cases.
 - 5. The proceeds of any sale conducted hereunder shall be distributed as follows:
 - A. First, to any interest holder to the extent of the interest holder's non-forfeitable interest;
 - B. The balance after deducting all costs, including but not limited to, maintenance, storage and disposal costs, incurred by FPO or by the District Attorney, both before and after the final judgment of forfeiture, shall be distributed as follows:
 - (1) Seventy percent (70%) of the balance remaining after deducting all costs shall be paid by the District Attorney to FPO for deposit by FPO into a special fund in the treasury of the political subdivision established for FPO and committed to law enforcement purposes as provided by Chapter 59 of the Texas Code of Criminal Procedure or it will be paid to any law enforcement agency or political subdivision employing peace officers (for their deposit in a special fund which comports with the requirements of Chapter 59 of the Texas Code of Criminal Procedure) that is designated by FPO in their "Use Letter" in the percentage designated.
 - (2) Thirty percent (30%) of the balance remaining after deducting all costs shall be deposited by the District Attorney in a special fund in the county treasury for the benefit of the District Attorney to be used solely by said representative

of the State for the official purposes of the office as provided by Chapter 59 of the Texas Code of Criminal Procedure.

- B. Money, Securities, Negotiable Instruments, and Stocks - Upon a final adjudication determining that property consisting of money, securities, negotiable instruments, and stocks, shall be forfeited to the State, the said property shall be converted to U.S. funds in accordance with law. The District Attorney shall then dispose of said property as follows:
- A. First, to any interest holder to the extent of the interest holder's non-forfeitable interest;
 - B. The balance after deducting all costs, including but not limited to, maintenance, storage, brokerage fees and disposal costs, incurred by FPO or by the District Attorney, both before and after the final judgment of forfeiture, shall be distributed as follows:
 - (1) Seventy percent (70%) of the balance remaining after deducting all costs shall be paid by the District Attorney to FPO for deposit by FPO into a special fund in the treasury of the political subdivision established for FPO and committed to law enforcement purposes as provided by Chapter 59 of the Texas Code of Criminal Procedure or it will be paid to any law enforcement agency or political subdivision employing peace officers (for their deposit in a special fund which comports with the requirements of Chapter 59 of the Texas Code of Criminal Procedure) that is designated by FPO in their "Use Letter" in the percentage designated.
 - (2) Thirty percent (30%) of the balance remaining after deducting all costs shall be deposited by the District Attorney in a special fund in the county treasury for the benefit of the District Attorney to be used solely by said representative of the State for the official purposes of the office as provided by Chapter 59 of the Texas Code of Criminal Procedure.

IV. DURATION OF THE AGREEMENT

This agreement shall be in force and effect from the date of execution by both agencies, unless terminated by either the District Attorney or FPO. Termination may occur by notification of either party, in writing, stating their intentions to terminate the agreement. Such notice shall be communicated by personal delivery to the District Attorney or to the agency head of FPO and shall be effective thirty days following notification. Any forfeitures pending at the effective date of termination shall be distributed in accordance with this agreement.

V. NOTICES

All notices shall be delivered as follows:

- A. Notice of Seizure - Notice of seizure shall be served in person by FPO by hand delivery, or by facsimile transmission to: Harris County District Attorney, 1201 Franklin, Suite 600, Houston, Texas 77002, Attention: Asset Forfeiture, facsimile # (713) 755-6863.
- B. Notice of Waiver of Interest - Notice of waiver of any interest in any forfeited property specifically detailing the forfeited property in which the party is waiving interest hereunder

shall be in writing, signed by the agency head of FPO or by his designated representative, or by the District Attorney or by her designated representative, as applicable, and delivered in person, by certified mail, or by facsimile to both of the following addresses:

1. Fulshear Police Department
29370 McKinnon Road, Suite D
Fulshear, Texas 77441
Fax # (281) 346-1716
2. Harris County District Attorney
Attn: Asset Forfeiture
1201 Franklin, Suite 600
Houston, Texas 77002
Fax # (713) 755-6863

- C. Other Notices - Any other notices, including but not limited to, termination, agency use of property, and willingness to discharge interest of non-forfeitable interest holder shall occur in accordance with V. B. above.

VI. MODIFICATION OF AGREEMENT

This writing represents the entire agreement of the parties with respect to the forfeiture of property and controlled substances under Chapter 59 of the Texas Code of Criminal Procedure; however, either party may modify, repeal or amend said agreement provided all parties consent to such modification, repeal, or amendment in writing. Such modifications or amendments may include, but are not limited to, agreements related to specific multi-agency task force investigations or other circumstances where more than one agency employing peace officers may be involved in a seizure. In such cases, a separate forfeiture agreement may be devised, with the consent of all parties, and such agreement shall supersede this agreement in the specific applicable forfeiture proceeding.

VII. PROVISIONS RELATING TO INTERLOCAL AGREEMENTS

- A. Purpose of Agreement – The purpose of this Agreement is to provide one or more governmental functions or services that each party to this Agreement is authorized to perform individually. Specifically, the governmental functions or services to be provided under the

terms, rights, and duties of the parties to this Agreement include, but are not necessarily limited to, administrative functions relating to the forfeiture of contraband.

B. Payment for Governmental Functions or Services – Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

EXECUTED this _____ day of
_____, 2016 by

EXECUTED this _____ day of
_____, 2016 by

Devon Anderson
District Attorney
Harris County, Texas

Jeff W. Roberts
Mayor
City of Fulshear, Texas

**INTERLOCAL AGREEMENT WITH RESPECT
TO THE FORFEITURE OF CONTRABAND**

WHEREAS, pursuant to Chapter 59 of the Texas Code of Criminal Procedure, an attorney representing the state may enter into a local agreement with a law enforcement agency, including a municipal police department, regarding the disposition of forfeited contraband; and

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WHEREAS, the Harris County District Attorney, being an attorney representing the state, and the Fulshear Police Department, being a municipal police department, by and through the City Council of the City of Fulshear, Texas, being the governing body of the municipality in which the Fulshear Police Department has jurisdiction, desire to enter into this interlocal agreement pursuant to Chapter 59 of the Texas Code of Criminal Procedure, and Chapter 791 of the Texas Government Code;

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NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE TERMS, RIGHTS, AND DUTIES STATED HEREIN, THE PARTIES AGREE AS FOLLOWS:

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This writing is an interlocal agreement and memorandum of understanding, hereinafter referred to as Agreement, between the attorney representing the state, hereinafter referred to as the District Attorney, and the Fulshear Police Department, hereinafter referred to as FPO, pursuant to the terms and provisions of theThe Texas Code of Criminal Procedure, Chapter 59 and of the Texas Government Code, Chapter 791.

I. DEFINITIONS

In this agreement the following definitions shall apply:

- A. "Attorney representing the State" means the elected Harris County District Attorney or any of her authorized Assistant District Attorneys.
- B. "FPO" means the agency head of the Fulshear Police Department.
- C. "Contraband", "interest holder", "owner", and "seizure" shall have the same meaning as defined in Article 59.01, Texas Code of Criminal Procedure.
- D. "Forfeitures pending" means any forfeiture matter that the District Attorney has received notice of seizure in accordance with this agreement.
- E. "Use Letter" means a document which sets out the FPOagency's request as to the disposition of property and/of the sharing of proceeds with another agency, or both.

II. SEIZURE OF CONTRABAND

- A. Notification of Seizure - When contraband is seized pursuant to Chapter 59 of the Texas Code of Criminal Procedure by FPO, the seizing officers shall promptlyimmediately notify the District Attorney of the seizure as follows:
 - 1. The seizing officer shall notify the District Attorney in writing within seven days following the seizure, either in person or by facsimile addressed to Harris County District Attorney, 1201 Franklin, Suite 600, Houston, Texas 77002, Attention: Asset

Forfeiture, facsimile # (713) 755-6863. This document shall be referred to as the "Notice of Seizure." The "Notice of Seizure" shall contain:

A. A statement under oath and notarized that contains a schedule and inventory of the property seized pursuant to Article 59.03(c) of the Code of Criminal Procedure and this agreement; and.

B. An acknowledgment by FPO that the listed items were seized and the reasons those items were seized pursuant to Chapter 59 of the Code of Criminal Procedure.

2. The "Notice of Seizure" shall be accompanied by a packet of information which will contain the following:

- A. A representation by FPO as to whether or not the listed items are being held as evidence pursuant to a pending criminal investigation or criminal prosecution.
 - B. A representation by FPO that the listed items are to be kept and maintained at FPO's expense so as to protect the seized property pending final disposition of the suit for forfeiture ~~at FPO's expense~~.
 - C. Notice as to the place and location where the property is presently stored and kept, and under whose custody and control those items are maintained.
 - D. The name and address, if known, of the person found in possession of the property, or if no person was found in possession of said property, the seizing officer shall so state.
 - E. The name and address, if known, of the owner of the property seized, or if the name and address of the owner is unknown to the seizing officers and by the use of due diligence may not be reasonably ascertained, the seizing officer shall so state.
 - F. The name and address, if known, of any person who claims a security interest in the property and the amount of such interest.
 - G. The marital status of any person found in possession of said seized property, or who may be claiming any interest in said property as the owner or lien holder, and whether or not FPO has any investigative report or records indicating that such person has been investigated for any act of family violence as defined by Section ~~71.004, 71-04~~ Family Code.
 - H. If any of the seized property is money, the seizing officer shall provide evidence of the deposit of the funds in the Wells Fargo Bank, 1500 Waugh Drive, Houston, Texas, 77019, in a certificate of deposit styled "Harris County District Attorney, Custodian for FPO, Incident Report Number [number applicable to seizure]".
 - I. If the seized property contains securities, negotiable instruments, or stocks, the said property shall be delivered to the Office of the District Attorney, Attn: Asset Forfeiture, 1201 Franklin, Suite 600, Houston, Texas 77002.
- B. Disposition of Seized Property Prior to Forfeiture. All property, except money, securities, negotiable instruments, or stocks, seized by FPO pursuant to this agreement and Chapter 59, Texas Code of Criminal Procedure, both tangible, real and mixed, shall be safely kept by FPO, under seal, and in a manner that ~~reasonably~~properly protects the seized property from damage or abuse pending final disposition of the forfeiture action, unless otherwise ordered by the court, or subject to replevy in accordance with Article 59.02 Texas Code of Criminal Procedure. The safekeeping shall be at the sole cost and expense of FPO.

Money seized pursuant to this agreement and Chapter 59, Texas Code of Criminal Procedure, shall be deposited by FPO after the seizure, in the Wells Fargo Bank, 1500 Waugh Drive, Houston, Texas 77019, in a certificate of deposit styled "Harris County District Attorney, Custodian for FPO, Incident Report Number [number applicable to seizure]". Evidence of the certificate of deposit shall be furnished to the District Attorney.

Securities, negotiable instruments, or stocks seized by FPO shall be delivered to the Office of the District Attorney, Attn: Asset Forfeiture, 1201 Franklin, Suite 600, Houston, Texas 77002.

III. DISPOSITION OF FORFEITED PROPERTY

- A. Real and Personal Property - Upon a final adjudication determining that real or personal property, other than money securities, negotiable instruments, and stocks, shall be forfeited to the State, the District Attorney shall dispose of such property as follows:
1. The District Attorney shall transfer the forfeited property to FPO for the official use by the agency, if:
 - A. Within sixty days (60) of the date of the seizure, FPO has given written notice in the form of a "Use Letter" addressed and delivered to the District Attorney that FPO wants to use such property for official purposes; and
 - B. FPO agrees to satisfy any and all storage and maintenance costs; and
 - C. The property is free of any interest of an interest holder, or FPO agrees to purchase the non-forfeitable interest of an interest holder; and
 - D. The District Attorney waives its 30% interest in the property pursuant to Chapter 59 of the Texas Code of Criminal Procedure and this agreement.
 2. The District Attorney may transfer said property to any agency or political subdivision employing peace officers if:
 - A. FPO has notified the District Attorney in writing that FPO does not want to use or operate the property and will waive FPO's seventy percent (70%) interest in the property pursuant to Chapter 59 of the Texas Code of Criminal Procedure and this agreement, or
 - B. FPO notifies the District Attorney within sixty (60) days of the date of seizure of the percentage of interest that any other agency may have in the property. The specific percentage of interest that each agency has in the property should be included in the form of a "Use Letter" addressed and delivered to the District Attorney, or
 - C. FPO has not notified the District Attorney within sixty days (60) of the date of seizure of FPO's desire to use such property for official purposes in the form of a "Use Letter" addressed and delivered to the District Attorney.

3. Three out of every ten motor vehicles shall be forfeited to the District Attorney for official use and operation, unless expressly waived by the District Attorney's Office. FPO may select, at its sole discretion, which three out of every ten motor vehicles are forfeited to the District Attorney.
4. The District Attorney shall cause the property designated by Court order to be sold following the date of the final judgment of forfeiture as soon thereafter as reasonably practicable. The method of sale will be determined by the District Attorney and may be done by auction or other means determined by the District Attorney to be a fiscally responsible manner and in accordance with law as provided in such cases.
5. The proceeds of any sale conducted hereunder shall be distributed as follows:
 - A. First, to any interest holder to the extent of the interest holder's non-forfeitable interest;
 - B. The balance after deducting all costs, including but not limited to, maintenance, storage and disposal costs, incurred by FPO or by the District Attorney, both before and after the final judgment of forfeiture, shall be distributed as follows:
 - (1) Seventy percent (70%) of the balance remaining after deducting all costs shall be paid by the District Attorney to FPO for deposit by FPO into a special fund in the treasury of the political subdivision established for FPO and committed to law enforcement purposes as provided by Chapter 59 of the Texas Code of Criminal Procedure or it will be paid to any law enforcement agency or political subdivision employing peace officers (for their deposit in a special fund which comports with the requirements of Chapter 59 of the Texas Code of Criminal Procedure) that is designated by FPO in their "Use Letter" in the percentage designated.
 - (2) Thirty percent (30%) of the balance remaining after deducting all costs shall be deposited by the District Attorney in a special fund in the county treasury for the benefit of the District Attorney to be used solely by said representative of the State for the official purposes of the office as provided by Chapter 59 of the Texas Code of Criminal Procedure.
- B. Money, Securities, Negotiable Instruments, and Stocks - Upon a final adjudication determining that property consisting of money, securities, negotiable instruments, and stocks, shall be forfeited to the State, the said property shall be converted to U.S. funds in accordance with law. The District Attorney shall then dispose of said property as follows:
 - A. First, to any interest holder to the extent of the interest holder's non-forfeitable interest;
 - B. The balance after deducting all costs, including but not limited to, maintenance, storage, brokerage fees and disposal costs, incurred by FPO or by the District Attorney, both before and after the final judgment of forfeiture, shall be distributed as follows:

- (1) Seventy percent (70%) of the balance remaining after deducting all costs shall be paid by the District Attorney to FPO for deposit by FPO into a special fund in the treasury of the political subdivision established for FPO and committed to law enforcement purposes as provided by Chapter 59 of the Texas Code of Criminal Procedure or it will be paid to any law enforcement agency or political subdivision employing peace officers (for their deposit in a special fund which comports with the requirements of Chapter 59 of the Texas Code of Criminal Procedure) that is designated by FPO in their "Use Letter" in the percentage designated.
- (2) Thirty percent (30%) of the balance remaining after deducting all costs shall be deposited by the District Attorney in a special fund in the county treasury for the benefit of the District Attorney to be used solely by said representative of the State for the official purposes of the office as provided by Chapter 59 of the Texas Code of Criminal Procedure.

IV. DURATION OF THE AGREEMENT

This agreement shall be in force and effect from the date of execution by both agencies, unless terminated by either the District Attorney or FPO. Termination may occur by notification of either party, in writing, stating their intentions to terminate the agreement. Such notice shall be communicated by personal delivery to the District Attorney or to the agency head of FPO and shall be effective thirty days following notification. Any forfeitures pending at the effective date of termination shall be distributed in accordance with this agreement.

V. NOTICES

All notices shall be delivered as follows:

- A. Notice of Seizure - Notice of seizure shall be served in person by FPO by hand delivery, or by facsimile transmission to: Harris County District Attorney, 1201 Franklin, Suite 600, Houston, Texas 77002, Attention: Asset Forfeiture, facsimile # (713) 755-6863 ~~The Assistant District Attorney in Charge of the Asset Forfeiture Division, Office of the District Attorney, Fifth Floor, 1201 Franklin, Houston, Texas 77002.~~
- B. Notice of Waiver of Interest - Notice of waiver of any interest in any forfeited property specifically detailing the forfeited property in which the party is waiving interest hereunder shall be in writing, signed by the agency head of FPO or by his designated representative, or by the District Attorney or by her designated representative, as applicable, and delivered in person, by certified mail, or by facsimile to both of the following addresses:
 1. Fulshear Police Department
29370 McKinnon Road, Suite D
Fulshear, Texas 77441
Fax # (281) 346-1716
 2. Harris County District Attorney
Attn: Asset Forfeiture
1201 Franklin, Suite 600

Houston, Texas 77002
Fax # (713) 755-6863

C. Other Notices - Any other notices, including but not limited to, termination, agency use of property, and willingness to discharge interest of non-forfeitable interest holder shall occur in accordance with V. B. above.

VI. MODIFICATION OF AGREEMENT

This writing represents the entire agreement of the parties with respect to the forfeiture of property and controlled substances under Chapter 59 of the Texas Code of Criminal Procedure; however, either party may modify, repeal or amend said agreement provided all parties consent to such modification, repeal, or amendment in writing. Such modifications or amendments may include, but are not limited to, agreements related to specific multi-agency task force investigations or other circumstances where more than one agency employing peace officers may be involved in a seizure. In such cases, a separate forfeiture agreement may be devised, with the consent of all parties, and such agreement shall ~~supercede~~supersede this agreement in the specific applicable forfeiture proceeding.

VII. PROVISIONS RELATING TO INTERLOCAL AGREEMENTS

A. Purpose of Agreement – The purpose of this Agreement is to provide one or more governmental functions or services that each party to this Agreement is authorized to perform individually. Specifically, the governmental functions or services to be provided under the terms, rights, and duties of the parties to this Agreement include, but are not necessarily limited to, administrative functions relating to the forfeiture of contraband.

B. Payment for Governmental Functions or Services – Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

EXECUTED this _____ day of
_____, 2016 by

EXECUTED this _____ day of
_____, 2016 by

Devon Anderson
District Attorney
Harris County, Texas

Jeff W. RobertsKenny Seymour
MayorChief of Police
Fulshear—Police—DepartmentCity of
Fulshear, Texas

AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS

AGENDA OF:	July 19, 2016	AGENDA ITEM:	
DATE SUBMITTED:	July 14, 2016	DEPARTMENT:	City Administration / Legal
PREPARED BY:	CJ Snipes, City Manager	PRESENTER:	CJ Snipes/ J. Grady Randle
SUBJECTS:	Ordinance creating residency restrictions for Sex Offenders		
ATTACHMENTS:	Ordinance No. 2016-1220 providing for residency restrictions for Sex Offenders		
EXPENDITURE REQUIRED:			N/A
AMOUNT BUDGETED:			N/A
FUNDING ACCOUNT:			
ADDITIONAL APPROPRIATION REQUIRED:			N/A
FUNDING ACCOUNT:			N/A

EXECUTIVE SUMMARY

One of the primary policy goals outlined in the arguments for the transition from a General Law City to Home Rule was the additional regulatory authority granted to the City regarding the residency of Sex Offenders within the City Limits. As such, at the urging of Council Member Murdoch and others, staff have crafted the attached Ordinance which meets the State statutory standards.

RECOMMENDATION

Staff recommends adoption of the Ordinance.

ORDINANCE NO. 2016-1220

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, MAKING CERTAIN FINDINGS; DEFINING CERTAIN TERMS; MAKING IT UNLAWFUL FOR CERTAIN SEXUAL OFFENDERS TO RESIDE WITHIN 2,000 FEET OF PREMISES WHERE CHILDREN COMMONLY GATHER; PROVIDING EXCEPTIONS TO THE ORDINANCE; PROHIBITING PROPERTY OWNERS FROM RENTING CERTAIN REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS; PROVIDING PENALTIES FOR VIOLATIONS OF THE ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; REPEALING ORDINANCES OR PART OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

* * * * *

WHEREAS, the Mayor and City Council of the City of Fulshear, Texas, are deeply concerned about the numerous and recent occurrences in our state and elsewhere, whereby convicted sex offenders who have been released from custody repeat the unlawful acts for which they had been originally convicted; and

WHEREAS, the Mayor and City Council of the City of Fulshear, Texas, find from the evidence the recidivism rate for released sex offenders is alarmingly high, especially for those who commit their crimes on children; and

WHEREAS, the City is becoming an increasingly attractive place for younger families with small children; and

WHEREAS, the Mayor and City Council of the City of Fulshear, Texas desire to establish a policy which provides maximum protection of the lives and persons of the City of Fulshear; and

WHEREAS, Article 42.12, § 13B of the Texas Code of Criminal Procedure, provides a 1,000 foot safety zone for children, as a condition of probation for those convicted of certain sexual offenses;

WHEREAS, the laws of the State of Texas, including those found in Chapter 51 of the Texas Local Government Code and in the Home-Rule Charter of the City of Fulshear provide the City authority to adopt ordinances for the good, government, peace, order and welfare of the municipality; and

WHEREAS, the City wishes to establish a 2,000 foot safety zone in addition to the State minimum of 1,000 feet;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. Findings and Intent. Repeat sexual offenders, sexual offenders that use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant. It is the intent of this Ordinance to serve the city's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residences.

Section 2. Definitions. The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

"Permanent residence" means a place where the person abides, lodges or resides for 14 or more consecutive days.

"Temporary residence" means a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent residence, or a place where the person routinely abides, lodges, or resides for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Section 3. (a) It is unlawful for any person who is required to register under Chapter 62, Texas Code of Criminal Procedure, on the basis of a reportable conviction or adjudication as defined by that chapter, in which the victim of the offense was younger than seventeen (17) years of age, to establish a permanent residence or temporary residence within 2,000 feet of any premises where children commonly gather, including but not limited to, a school, day-care center, playground, public or private youth center, public swimming pool, or video arcade facility, as those terms are defined in Article 481.134, Texas Health and Safety Code.

(b) For the purpose of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest property line of the premises where children commonly gather, as described herein.

(c) Exceptions. A person residing within 2,000 feet of those places where children commonly gather, as specified herein, does not commit a violation of this Ordinance if any of the following apply:

(1) The person established the permanent residence or temporary residence and has complied with all sex offender registration laws of the State of Texas, prior to the effective date of this Ordinance.

(2) The person was a minor when he or she committed the offense and was not convicted as an adult.

(3) The person is a minor.

(4) The premises where children commonly gather, as specified herein, within 2,000 feet of the person's permanent residence or temporary residence was opened after the person established the permanent residence or temporary residence and complied with all sex offender registration laws of the State of Texas.

(5) The permanent residence or temporary residence is a residential facility in which the person is required to reside as a condition of community supervision, if the facility was in operation as a residence for defendants on community supervision on the effective date of this Ordinance.

(6) The permanent residence or temporary residence is a private residence at which the person is required to reside as a condition of community supervision.

Section 4. It is unlawful for any person to let or rent any place, structure or part thereof, manufactured home, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to the terms of this Ordinance.

Section 5. Penalty. Any person who violates or causes, allows, or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or, in the case of a violation of a provision of this Ordinance that governs fire safety, zoning, or public health and sanitation, including dumping of refuse, a fine of not more than Two Thousand Dollars (\$2,000.00). Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense.

Section 6. Severability. In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 7. Repeal. That all other ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 8. Effective date. That this Ordinance shall be effective and in full force when published as required by law.

PASSED, APPROVED, and ADOPTED this, the ____ day of _____, 2016.

Jeff W. Roberts, Mayor

ATTEST:

D. Gordon Offord, City Secretary

DRAFT

**AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS**

AGENDA OF:	July 19, 2016	AGENDA ITEM:	
DATE SUBMITTED:	July 15, 2016	DEPARTMENT:	Economic Development
PREPARED BY:	Angela Fritz, Economic Development Director	PRESENTER:	Same
SUBJECT:	Hotel Occupancy Tax (HOT) Establishment		
ATTACHMENTS:	<ol style="list-style-type: none"> 1. Ordinance 2016-1221 2. TML Economic Development Handbook (2015) Excerpt 3. What Cities Need to Know to Administer Municipal HOT Taxes 		
EXPENDITURE REQUIRED:	N/A		
AMOUNT BUDGETED:	N/A		
ACCOUNT NO:			
ADDITIONAL APPROPRIATION REQUIRED:			
ACCOUNT NO:			

EXECUTIVE SUMMARY

Texas Municipalities are authorized under the Tax Code to leverage a hotel occupancy tax (HOT) of up to 7% of the price paid for the use of a room within their corporate limits. Cities under 35,000 in population may also levy the tax in their extraterritorial jurisdiction (ETJ), as long as the city's levy does not result in a total HOT rate in unincorporated areas of greater than 15%.

Implementing the local HOT is optional, and cities may do so by adopting an ordinance calling for the levy. The local HOT is collected by the lodging providers from visitors as part of lodging costs, and is remitted directly to the City. Any local HOT levy is in addition to a 6% State of Texas HOT. Legal counsel has prepared Ordinance 2016-1221 for consideration which provides for a 7% HOT levy in the City of Fulshear's corporate limits and ETJ.

There are not currently any lodging providers in the City of Fulshear's corporate limits or ETJ. Establishing the HOT will allow the City to collect future revenue, providing the City an additional source of outside dollars to reinvest in initiatives and projects in accordance with the Tax Code that enhance and promote tourism and the hotel and convention industry. Allowable HOT revenue expenditures must meet a "two-part test", that is: 1. every expenditure must directly enhance and promote tourism *and* the convention and hotel industry; AND 2. every expenditure must clearly fit into one of nine statutorily provided categories (please see attachments for more detail).

HOT funds can be a valuable economic development tool to encourage future community development, economic diversification, and the infusion of outside dollars into the local economy.

RECOMMENDATION

Staff recommends adoption of Ordinance 2016-1221, an ordinance establishing a hotel occupancy tax (HOT) in the City of Fulshear and its ETJ at the rate of seven-percent (7%).

IV. Economic Development Through Tourism

The Local Hotel Occupancy Tax

Economic development for many Texas cities and some counties is a matter of tourism. Texas consistently ranks along with California and Florida as one of the top three destinations for U.S. travelers. To fund the promotion of tourism, more than 500 Texas cities and 60 counties levy a local hotel occupancy tax generating over a billion dollars per year in revenue for these cities and counties. It is clear that the amount of money spent on tourism in Texas is growing and communities are increasingly looking to tourism for much needed revenue. The local hotel occupancy tax can provide an important source of funding for maintenance of a city's and county's tourism program and can translate into economic development for the entire area.

Authorized Entities and Procedures

Both general law cities and home rule cities are authorized to adopt a hotel occupancy tax ("HOT") within the city boundaries.⁸²³ Implementing such a tax is optional. A city may implement a hotel occupancy tax by adopting an ordinance calling for the levy of the tax. The ordinance needs to be approved by a simple majority of the members of the governing body at an open meeting. Unlike a local sales tax, the adoption of a local hotel occupancy tax does not require voter approval. Although not mandated by state statute, a city may hold a public hearing to give the public an opportunity to express its views regarding the implementation and potential uses of the tax. Home rule cities (cities over 5,000 population that have adopted a home rule charter) should check their city charter for any additional requirements that the charter may impose.

Most cities are eligible to adopt a hotel occupancy tax rate of up to seven percent of the consideration paid for the use of a hotel room.⁸²⁴ A city with a population of under 35,000 may also adopt the hotel occupancy tax within that city's extraterritorial jurisdiction (ETJ).⁸²⁵ If a city adopts the hotel occupancy tax within its ETJ, the combined state, county and municipal hotel occupancy tax rate may not exceed 15%.

Some counties have received legislative approval to adopt a county hotel occupancy tax.⁸²⁶ Generally, counties are authorized to adopt a rate not to exceed seven percent of the consideration paid for a hotel room for areas outside of the jurisdiction of a city.⁸²⁷ Within the city limits, counties are generally capped at a county hotel tax rate of 2 percent.⁸²⁸ The State of Texas also imposes a six percent hotel occupancy tax rate that applies throughout the state.⁸²⁹

⁸²³ TEX. TAX CODE ANN. §§ 351.001 (West Supp 2011) (Definition of "municipality"); .002 (West 2008) (Municipal hotel occupancy tax authorized).

⁸²⁴ *Id.* § 351.003(a) (West Supp 2011).

⁸²⁵ *Id.* § 351.0025 (West 2008).

⁸²⁶ *Id.* § 352.002.

⁸²⁷ TEX. TAX CODE ANN. § 352.003(a) (West Supp. 2011).

⁸²⁸ *Id.* § 352.003(b) (Note: County hotel occupancy tax can range from one percent to seven percent within a city. Counties that are authorized to have hotel occupancy tax should check section 352.003 of the Tax Code for the exact percentage rate that can be charged).

⁸²⁹ *Id.* § 156.052 (West 2008).

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Issues to Consider before Adopting the Tax

A local government will want to consider a number of issues before it implements a local hotel occupancy tax. These concerns include:

- Would the expenditure of hotel occupancy tax be likely to attract out-of-town tourists that would stay overnight or otherwise conduct business at area lodging facilities? Hotel occupancy tax revenues may not be used to establish or enhance facilities or programs that would not attract out-of-town visitors and directly promote the hotel and convention industry.⁸³⁰
- How does the proposed hotel occupancy tax rate compare to the hotel occupancy tax rates of neighboring communities? Will the proposed rate be above, in line with, or below nearby areas that compete for available tourism business?
- What revenues can be expected by the imposition of a hotel occupancy tax? Projected revenues can be roughly estimated by applying the proposed local hotel occupancy tax rate against the taxable revenues of the hotels in the locale during prior years. Hotels report their taxable revenues each year to the comptroller when they submit the state hotel occupancy tax. The information from this report to the comptroller can be adjusted to get a basic estimate of the amount of revenue a city could anticipate if it adopted a local hotel occupancy tax. Cities may obtain information and make special requests by logging onto the comptroller's website at www.window.state.tx.us. If a city has any other questions about hotel occupancy tax, it can call the Comptroller at (800) 252-1385.
- How would the proposed tax fit into the city's future plans and goals? What types of programs and improvements that are authorized under the hotel tax laws will be possible with the anticipated revenues? Would the proposed programs and expenditures be possible without the imposition of a hotel occupancy tax and how soon would they be possible? What existing or new facilities and programs would qualify for funding? To qualify for funding, each of the facilities or programs must fit into one of the statutory categories for expenditures which are discussed in detail later in this chapter.⁸³¹ Each expenditure also must be likely to result in increased tourism by out-of-town visitors to the city and must have some impact on hotel and/or convention activity.
- How will the city measure the benefits of expenditures of the hotel occupancy tax? For example, a city could ask recipients of hotel occupancy tax proceeds to keep a log of out-of-town visitors or business transactions that took place after the enhancement of their program or facility with hotel occupancy tax money. Many visitor centers and tourist attractions have a guest book that out-of-town visitors are encouraged to sign. The visitor logs could include a box to check if the visitor is "staying at an area hotel." The city could use this information later to estimate the effectiveness of the various expenditures at promoting increased tourism and hotel activity.
- What local entities would be encouraged to participate in the decisions regarding administration of a local hotel occupancy tax? Will the city involve local citizens, the chamber of commerce, and representatives of the local hotels to review potential uses of the hotel occupancy tax proceeds? Involving area hotel representatives in the allocation

⁸³⁰ *Id.* § 351.101(a)-(b) (West Supp. 2011).

⁸³¹ *Id.* §§ 351.101(a)(1)-(12), .110 (West 2008).

IV. Economic Development Through Tourism

decisions has helped many communities avoid opposition to the types of programs that are ultimately funded. Area hoteliers can also help the community accurately assess how much of an impact the hotel tax funded programs have on area hotel activity.

Who Charges the Tax

The following businesses are considered “hotels” and are required to charge the tax:⁸³²

- a hotel,
- motel,
- tourist home,
- tourist court
- lodging house,
- inn,
- rooming house, or
- bed and breakfast.

Hospitals, sanitariums, nursing homes, dormitories and other non-hotel housing facilities owned by institutions of higher education, and oilfield portable units⁸³³ may not charge the tax. While recreational vehicles (RVs) and RV rental spaces are not expressly listed in the statute, the Comptroller’s Office has interpreted the statute to exclude RVs and RV lots from taxation.

The hotel occupancy tax may be imposed against any “person” (including corporations and other legal entities) who pays for the use of a hotel room that is ordinarily used for sleeping.⁸³⁴ The price of the room does not include the cost of food served by the hotel or the cost of other personal services.⁸³⁵ Unlike the state hotel occupancy tax, local hotel occupancy tax does not apply to the cost of renting meeting rooms, banquet or event space within a hotel since these rooms are not considered “sleeping rooms.”⁸³⁶

Exemptions From the Tax

State law exempts the following individuals from payment of the state and local hotel occupancy tax, if they are traveling on official business:

- 1) federal employees⁸³⁷;
- 2) foreign diplomats with a tax exempt card issued by the U.S. Department of State⁸³⁸;

⁸³² *Id.* § 351.001(4) (West Supp. 2011), 352.001(1) (West 2008). *See id.* § 156.001(1) (West Supp. 2011) (The term “hotel” has the meaning assigned by Section 156.001 of the Tax Code which is defined as “a building in which members of the public obtain sleeping accommodations for consideration.”). *See also* 34 TEX. ADMIN. CODE § 3.161(3) (West 2012).

⁸³³ *See id.* § 152.001(20) (West Supp. 2011) (Definition of “oilfield portable unit”).

⁸³⁴ TEX. TAX CODE ANN § 351.002(a) (West 2008). *See* TEX. GOV’T CODE ANN. § 311.005(2) (West 2005) (Definition of “person” as used in any Texas code).

⁸³⁵ TEX. TAX CODE ANN. §§ 351.002(b), 156.051(b) (West 2008) (Note: The price of a room could also not include the cost of beverages. However, if the food and beverages prices are not separately stated from the room rental prices, those cost could be included in the price of the room. This is often demonstrated when a hotel has a single “package” price that includes room and food/services.).

⁸³⁶ *Id.* § 156.051(a).

⁸³⁷ *Id.* §§ 351.006(a), 352.007(a), 156.103(a). *See also* 34 TEX. ADMIN. CODE §3.161(3) (West 2012).

⁸³⁸ 34 TEX. ADMIN. CODE § 3.161(b)(4) (West 2012).

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- 3) a very limited number of state officials with a hotel tax exemption card (heads of state agencies, state legislators and legislative staff, members of state boards and commissions, and state judges)⁸³⁹; and
- 4) persons or businesses who have the right to use or possess a hotel room at least 30 consecutive days.⁸⁴⁰

Employees of Texas institutions of higher education (colleges) are exempt from the state hotel occupancy tax, but must pay local hotel occupancy tax.⁸⁴¹ Additionally, employees of secondary schools (grade schools and high schools) from Texas and outside of Texas are exempt from state hotel occupancy tax, but must pay local hotel tax.⁸⁴² All individuals claiming one of the above exemptions are required to show appropriate identification and to fill out a Hotel Occupancy Tax Exemption Certificate. A certificate form that can be used for this purpose is available on the comptroller's website at www.window.state.tx.us/taxinfo/taxforms/12-forms.html. Lodging operators and other interested parties can also access an internet searchable list of all of the entities that have been granted a letter of exemption from the state hotel occupancy tax. This site can be accessed at: www.window.state.tx.us/taxinfo/hotel/index.html.

Officers or employees of a state agency, institution, board or commission who are traveling on official business must pay the tax, but are entitled to a refund from the involved governmental taxing entities.⁸⁴³ The state and the local government refund the hotel occupancy tax to the exempt employee through a separate process. For information on how the state handles refunds of the state hotel occupancy tax, contact the comptroller's office at (800) 531-5441, extension 6-5913 or (512) 466-5913. A city or county may want to request a copy of the comptroller's refund application form for the state hotel occupancy tax and adapt that form for handling refunds of the municipal or county hotel occupancy tax.

City and county officers and employees are not exempt from the state or local hotel occupancy tax even if the officers or employees are traveling on official business. Further, cities may not authorize additional exemptions from the hotel occupancy tax. For example, the attorney general ruled in JM-865 (1988) that neither cities nor counties have the authority to grant an exception to the hotel occupancy tax for religious, charitable, or educational organizations without new constitutional or statutory authority to do so. It is important to reiterate that there are many entities, including educational, charitable, and religious entities, that are or may be exempt from the state hotel occupancy tax, but must pay the city and county hotel occupancy tax.

How the City or County Receive the Tax

The local hotel occupancy tax is paid by the hotel customer to the hotel. The tax is then remitted by the hotel to the city or county on a regular basis, to be established by the city or county. The comptroller's office is not involved in the collection of the local hotel occupancy tax. The state

⁸³⁹ *Id.* § 3.161(b)(2).

⁸⁴⁰ TEX. TAX CODE ANN. §§ 351.002(c), 156.101 (West 2008). *See also* 34 TEX. ADMIN. CODE § 3.161(b)(6) (West 2012).

⁸⁴¹ *Id.* §§ 156.102(b)(2), .103(b), 351.006(b), 352.007(b). *See also* 34 TEX. ADMIN. CODE §§ 3.161(a)(2), (b)(1) (West 2012).

⁸⁴² *See* 34 TEX. ADMIN. CODE §§ 3.161(a)(2), (b)(1) (West 2012).

⁸⁴³ TEX. TAX CODE ANN. § 351.006(b), 352.007(b), 156.103(b) (West 2008).

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requires hotels to turn over collected hotel occupancy taxes on a monthly basis. Some hotels in smaller communities, however, petition the comptroller for permission to turn over the tax proceeds on a quarterly basis. For the convenience of hotel operators, many cities and counties use the same reporting and collection schedule used by the state for collection of the state hotel occupancy tax.

Cities and counties that levy the hotel occupancy tax should send a tax return form to each hotel operator two to four weeks before the taxes are due. Regardless of the reporting period used, cities and counties should require hotels to include as part of their report a copy of the hotel's tax report done for the comptroller. The state report data can be used to check the completeness of the local report provided by the hotel to the city or county. Cities and counties should be aware that, in certain cases, the state and local tax are subject to different exemptions and, as a result, the revenues may not exactly coincide.

A city or county may request hotel occupancy tax audit information from the Comptroller.⁸⁴⁴ However, the city or county must keep such information confidential and use the information only for enforcement or administration of the city's or county's hotel tax. To obtain such information, a city or county must make a written request to:

Open Records Division
Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528.

The request must be on official letterhead and be signed by a high-level local official, preferably the mayor or county judge. A city or county may also fax a written request for this information to the Open Records Division of the comptroller's office at (512) 475-1610.

Cities and counties can also obtain from the comptroller's office a copy of the latest quarterly state report listing all of the hotels that currently remit state hotel occupancy taxes. The easiest and fastest way to get this report is to log onto the comptroller's website at www.window.state.tx.us and click on the topic, "Texas Taxes." Alternatively, a city or county may request a copy of the report by calling the comptroller's office at (800) 252-1385 or sending an e-mail to open.records@cpa.state.tx.us.

Reimbursement of Hotel Operator for Collection Expenses

Cities by ordinance or counties by order or resolution may allow hotel operators to retain up to one percent of the amount of hotel occupancy taxes collected as reimbursement for the costs of collecting the tax.⁸⁴⁵ Neither cities nor counties are permitted to retain any of the collected tax to cover the cost of imposing or collecting the tax. However, cities or counties that undertake responsibility for administering a facility or event funded by the local hotel occupancy tax may be reimbursed from the tax revenues for actual expenses incurred in operating the facility or event, if the expenditure directly promotes tourism and local convention and hotel activity.

⁸⁴⁴ *Id.* § 111.006(d) (West Supp. 2011).

⁸⁴⁵ *Id.* §§ 351.005(a), 352.005 (West 2008).

IV. Economic Development Through Tourism

Penalties and Enforcement for Failure to Report or Collect the Tax

The local hotel occupancy tax statutes provide for specific penalties that may be assessed against hotel operators who fail to file a tax report or pay the tax when due.⁸⁴⁶ A city may impose a 15% penalty if the tax has been delinquent for at least one complete city fiscal quarter and collect interest and reasonable attorney's fees against any hotel operator who does not file their report or pay the taxes due.⁸⁴⁷ The city can conduct an audit of each hotel for which a tax report was not filed to determine the amount of taxes that are due.⁸⁴⁸ The city shall provide at least 30 days' written notice to the person who is required to collect the tax with respect to a hotel before conducting an audit of the hotel.⁸⁴⁹ If, as a result of an audit, the city obtains documentation or other information showing a failure to collect or pay city and state hotel occupancy tax when due, the city shall notify and submit the relevant information to the comptroller.⁸⁵⁰ The comptroller shall review the information submitted by the city and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of delinquent state hotel occupancy tax and the assessment has become administratively final, the comptroller shall distribute a percentage of the amount collected to the city to defray the cost of the city audit. The city can charge for the cost of the audit but only if the tax has been delinquent for at least two complete municipal fiscal quarters at the time that the audit was conducted and the city has not received a disbursement from the comptroller in accordance with an audit of concurrent tax delinquency.⁸⁵¹ The city can adopt a hotel occupancy tax ordinance that includes a provision that makes it a misdemeanor offense if the hotel operator fails to file the tax report or remit the taxes.⁸⁵²

Additionally, cities are given the authority to take the following actions against a hotel operator who fails to report or collect the local hotel occupancy tax:

- require the forfeiture of any revenue the city allowed the hotel operator to retain for its cost of collecting the tax;⁸⁵³
- bring a civil suit against the hotel operator for noncompliance;⁸⁵⁴
- ask the district court to enjoin operation of the hotel until the report is filed and/or the tax is paid; and
- any other remedies provided under Texas law.⁸⁵⁵

The most noteworthy of these remedies is the ability of the city to request that the district court close down the hotel if the hotel occupancy taxes are not paid. Often, a city can gain compliance simply by informing the hotel operator of the possibility of such a closure. A city must typically bring a suit against a hotel under this authority no later than the fourth anniversary of the date the

⁸⁴⁶ *Id.* §§ 351.004(a) (West Supp. 2011), 352.004.

⁸⁴⁷ *Id.* § 351.004(a)(1), (3), and (4).

⁸⁴⁸ *Id.* § 351.004(a-1)(1), (a-3).

⁸⁴⁹ *Id.* § 351.004(a-3).

⁸⁵⁰ *Id.* § 351.008.

⁸⁵¹ *Id.* § 351.004(a)(2). *See id.* §§ 156.2513, 351.008.

⁸⁵² *Id.* § 351.004(c).

⁸⁵³ *Id.* § 351.005(b) (West 2008).

⁸⁵⁴ *Id.* § 351.004(a) (West Supp. 2011).

⁸⁵⁵ *Id.* § 351.004(d).

IV. Economic Development Through Tourism

tax becomes due.⁸⁵⁶ However, a city may bring a suit any time if a person files a false or fraudulent report with the city or does not file a report for the tax with the city.⁸⁵⁷

Also, counties can assess penalties against a hotel operator for failing to file the tax report or paying the taxes that are due.⁸⁵⁸ If the hotel operator fails to file the report or pay the taxes due, the county shall be paid a penalty of five percent of the amount of the taxes due. Thirty days after the date the report should have been filed or taxes should have been paid and the hotel operator still has failed to do either, the county can add another penalty of five percent of the amount of the taxes due. If the taxes are not paid within 60 days, delinquent taxes and accrued penalties draw interest at a rate of ten percent a year.⁸⁵⁹

Counties have the authority to take certain actions against a hotel operator who fails to report or collect the local hotel occupancy tax. These actions include:

- bring a civil suit against the hotel operator for noncompliance;
- ask the district court to enjoin operation of the hotel until the report is filed and/or the tax is paid; and
- any other remedies provided under Texas law.⁸⁶⁰

Just like a city, the county can request the district court to close down the hotel if the hotel occupancy taxes are not paid. A county must typically bring a suit against a hotel under this authority no later than the fourth anniversary of the date the tax becomes due.⁸⁶¹ However, a county may bring a suit any time if a person files a false or fraudulent report with the city or does not file a report for the tax with the county.⁸⁶²

Counties can perform an audit on each hotel in relation to the person who did not file their reports in order to determine the amount of tax due.⁸⁶³ The county shall provide 30 days' written notice to the person who was required to file the reports with the county.⁸⁶⁴ If as a result of the audit, the county obtains documentation or other information showing the failure to collect or pay county and state hotel occupancy tax when due, the county shall notify and submit the relevant information to the comptroller.⁸⁶⁵ The comptroller shall review the information submitted by a county and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of delinquent state hotel occupancy taxes and the assessment becomes administratively final, the comptroller shall distribute a percentage of the amount collected to the county to defray the cost of the county audit.

⁸⁵⁶ *Id.* § 351.004(b).

⁸⁵⁷ *Id.* § 351.004(b-1).

⁸⁵⁸ *Id.* § 352.004(b).

⁸⁵⁹ *Id.* § 352.004(c).

⁸⁶⁰ *Id.* § 352.004(d).

⁸⁶¹ *Id.* § 352.004(d-1).

⁸⁶² *Id.* § 352.004(d-2).

⁸⁶³ *Id.* §§ 352.004(e), .006(a).

⁸⁶⁴ *Id.* § 352.004(e).

⁸⁶⁵ *Id.* § 352.008.

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A city and county may also require that persons buying a hotel retain out of the purchase price an amount sufficient to cover any delinquent hotel occupancy taxes that are due to the city.⁸⁶⁶ If the buyer does not remit such amount to the city and county (where applicable) or show proof that the hotel is current in remitting its hotel occupancy taxes, the buyer becomes liable for any delinquent hotel occupancy taxes due on the purchased hotel.

The purchaser of a hotel may request that the city and county provide a receipt showing that no hotel occupancy tax is due (a “Letter of No Tax Due”) on the property to be purchased.⁸⁶⁷ The city and county are required to issue the statement not later than the 60th day after the request. If the city or county fails to issue the statement within the deadline, the purchaser is released from the obligation to withhold the amount due from the purchase price for that local governmental entity.⁸⁶⁸

Use of Local Hotel Occupancy Tax Revenues for Cities

There is a two-part test that every expenditure of local hotel occupancy tax revenue must pass to be valid. First, the expenditure must directly enhance and promote tourism and the convention and hotel industry.⁸⁶⁹ In other words, the expenditure must be likely to attract visitors from outside the city into the city or its vicinity and must have some impact on convention and hotel activity. If the expenditure is not reasonably likely to accomplish this result, it cannot be funded by hotel occupancy tax revenues. The hotel occupancy tax may not be used for general revenue purposes or to pay for governmental expenses not directly related to increasing tourism.⁸⁷⁰

Second, every expenditure must clearly fit into one of the statutory categories for the expenditure of local hotel occupancy tax revenues. These categories are as follows:⁸⁷¹

1. Funding the establishment, improvement or maintenance of a convention center or visitor information center.⁸⁷²

Simply naming a facility a convention center or visitor information center does not bring it under this section. State law specifies that the facility must be one that is primarily used to host conventions and meetings.⁸⁷³ The term “convention center” is defined to include civic centers, auditoriums, exhibition halls, and coliseums that are owned by the city or another governmental entity or that are managed in whole or in part by the city. It also includes parking areas in the immediate vicinity of other convention center facilities. It does not include facilities that are not of the same general characteristics as the structures listed above.

The attorney general has specifically ruled against the expenditure of local hotel occupancy taxes for a city recreational facility such as a golf course or a tennis court.⁸⁷⁴ However, the Legislature has provided additional statutory authority that allows the use of local hotel occupancy tax for

⁸⁶⁶ *Id.* §§ 351.0041 (West 2008), 352.0041.

⁸⁶⁷ *Id.* §§ 351.0041(c); 352.0041(c).

⁸⁶⁸ *Id.* §§ 351.0041(d); 352.0041(d).

⁸⁶⁹ *Id.* § 351.101(a) (West Supp 2011). *See* Op. Tex. Att’y Gen. No. GA-0124 (2003).

⁸⁷⁰ TEX. TAX CODE ANN. § 351.101(b) (West Supp. 2011).

⁸⁷¹ *Id.* §§ 351.101(a), .0035 .110 (West 2008).

⁸⁷² *Id.* § 351.101(a)(1) (West Supp. 2011).

⁸⁷³ *Id.* § 351.001(2) (West Supp. 2011).

⁸⁷⁴ *See* Op. Tex. Att’y Gen. Nos. JM-184 (1984), JM-965 (1988).

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certain sporting related expenses if they meet certain criteria discussed below. It is possible that facilities that are not considered convention centers may still be able to receive funding if the expenditure can be justified under the categories described below for promotion of the arts or for historical preservation or restoration projects. A city may pledge the hotel occupancy tax revenue for the payment of bonds that are issued under Chapter 1504 of the Government Code for convention center facilities, as authorized under the hotel occupancy tax law.⁸⁷⁵

2. Paying the administrative costs for facilitating convention registration.⁸⁷⁶

This provision applies only to administrative costs that are actually incurred for assisting in the registration of convention delegates or attendees. It may include covering the facility costs, personnel costs, and costs of materials for the registration of convention delegates or attendees.

3. Paying for tourism-related advertising and promotion of the city or its vicinity.⁸⁷⁷

This provision is strictly limited to expenditures for a solicitation or promotional program or advertising which is directly related to attracting conventions or tourism. The attorney general has ruled that this provision does not authorize advertising to attract new businesses or permanent residents to a city.⁸⁷⁸ Again, the purpose of the expenditure must be directly related to increasing tourism and the convention and hotel industry.

4. Funding programs that enhance the arts.⁸⁷⁹

This section authorizes the expenditure of hotel occupancy tax revenues for a variety of arts-related programs. It allows funding for the encouragement, promotion, improvement and application of the arts including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms. The fact that a program directly promotes the arts is not in itself sufficient to justify expenditure of the local hotel tax. The funded event/facility must also have the impact of directly promoting both tourism and the hotel and convention industry.

5. Funding historical restoration or preservation programs.⁸⁸⁰

This category allows a city to spend its hotel occupancy tax revenues to enhance historical restoration and preservation projects or activities that encourage tourists and convention delegates to visit the city's preserved historic sites or museums. This funding can include the costs for rehabilitation or preservation of existing historic structures. Also, the costs of advertising, conducting solicitations, and promotional programs to encourage tourists and convention delegates to visit such preserved historic structures or museums can be funded under this category. The tax can be used on historic sites or museums that are in the immediate vicinity of the convention center facilities or visitor information centers, or anywhere else in the city where tourist and convention delegates frequently visit. The fact that a program results in

⁸⁷⁵ TEX. TAX CODE ANN. § 351.102 (West Supp. 2011).

⁸⁷⁶ *Id.* § 351.101(a)(2).

⁸⁷⁷ *Id.* § 351.101(a)(3).

⁸⁷⁸ *See* Op. Tex. Att'y Gen. No. JM-690 (1987) ([Chapter 351 of the Tax Code] does not authorize the use of hotel/motel occupancy tax funds for advertising which is not related to attracting conventions, visitors or tourists).

⁸⁷⁹ TEX. TAX CODE ANN. § 351.101(a)(4) (West Supp. 2011).

⁸⁸⁰ *Id.* § 351.101(a)(5).

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historical restoration or preservation is not in itself sufficient to justify expenditure of the local hotel tax. The funded event/facility must also have the impact of directly promoting both tourism and the hotel and convention industry.

6. Funding costs to hold sporting events in certain municipalities.⁸⁸¹

Cities located in a county with a population of one million or less may use hotel occupancy tax proceeds for expenses, including promotional expenses, directly related to sporting events in which the majority of participants are tourists. Such funding is permissible provided the sporting event substantially increases economic activity at hotels and motels within the city or its vicinity. This provision is intended to allow communities to fund the event costs for sporting tournaments that result in substantial hotel activity. For example, if a city had to pay an application fee to seek a particular sporting event or tournament, it could use this authority if the event would substantially increase economic activity at hotels and the city was within a county of one million or less population. The requirement that a majority of the participants must be “tourists” is included to prohibit the use of local hotel tax for sporting related facilities or events that are purely local (e.g., local recreation centers, local little league and parks events, etc.).

7. Enhancing and upgrading existing sport facilities or fields for certain municipalities.⁸⁸²

This expenditure authorizes certain cities to use hotel occupancy tax revenue to upgrade certain existing sports facilities. Existing sports facilities or fields for baseball, softball, soccer, and flag football may be upgraded with hotel occupancy tax revenue if the facility is: 1) owned by the city,⁸⁸³ and 2) the sports facility or field has been used in preceding calendar year a combined total of more than 10 times for district, state, regional, or national sports tournaments.⁸⁸⁴ The cities that are authorized to use hotel occupancy tax revenue for this expenditure are:

- 1) those with a population of 80,000 or more that are located in a county with a population of 350,00 or less;
- 2) those with a population of between 75,000 and 95,000 that are located in a county with a population of less than 200,000 but not more than 160,000;
- 3) those with a population of between 36,000 and 39,000 that are located in a county with a population of 100,000 or less that is not adjacent to a county with a population of more than 2 million;
- 4) those with a population of at least 13,000 but less than 39,000 and is located in a county that has a population of at least 200,000;
- 5) those with a population of at least 70,000 but less than 90,000 and no part of the city is located in a county with a population greater than 150,000;
- 6) those located in a county that has a population of at least 500,000, adjacent to the Texas-Mexico border and the county does not have a city with a population greater than 500,000; or

⁸⁸¹ *Id.* § 351.101(a)(6).

⁸⁸² *Id.* § 351.101(a)(7).

⁸⁸³ *Id.* § 351.101(a)(7)(A).

⁸⁸⁴ *Id.* § 351.101(a)(7)(C).

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- 7) those with a population of at least 25,000 but not more than 26,000 and is located in a county that has population of 90,000 or less.
- 8) those with a population of at least 7,500 and is located in a county that borders the Pecos River and that has a population of not more than 15,000;
- 9) those located in a county that has a population of not more than 300,000 and in which a component university of the University of Houston System is located.⁸⁸⁵

If hotel tax revenues are spent on enhancing or upgrading a sports facility, the city must determine the amount of “area hotel revenue” that was generated by hotel activity from sports events that were held at the hotel tax funded facility for five years after the upgrades to the sport facility are complete.⁸⁸⁶ The area hotel revenues that were generated from sports events at the hotel tax-funded facility over that five year period must at least equal the amount of hotel tax that was spent to upgrade the sports facility.⁸⁸⁷ If the amount of hotel tax that was spent on the facility upgrades exceeds hotel revenue attributable to the enhancements over that five-year period, the city must reimburse the hotel occupancy tax revenue fund any such difference from the city’s general fund.⁸⁸⁸ For example, if a city spent \$400,000 on improvements to its soccer fields, it would have to show at least \$400,000 in hotel night revenue, including hotel banquet revenue, directly attributable to events held at that soccer field over the five year period after the soccer field improvements were completed. If the city could only show \$300,000 in hotel industry revenue due to events held at that soccer field, the city would have to reimburse the city hotel tax for the \$100,000 difference from the city’s general fund.

8. Signage to sights and attractions.⁸⁸⁹

Cities are allowed to use hotel occupancy tax to erect signage to direct the public to sights and attractions that are visited frequently by hotel guests in the city.

9. Funding transportation systems for tourists.⁸⁹⁰

With conventions and large meetings, there is often a need to transport the attendees to different tourism venues. Cities are allowed to use of hotel occupancy tax to cover the costs for transporting tourists from hotels in and near the city to any of the following destinations:

- the commercial center of the city;
- a convention center in the city;
- other hotels in or near the city; and
- tourist attractions in or near the city.

The reimbursed transportation system must be owned and operated by the city, or privately owned and operated and financed in part by the city. The law specifically prohibits the use of the local hotel occupancy tax to cover the costs for transporting the general public by any such system.

⁸⁸⁵ *Id.* § 351.101(a)(7)(B)(i)-(viii).

⁸⁸⁶ *Id.* § 351.1076(a) (West 2008).

⁸⁸⁷ *Id.*

⁸⁸⁸ *Id.* § 351.1076(b).

⁸⁸⁹ *Id.* § 351.101(a)(9) (West Supp. 2011).

⁸⁹⁰ *Id.* § 351.110 (West 2008).

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Use of Local Hotel Occupancy Tax Revenues for Counties

Just like cities, counties that are authorized to impose hotel occupancy tax have to follow a two-part test to determine that every expenditure of the tax is valid.⁸⁹¹ First, the expenditure must directly enhance and promote tourism and the convention and hotel industry. The expenditure must be likely to attract visitors from outside the county into the county or its vicinity and must have some impact on convention and hotel activity. If the expenditure is not reasonably likely to accomplish this result, it should not be funded by hotel occupancy tax revenues. The hotel occupancy tax may not be used for general revenue purposes or general governmental operations of a county.⁸⁹²

Second, a county can only spend hotel occupancy tax revenue on those categories of expenditures that the county has specifically been given permission by statute to do so.⁸⁹³ Usually, this depends on either the population of the county or where the county is geographically located or both.

Use of Tax Proceeds to Cover Administrative Expenses

The implementation of programs or improvements under the above categories may involve certain administrative costs. State law allows proceeds of the tax to be used to cover the portion of administrative costs that are directly attributable to work on facilities or events that may be funded by the tax.⁸⁹⁴ For example, efforts to promote the city or county as a tourist and convention locale often involve some travel expenses. There are two circumstances under which cities or counties may spend hotel occupancy tax revenues for travel-related expenditures.⁸⁹⁵

- First, tax revenues may be spent to pay for travel to attend an event or to conduct an activity that is directly related to the promotion of tourism and the convention and hotel industry. “Tourism” is defined in the Tax Code as guiding or managing the travel of individuals from their residence to a different city or county for pleasure, recreation, education, or culture.⁸⁹⁶
- Second, local hotel occupancy tax revenues may be spent on travel that is directly related to the performance of the person’s job in an efficient and professional manner. This travel should facilitate the acquisition of skills and knowledge which will promote tourism and the convention and hotel industry.

Entities that manage activities funded by the hotel occupancy tax may spend some of the tax for certain day-to-day operational expenses. These expenses may include supplies, salaries, office rental, travel expenses, and other administrative costs. These costs can be reimbursed if they are incurred directly in the promotion and servicing of expenditures authorized under the hotel occupancy tax laws. The portion of the administrative costs that are covered may not exceed the percentage of the cost that is attributable to the activity funded by the hotel occupancy tax. In other words, administrators who spend 33 percent of their time overseeing hotel occupancy tax

⁸⁹¹ *Id.* § 352.1031(a) (This statute refers to Tax Code § 351.101).

⁸⁹² *Id.* § 352.1031(b).

⁸⁹³ *Id.* §§ 352.101-.106; .108; .110 (West 2008 & West Supp. 2011).

⁸⁹⁴ *Id.* §§ 351.101(e)-(f) (West Supp. 2011), 352.1015(c)-(d) (West 2008).

⁸⁹⁵ *Id.*

⁸⁹⁶ *Id.* §§ 351.001(5), (6) (West Supp. 2011), 352.001(3), (4) (West 2008).

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funded programs could seek funding for no more than 33 percent of their salary or 33 percent of other related overhead costs.⁸⁹⁷

Additional Limits on Expenditures

Texas statutes provide certain additional rules regarding the percentage of hotel occupancy tax revenues that may be spent on each of the categories of expenditures discussed above. The rules differ according to the population of the city or the description of the county in the Tax Code.

General Rules of Allocation of Hotel Occupancy Tax Revenue

Minimum Expenditure That Must be Spent on Advertising and Promotion

A city with a population of 200,000 or greater is required to spend at least 50 percent of the hotel occupancy tax collected by the city on advertising and conducting solicitations and promotional programs to attract tourists to the city or its vicinity.⁸⁹⁸ However, it should be noted that if a city takes in over \$2 million annually in hotel taxes, it is not subject to this 50 percent requirement.⁸⁹⁹

If the city has a population of less than 200,000, the amount that the city can spend on advertising and conducting solicitations and promotional programs depends on the hotel occupancy tax rate adopted by the city. If the city adopted a hotel occupancy tax rate of not more than three percent, at least one-half of one percent of the rate must be spent on advertising and promotion of the city and its vicinity.⁹⁰⁰ If the city adopted a hotel occupancy tax rate that exceeds three percent, at least one percent of the rate must be spent on advertising and promotion of the city and its vicinity.⁹⁰¹ For example, if a city has a seven percent hotel occupancy tax rate, at least one-seventh of the hotel occupancy tax proceeds must be spent on advertising and promoting the city and its vicinity to attract tourists and hotel and convention activity.

Maximum Expenditure for the Arts

Generally, cities with populations of less than 1.6 million are limited to a set percentage with regard to art programs. Such cities may not spend on art programs more than 15 percent of their hotel occupancy tax revenues or no more than the amount of tax generated by the city at the tax rate of one percent of the cost of a room, whichever is greater.⁹⁰² If the city has a population of more than 1.6 million (Houston), then not more than 19.30 percent of hotel occupancy tax revenue or no more than the amount of tax generated by the city at the tax rate of one percent of the cost of a room, whichever is greater, can be spent on art programs.

⁸⁹⁷ *Id.* §§ 351.101(e)(West Supp. 2011), 352.1015(c)(West 2008).

⁸⁹⁸ *Id.* § 351.103(a).

⁸⁹⁹ *Id.* § 351.103(b). *See also* Op. Tex. Att’y Gen. No. JC-105 (1999) (Pursuant to section 351.103(b) of the Texas Tax Code, the allocation restriction of section 351.103(a) of the Tax Code does not apply to a municipality which has collected in excess of \$2 million in hotel occupancy tax revenue in the most recent calendar year).

⁹⁰⁰ TEX. TAX CODE ANN. § 351.103(a)(1) (West 2008).

⁹⁰¹ *Id.* § 351.103(a)(2).

⁹⁰² *Id.* § 351.103(c).

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Maximum Expenditure For Historical Restoration and Preservation

Cities with a population of more than 125,000 may not spend more than 15 percent of their tax revenue for historical restoration and preservation projects and activities.⁹⁰³ Additionally, a city, in certain cases, may allocate at least some of its hotel occupancy tax money for acquiring, constructing, improving, maintaining or operating a convention center or visitor information center. If a city fails to allocate money for a convention center purpose, the Tax Code prohibits that city from allocating more than 50 percent of its hotel occupancy tax for historical restoration or preservation projects.⁹⁰⁴ If a city under 125,000 population does spend some of its hotel occupancy tax on a convention center, there is no statutory limitation on expenditures for historic preservation and restoration.

Delegating the Management of Funded Activities

The governing body of a city and county may, by written contract, delegate the management or supervision of programs and activities funded with revenue from the hotel occupancy tax.⁹⁰⁵ This delegation may be made to a person, another governmental entity, or to a private organization.⁹⁰⁶ The delegation of this authority is often made to the local chamber of commerce or to the convention and visitor bureau.

There are a number of procedural requirements that the Legislature has imposed on entities that undertake management of these funds. For example, a city or county is required to approve in writing the portion of an entity's annual budget that involves expenditure of hotel occupancy tax funds. This approval must be sought in advance of the expenditures. Hotel tax funded entities also must submit at least quarterly reports to the city council or the commissioners court on their expenditures of the tax revenues. The reports must list all expenditures made by the entity from the hotel occupancy taxes provided by the city or county.⁹⁰⁷ The entity is required to keep complete and accurate financial records of each expenditure of hotel occupancy tax revenue.⁹⁰⁸ These records must be made available for inspection and review upon the request of the governing body or upon a request from any other person.

The entity delegated authority to manage these funded programs undertakes a fiduciary duty with respect to this revenue. Such entities are required to maintain the city hotel occupancy tax revenue in a separate bank account established for that purpose. This account may not be commingled with any other account.⁹⁰⁹

Documenting Activities Funded by the Hotel Occupancy Tax

Before making a hotel occupancy tax expenditure, a city, county, or other hotel occupancy tax funded entity must specify each scheduled activity, program, or event that is directly funded by

⁹⁰³

Id.

⁹⁰⁴

Id. § 351.103(d).

⁹⁰⁵

Id. §§ 351.101(c) (West Supp. 2011), 352.1015 (West 2008).

⁹⁰⁶

Id. (Please note that a legislative body such as a city council is limited in the degree to which it may delegate its authority to another entity. See, for example, *Texas Boll Weevil Eradication Foundation, Inc. v. Lewellen*, 952 S.W.2d 454 (Tex. 1997). See also *Andrews v. Wilson*, 959 S.W.2d 686 (Tex. App. -- Amarillo, 1998)).

⁹⁰⁷

Id. §§ 351.101(c) (West Supp. 2011), 352.1015(a) (West 2008).

⁹⁰⁸

Id. §§ 351.101(d) (West Supp. 2011), 352.1015(b) (West 2008).

⁹⁰⁹

Id. §§ 351.101(c) (West Supp. 2011), 352.1015(a) (West 2008).

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hotel occupancy tax proceeds or has its administrative costs funded in whole or in part by the tax. The activity or program must directly relate to enhancing and promoting tourism and the convention and hotel industry.⁹¹⁰

If the city or county delegates to another entity the management or supervision of an activity or event funded by the local hotel occupancy tax, each entity that is funded by the tax shall, before making an expenditure, specify each scheduled activity, program, or event that is directly funded by the tax or has its administrative costs funded in whole or in part by the tax. Further, the list must indicate the activities and programs that are directly enhancing and promoting tourism and the convention and hotel industry.⁹¹¹ For cities, this list of expenditures should be provided to the city secretary or the city secretary's designee.⁹¹²

County Development District

The Texas Legislature has recognized that it is sometimes advantageous to pursue economic development at the county level. The County Development District Act provides counties that have a population of 400,000 or less with a means to generate sales tax funds for local economic development and tourism-related projects. Such districts are initiated by a petition of landowners in the proposed district. Upon approval of the petition by the county, an election is called to gain the voters' consent to create the district and to levy a sales tax to fund district projects. A county development district may acquire or dispose of the same sorts of projects and pay the same sorts of costs as a Type B economic development corporation. However, a county development district project must promote and develop tourism within the county.⁹¹³

The statutes governing the creation and administration of county development districts are found in Chapter 383 of the Texas Local Government Code.⁹¹⁴

Powers and Duties of a County Development District

A county development district has broad authority to establish projects related to economic development and promotion of tourism in the district. Unlike economic development corporations, which are ultimately overseen by the city or county's governing body, Texas law

⁹¹⁰ *Id.* §§ 351.108(b) (West 2008), 352.109(b).

⁹¹¹ *Id.* §§ 351.108(c), 352.109(c).

⁹¹² *Id.* § 351.108(d).

⁹¹³ *See* TEX. LOC. GOV'T CODE ANN. §§ 383.002 (West 2005) ("This chapter furthers the public purpose of developing and diversifying the economy of this state by providing incentives for the location and development of projects in certain counties to **attract visitors and tourists.**"); 383.003(a) ("[s]mall and medium-sized counties in this state need incentives for the development of public improvements to **attract visitors and tourists** to those counties..."); 383.003(b) ("[t]he means and measures authorized by this chapter are in the public interest and serve a public purpose of this state ... by providing incentives for the location and development in certain counties of this state of projects that **attract visitors and tourists** ..."); 383.023(5) (a petition proposing a county development corporation must state that the district "will serve the public purpose of **attracting visitors and tourists** to the county.")(emphasis added). *See also*, Op. Tex. Att'y Gen. No. JC-291 (2000) at 7 - 10 (A county development district created under chapter 383 of the Local Government Code is not authorized to levy ad valorem taxes. A county development district may undertake a project only if it is consistent with the purpose of chapter 383 - "providing incentives for the location and development of projects in certain counties to attract visitors and tourists.").

⁹¹⁴ TEX. LOC. GOV'T CODE ANN. §§ 383.001 *et seq.* (West 2005 & West Supp. 2011).

What Cities Need to Know to Administer Municipal Hotel Occupancy Taxes

Texas Hotel & Lodging Association

REVISED 2016

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Introduction

Since the 1960s, hotel occupancy taxes have been an important tool for promoting growth in communities' tourism and hotel industries. Today, over 500 Texas cities levy a local hotel occupancy tax.¹ Hotel guests generate economic activity for local businesses and contribute over \$1 billion in revenues annually for local governments. If a hotel guest is motivated to come to an area or to extend his or her stay due to activities or facilities funded with hotel tax revenues, the local and state economies benefit. In turn, the hotel tax revenues generated from additional room night activity funds future programs and tourism-related facilities, providing an economic engine for prosperity for the area.

Unlike property tax and sales tax revenues, which cities can use for most public purposes, local hotel occupancy tax revenues fall under a more structured statutory mandate. Municipal hotel occupancy taxes are primarily governed by Chapter 351 of the Texas Tax Code. This guide assists local governments, hotel tax revenue grant applicants, and lodging operators in all aspects of the municipal hotel tax process, including the rules on allowable expenditures of these funds by cities that fall within certain population and geographic brackets.

Authorized Entities

All incorporated Texas municipalities, including general law and home rule cities, may enact a hotel occupancy tax within the city limits.² A city with a population of under 35,000 may also adopt the hotel occupancy tax within that city's extraterritorial jurisdiction (ETJ).³ Most cities are eligible to adopt a hotel occupancy tax at a rate of up to 7 percent of the price paid for the use of a hotel room.⁴ Additionally, a city or county may not propose a hotel occupancy tax rate that would result in a combined hotel occupancy tax rate imposed from all sources that would exceed 17 percent of the price paid for the room.⁵ If a city adopts the hotel occupancy tax within its ETJ, the combined state, county, and municipal hotel occupancy tax rate may not exceed 15 percent.⁶ Texas has among the highest combined hotel occupancy tax rates of any major metropolitan areas in the nation, with El Paso at 17 ½ percent, Houston at 17 percent, and San Antonio at 16 ¾ percent.⁷

In addition to local hotel occupancy taxes, all lodging properties operating in Texas are subject to a six percent state hotel occupancy tax.⁸ Governed under Chapter 156 of the Texas Tax Code, the state hotel occupancy tax is administered by the Texas Comptroller. Funds from the state six percent hotel occupancy tax flow directly to the Texas Comptroller's office and are largely used for the general governmental operations of the State. A portion of the state hotel occupancy tax revenue also goes toward funding tourism promotion through Texas's ad campaign. Most Texans know this successful ad campaign by its famous tagline, "Texas, it's like a whole other country."

¹ Texas Hotel & Lodging Association (THLA) maintains a listing of most city and county hotel tax rates, accessible upon request to THLA members.

² Tex. Tax Code Ann. § 351.002(a) (Vernon 2015).

³ § 351.0025(a).

⁴ § 351.003(a).

⁵ Tex. Loc. Gov't Code § 334.254(d). Note that the 17 percent cap does not apply to a city that approved a higher hotel tax through a venue ballot proposition prior to September 1, 2013, such as El Paso.

⁶ § 351.0025(b).

⁷ Source: National Business Travel Association 2009 Survey.

⁸ Tex. Tax Code § 156.051.

Collecting the Tax

Under the Texas Tax Code, the following businesses are considered “hotels” and are required to collect hotel occupancy taxes from their guests: “Any building or buildings in which members of the public obtain sleeping accommodations for consideration” for less than 30 days, including a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast facilities.⁹ Additionally, a “short-term rental,” defined as the rental of all or part of a residential property to a person who is not a permanent resident, is subject to hotel occupancy taxes.¹⁰ The Texas Administrative Code also includes “manufactured homes, skid mounted bunk houses, residency inns, condominiums, cabins, and cottages within the definition of a “hotel” if the facility is rented for periods of under 30 days.¹¹ Hospitals, sanitariums, nursing homes, dormitories or other non-hotel housing facilities owned by institutions of higher education, and oilfield portable units do not collect the tax.¹² Subject to various exemptions, the hotel tax is imposed on any “person” who pays for the use of a room in a hotel, including corporations, organizations, and other legal entities. The hotel room must cost \$2 or more per day for the local hotel tax to apply, and \$15 or more per day for the state hotel tax to apply.¹³

Meeting rooms versus sleeping rooms:

The rental of sleeping rooms in hotels is subject to both state and local hotel taxes. However, there is a difference in how state and local hotel taxes apply to the rental of hotel meeting rooms. While the rental of sleeping rooms in hotels are subject to both state and local hotel taxes, meeting room rentals are not subject to local hotel occupancy taxes.¹⁴ The rental of a meeting room or meeting space in a hotel is subject to the state 6 percent hotel occupancy tax, provided the room or space is physically located in a structure that also contains sleeping rooms.¹⁵ For meeting rooms and banquet halls located in a structure that is physically separated from a structure that contains sleeping rooms, neither state nor local hotel occupancy taxes apply to that rental of those meeting rooms or banquet halls, provided rental costs or charges are separately stated from any lodging costs or charges on the guest’s invoice or receipt.¹⁶

However, it must be noted that sales tax may apply to the costs associated with the rental of meeting rooms or banquet halls located in a structure that is physically separated from a structure that contains sleeping rooms, if the lodging facility provides food or beverage service that is subject to sales tax.¹⁷ Such sales tax would apply to the meeting room or banquet hall rental costs or charges regardless of whether the food or beverage charges are separately stated on the guest’s invoice or receipt.¹⁸

Food and beverage and other hotel charges:

Certain charges assessed by a hotel to a guest are subject to hotel occupancy taxes, while other added charges are subject to state and local sales tax. Common hotel charges usually subject to sales taxes (but generally not subject to hotel occupancy taxes) are banquet service fees, food and beverage fees,

⁹ Tex. Tax Code § 156.001(a); 34 Tex. Admin. Code Ann. § 3.161(a)(3) (Vernon 2015).

¹⁰ Tex. Tax Code § 156.001(c).

¹¹ Tex. Tax Code § 156.001(a); 34 Tex. Admin. Code Ann. § 3.161(a)(3) (Vernon 2015).

¹² Tex. Tax Code § 156.001.

¹³ Tex. Tax Code § 156.051(a); § 351.002(a).

¹⁴ *Id.*

¹⁵ Tex. Tax Code § 156.051(a); Tex. Comptroller Opinion Letter No. 200103106L, Mar. 9, 2001.

¹⁶ *Id.*

¹⁷ 34 Tex. Admin. Code Ann. § 3.161(a)(3) (Vernon 2015); Tex. Comptroller Opinion Letter No. 201010556L, Oct. 2010.

¹⁸ *Id.*

movie rentals, dry cleaning/laundry services, internet connection, parking, and portage or bellhop fees.

Hotel charges related to occupancy of a sleeping room or readying a sleeping room for occupancy are usually subject to hotel occupancy taxes only. Common hotel charges subject to hotel occupancy tax are rollaway bed charges, pet charges, smoking fees, room damage fees, room safe charges, and late or early checkout fees.¹⁹ It is important to note that if a hotel offers services as part of a package rate included with lodging, and the price of a specific good or service is not separately stated on a guest's invoice, bill, or folio, the entire package is subject to hotel occupancy taxes.²⁰

Additionally, a special rule applies to whether hotel occupancy taxes are imposed on a hotel room rental cancellation fee. A 1989 Texas Comptroller's hearing concluded that hotel taxes are not due on charges to guests who 1) cancel more than 30 days before the scheduled stay begins, or 2) when the charge to the guest is less than the reserved room rate.²¹ This rule applies both to individual reservations and also to group contracts.²²

Exemptions from the Local Tax

Texas law provides certain hotel tax exemptions based on the length of a guest's stay or the guest's affiliation with an exempt organization. Texas law is more permissive for exemptions from the state 6% hotel occupancy tax than it is for local hotel tax exemptions. The state hotel occupancy tax allows for an exemption for the following entities: educational, charitable, and religious entities are often exempt from the state hotel occupancy tax. These entities are *not exempt* from local hotel occupancy taxes.²³

Focusing specifically on the local hotel occupancy taxes, there are primarily four categories of exemptions permitted from municipal and county hotel occupancy taxes:

- 1) **Federal Employees:** Federal employees traveling on official business;
- 2) **Diplomats:** Foreign diplomats with a tax exempt card issued by the U.S. Department of State;
- 3) **High Ranking State Officials:** A very limited number of state officials with a hotel tax exemption card (e.g. heads of state agencies, state legislators and legislative staff, members of state boards and commissions, and state judges); and
- 4) **Permanent Resident/Over 30 Day Stay:** Persons or businesses who have agreed in advance to use a hotel room for more than 30 consecutive days (i.e. the "permanent resident" hotel tax exemption).²⁴

Hotel guests claiming items one through three of the above exemptions are required to show appropriate identification and to fill out a "Hotel Occupancy Tax Exemption Certificate" promulgated by the Texas Comptroller.²⁵ The tax exemption certificate form is available on the Texas Comptroller's website at <http://www.window.state.tx.us/taxinfo/taxforms/12-forms.html>.

¹⁹ THLA maintains a list of most hotel charges and which tax, if any is assessed on a particular charge. This list is available upon request to THLA members.

²⁰ Tex. Comptroller Opinion Letter No. 200102031L, Feb. 7, 2001.

²¹ Texas Comptroller's Hearing Decision No. 24,654 (1989).

²² *Id.*

²³ Tex. Tax Code § 156.102.

²⁴ § 156.104.

²⁵ *Id.*

Permanent residents (guests who stay for more than 30 days):

Special attention should be paid to the “permanent resident” hotel tax exemption. This permanent resident exemption applies to both state and local hotel taxes, and ensures that hotel guests staying over 30 days are taxed the same as residents staying at extended-stay properties, apartments, corporate rental facilities, rental houses, etc.²⁶ The Texas Tax Code states that any “person” who has the right to use or possess a lodging room for at least 30 consecutive days is exempt from state and local hotel occupancy taxes, provided there is no interruption in payment for the room during this period.²⁷ In Texas, a “person” also includes a corporation or business. Therefore, one should look to whether the same person, corporate entity, business, or other entity paid for the room for that entire period.

If, in advance or upon check-in, the guest provides notice to a hotel of intent to occupy a guest room for 30 days or longer, no tax is due for any part of a guest’s stay. A signed registration card or confirmed reservation indicating a guest’s intent to occupy a room for 30 days or longer is sufficient written evidence.²⁸ Furthermore, the guest is not actually required to physically occupy the room, but the guest must maintain the right to occupy the room for the length of the exemption period.²⁹

If no notice is provided upon check-in that can be documented by a written agreement (guest reservation, confirmation, registration, or folio or separate agreement), the first 30 days of the guest’s stay are not tax-exempt.³⁰ However, the guest’s stay becomes automatically tax exempt on the 31st day—regardless of whether there was prior notice of the guest’s intent to stay for 30 days or more, as long as there has been no interruption in payment for the room.³¹

THLA generally recommends hoteliers collect hotel occupancy taxes from the guest for the first 30 days of the guest’s stay. On the 31st day of the guest’s stay, provided there is no interruption of payment for the room and there was prior written notice or a reservation indicating the guest’s intent to stay 30 days or longer, the hotel should refund the collected hotel occupancy taxes for the first thirty days. This protects the hotel from incurring tax liability should the guest check out before staying at least 30 days. The hotel could choose to not collect the hotel tax during the stay if the guest paid in advance for the entire 30 days and there was no allowance for a refund if the guests checks out early.

State Employees:

Virtually all rank and file state employees do not have a special hotel occupancy tax exemption card that prevents them from having to pay the state and local hotel tax even when they are on official business. Such state employees must pay the state and local hotel occupancy tax when paying their bill and, their employing agency may later apply for a refund from the state and local government tax offices.³² The state agency the employee works for is responsible for requesting this refund from the state and local government.

City and County Employees/Officials:

City and county officers and employees are not exempt from the state or the local hotel occupancy tax,

²⁶ § 156.101.

²⁷ Tex. Tax Code § 156.101; 34 Tex. Admin. Code § 3.161(a)(4).

²⁸ Tex. Comptroller Opinion Letter No. 200601452L, Jan. 27, 2006.

²⁹ 34 Tex. Admin. Code § 3.161(b)(2)(C).

³⁰ § 3.161(b)(2)(A).

³¹ *Id.*

³² §3.163(b).

even if the officers or employees are traveling on official business.³³ Additionally, cities have no legal authority to authorize additional exemptions from the hotel occupancy tax not recognized in the Tax Code.³⁴ The Attorney General ruled in JM-865 (1988) that cities cannot grant an exception to the hotel occupancy tax for religious, charitable, or educational organizations without new constitutional or statutory authority to do so.

Letters of tax exemption:

The Texas Comptroller maintains an online database of entities that have been granted a “Letter of Tax Exemption” from the state hotel occupancy tax. Most commonly, these organizations fall into the religious or charitable categories of exemption from the state hotel occupancy tax, and the Comptroller generally requires a letter of tax exemption to accompany a completed exemption certificate before an exemption may be granted on this basis. This database is accessible online at <http://www.window.state.tx.us/taxinfo/hotel/index.html>. It is important to note that many entities are exempt from the state sales tax, but are not exempt from the state or local hotel occupancy tax.

For religious entities with a national affiliation, oftentimes the national organization’s letter of tax exemption will cover individual congregations.³⁵ For example, a search of “Baptist Convention” on the online database reveals that the “NATIONAL BAPTIST CONVENTION OF AMERICA INCORPORATED” holds a letter of tax exemption that will also be valid for subordinate entities. An individual Baptist congregation affiliated with the National Baptist Convention can use the national organization’s letter of tax exemption to accompany the signed exemption certificate.

Finally, the Comptroller’s staff has indicated they are willing to exercise some flexibility for lodging properties that accept a tax exemption certificate in good faith from a qualifying religious entity when the entity may not yet have formally filed for a letter of tax exemption. This, however, should only be relied upon as a last resort, as there is no official report of this position, and auditors are trained to look for definitive documentation. In such a case, check the identification papers (ID, business card, etc.) for the traveler. If the entity fits into one of the exempt categories under the THLA exemption chart, honor the exemption if that entity is paying for the room. Make a copy of the identification item you are relying on, and be sure that all such travelers fill out the exemption certificate.

To simplify the hotel tax exemption issue, THLA publishes a chart a hotel or city official can utilize to determine when an exemption is proper starting on the next page:

³³ See generally Tex. Tax Code § 351.005; Tex. Comptroller Opinion Letter No. 200202815L, Feb. 22, 2002.

³⁴ Tex. Att’y Gen. JM-865 (1988).

³⁵ Tex. Comptroller Opinion Letter No. 200109470L, Sep. 13, 2001.

THLA's Simplified Hotel Occupancy Tax Exemption Rules

TYPE OF BUSINESS REQUESTING EXEMPTION	EXEMPT FROM STATE H.O.T.	EXEMPT FROM LOCAL H.O.T.	COMMENTS
Agricultural Development Corporations	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
City & County Employees	Not exempt	Not exempt	Local government employees are not exempt from hotel taxes, even when traveling on official business.
Charitable Organizations	Depends (see comments to the right)	Not exempt	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate. Charitable entities must be able to show that they devote all or substantially all of their activities to the alleviation of poverty, disease, pain, and suffering by providing food, clothing, drugs, treatment shelter, or psychological counseling directly to indigent or similarly deserving members of society, with entity funds derived from sources other than fees or charges for its services. Other 501 (c) (3) and 501 (c) (6) entities are not exempt.
Texas Educational Organizations (see comments on the right regarding differences between Texas and out-of-state educational organizations)	Yes	Not exempt	Guest must fill out tax exemption certificate. State law limits the state hotel occupancy tax exemption for higher education entities to only Texas institutions of higher education. Out-of-state higher education entities are not exempt from the state or local hotel tax. However, out-of-state educational entities that are not institutions of higher education (high schools, middle schools, elementary schools, etc.) are exempt from state hotel taxes just like their Texas counterparts.
Electric & Telephone Cooperatives	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Federal Credit Unions	Yes	Yes	Guest must fill out tax exemption certificate, and Present a valid ID. Texas Comptroller opinion letters indicate that employees traveling on official business as employees of a federal credit union are treated as federal government employees.
Federal Employees (includes FEMA and Red Cross reimbursed rooms)	Yes	Yes	Guest must fill out tax exemption certificate, and Present a valid ID.
Foreign Diplomats	Yes	Yes	Guest must fill out tax exemption certificate, and Guest must present tax exempt card issued by U.S. Department of State.

TYPE OF BUSINESS REQUESTING EXEMPTION	EXEMPT FROM STATE H.O.T.	EXEMPT FROM LOCAL H.O.T.	COMMENTS
Health Facilities Development Corporations	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Housing Authorities & Finance Corporations	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Pan American Games Olympic Games Local Organizing Committees	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Permanent Residents (30 days or more)	Yes	Yes	Guest must notify of their intent to stay 30 or more days from the beginning. If stay is interrupted, hotel occupancy taxes must be paid. Guests who do not notify the hotel of the anticipated over 30 day duration of their stay are exempt for hotel occupancy taxes beginning on the 31 st consecutive day of their stay.
Public Facility Corporation	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Regional Education Service Centers	Yes	Not exempt	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Religious Organizations	Yes	Not exempt	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
High Ranking State Officials with Hotel Tax Exemption Photo ID Card	Yes	Yes	Guest must fill out tax exemption certificate, and Guest must present state photo ID card that specifically notes that employee is exempt from hotel occupancy tax. These are heads of state agencies; members of state boards and commissions; state legislators and their staff; and state judges.
General State Employees <u>without</u> Special Hotel Tax Exemption Photo ID Card	Not exempt	Not exempt	Guest must pay the state and local hotel tax, and then their state agency may apply for reimbursement from the local and state governments through a separate process.

How the City Receives the Tax

The hotel occupancy tax is collected from the hotel guest by the hotel when the guest makes payment to the hotel. The tax is then remitted by the hotel to the city on a regular basis, to be established by the city. Although the Texas Comptroller's Office is not directly involved in the collection of the local hotel occupancy tax, cities sometimes use the same reporting timeframes and forms used by the Texas Comptroller for collection of the local hotel occupancy tax. This allows hotels to follow a consistent payment pattern. The Texas Comptroller's timeframes are as follows: Hotels owing less than \$500 in state hotel tax for each calendar month, or \$1,500 for a calendar quarter, report and remit tax on the 20th day of the month following the end of the quarter. All other hotels file monthly state hotel tax returns by the 20th day of the following month. If the 20th day falls on a weekend or bank holiday, the return is due on the next business day.³⁶

Regardless of the reporting period used, cities often require hotels to include a copy of the hotel's state hotel tax report for the Texas Comptroller as part of their report. The state report data may be used to check the local report provided by the hotel to the city. It is important to remember, however, that the amount of taxable revenue will vary to a certain degree between the state and local hotel tax based on the amount of state hotel tax exempt business a property handles that is not exempt from the local hotel tax, and the amount of meeting room rentals subject solely to the state hotel tax.

Reimbursement to a Hotel for Collection Expenses, and Use of Revenues by a City for Tax Collection Costs

By ordinance, a municipality may allow hotel operators to retain up to 1 percent of the amount of hotel occupancy taxes collected as reimbursement for the costs of collecting the tax.³⁷ The municipality may require hotels to forfeit the reimbursement because of a failure to pay the tax or failure to file a report as required by the municipality.³⁸

Cities may also use up to one-percent of the city's hotel tax revenues for the actual costs for the creation, maintenance, and operation of an electronic tax administration system.³⁹ A city may contract with a third party for this electronic administration system.⁴⁰ The state statutes do not contain any other provisions allowing city governments to retain any of the collected tax to cover costs of imposing or collecting the tax.

However, cities that undertake responsibility for administering a facility or event funded by the local hotel occupancy tax may be reimbursed from the tax revenues for actual expenses incurred in operating the facility or event, if the expenditure directly promotes tourism and local hotel and convention activity.⁴¹

³⁶ Tex. Comptroller, <http://www.window.state.tx.us/taxinfo/hotel/faqhotel.html>.

³⁷ Tex. Tax Code § 351.005(a).

³⁸ § 351.005(b).

³⁹ § 351.1012.

⁴⁰ *Id.*

⁴¹ § 351.101(e).

Penalties for Failure to Report or Collect the Tax

The local hotel occupancy tax statutes provide for specific penalties a city may assess against hotel operators who fail to file the hotel tax collections report, file late or without full payment, or produce false tax returns.⁴²

Interest, delinquency penalties, and attorney's fees:

A city may include a provision in its hotel occupancy tax ordinance that imposes a 15 percent penalty of the total amount of the tax owed, but only if the tax has been delinquent for at least one complete municipal fiscal quarter.⁴³ Additionally, a delinquent hotel operator may be liable to the municipality for the municipality's reasonable attorney's fees.⁴⁴ The hotel occupancy tax ordinance may also include a provision that makes it a criminal misdemeanor offense for failure to collect the tax, failure to file a return, filing a false return, or failure to timely make the remittances.⁴⁵

A city may assess interest on unpaid hotel occupancy taxes, with interest accruing from the first day after the date the tax is due to the city.⁴⁶ The maximum interest rate a city may assess is the greater of either, 1) the prime rate published in the Wall Street Journal plus one percent, or 2) the rate the city imposed on January 1, 2013.⁴⁷

Audits, audit costs, and concurrent state tax delinquencies:

Generally, a city may not use hotel occupancy tax revenues to pay for audit costs associated with administering the collection of hotel occupancy taxes.⁴⁸ A city can require a hotel to pay the costs of a city audit of the hotel's revenues if the hotel did not file a tax report as required by the municipality, but only if 1) the hotel is delinquent for at least two complete municipal calendar quarters, and 2) the municipality has not received a disbursement from the Texas Comptroller for the hotel's concurrent state hotel tax delinquency.⁴⁹

The concurrent state hotel tax delinquency provision in the Tax Code allows cities to receive a commission from the Texas Comptroller if the Comptroller successfully utilizes city audit information to collect delinquent state hotel taxes from the hotel.⁵⁰ First, a city submits any documentation or other information to the Comptroller that shows a hotel's failure to collect or pay state hotel occupancy tax. The Comptroller then reviews the submitted information and determines whether to proceed with collection and enforcement.⁵¹ If the information submitted by the city results in the collection of delinquency state hotel occupancy taxes, the Comptroller will remit 20 percent of the revenues collected by the Comptroller to the city, to defray the city's audit costs.⁵²

Alternatively, a city may request hotel occupancy tax audit information from the Texas Comptroller.

⁴² § 351.004.

⁴³ *Id.*

⁴⁴ § 351.004.

⁴⁵ *Id.*

⁴⁶ § 351.0042.

⁴⁷ *Id.*

⁴⁸ See generally § 351.101(e). The Tax Code contains an exception to the prohibition on using hotel occupancy tax revenues to pay for audit costs specific to the City of Amarillo: Under Tex. Tax Code § 351.1067, the City of Amarillo may use hotel occupancy tax revenues to pay for the costs of auditing a hotel, provided the City audits no more than one-third of the total number of hotels in the city in any fiscal year.

⁴⁹ § 351.004.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

However, the city must keep such information confidential, and use the information only for enforcement or administration of the city's hotel tax. To obtain such information, a city must make a written request to the Comptroller's Office, Open Records Section, at P.O. Box 13528, Austin, Texas 78711. The request must be on city letterhead and signed by a high-level city official, preferably the mayor. A city may also fax such a written request to the Comptroller's Office, Open Records Section, at (512) 475-1610.

Enforcement Authority of a City

Cities are also given the authority to take the following actions against a hotel operator who fails to report or collect the local hotel occupancy tax:

- require the forfeiture of any revenue the city allowed the hotel operator to retain for its cost of collecting the tax;⁵³
- bring a civil suit against the hotel operator for noncompliance;⁵⁴
- ask the district court to enjoin operation of the hotel until the report is filed and/or the tax is paid;⁵⁵ and
- any other remedies provided under Texas law.

The most noteworthy of these remedies is the ability of the city to request that the district court close down the hotel if the hotel occupancy taxes are not turned over. Informing the hotel operator of the possibility of such a closure generally results in compliance by the hotel.

A city may also require in its hotel occupancy tax ordinance that persons buying a hotel retain out of the purchase price an amount sufficient to cover any delinquent hotel occupancy taxes that are due to the city.⁵⁶ If the buyer does not remit this amount or show proof that the hotel is current in remitting its hotel occupancy taxes, the buyer becomes liable for any past delinquent hotel occupancy taxes due on the purchased hotel.⁵⁷

The purchaser of a hotel may request that the city provide a receipt showing that no hotel occupancy tax is due ("Letter of No Tax Due") on the property to be purchased.⁵⁸ The city is required to issue the statement not later than the 60th day after the request.⁵⁹ If the city fails to issue the statement by the deadline, the purchaser is released from the obligation to withhold the amount due from the purchase price.⁶⁰

The general statute of limitations for a lawsuit related to the collection and delinquency of hotel occupancy taxes is four years from the date the tax is due.⁶¹ This statute of limitations period does not apply if a hotel fails to file a report for the tax, or if the hotel files a false or fraudulent report.⁶²

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ § 351.0041.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

Use of Local Hotel Occupancy Tax Revenues

There is a two-part test for every expenditure of local hotel occupancy tax.⁶³

Criteria #1: First, every expenditure must DIRECTLY enhance and promote tourism AND the convention and hotel industry.⁶⁴

Under the Tax Code, every event, program, or facility funded with hotel occupancy tax revenues must be likely to do two things: 1) directly promote tourism; and 2) directly promote the convention and hotel industry.⁶⁵ “Tourism” is defined under Texas law as guiding or managing individuals who are traveling to a different, city, county, state, or country.⁶⁶ A “direct” promotion of the convention and hotel industry has been consistently interpreted by the Texas Attorney General as a program, event, or facility likely to cause increased hotel or convention activity.⁶⁷ This activity may result from hotel or convention guests that are already in town and choose to attend the hotel tax funded facility or arts or historical event, or it may result from individuals who come from another city or county to stay in an area lodging property at least in part to attend the hotel tax funded event or facility.

If the funded event or facility is not reasonably likely to directly enhance tourism and the hotel and convention industry, local hotel occupancy tax revenues cannot legally fund it.⁶⁸ However, it is important to note that events and facilities that do not qualify for hotel occupancy tax funding are often still legally eligible for city funding from most of the other funding sources available to the city (general property tax revenues, general sales tax revenues, franchise fee revenues, etc.). State law is stricter in terms of how the local hotel occupancy tax revenues can be spent.

There is no statutory formula for determining the level of impact an event must have to satisfy the requirement to directly promote tourism and hotel and convention activity.⁶⁹ However, communities with successful tourism promotion programs generally award the amount of the hotel occupancy tax by the proportionate impact on tourism and hotel activity incident to the funding request. Entities applying for hotel occupancy tax revenue funding should indicate how they will market the event to attract tourists and hotel guests. If an entity does not adequately market its events to tourists and hotel guests, it is difficult to produce an event or facility that will effectively promote tourism and hotel activity.

A city or delegated entity should also consider whether a funded event will be held in a venue that will likely attract tourists and hotel guests. For example, if an event is held in a local school or community center, it may be less likely to attract tourists than if it is held at a local performing arts venue, museum or civic center. Each community will need to assess whether the facility hosting the function is likely to attract tourists and hotel guests. Similarly, if an event is a community picnic, local parade, educational class, or other similar type of event, it is often not likely to attract tourists and hotel guests, and would likely not be eligible for hotel occupancy tax funding.

⁶³ §§ 351.101(a), (b).

⁶⁴ §§ 351.101(b).

⁶⁵ *Id.*

⁶⁶ § 351.001(6).

⁶⁷ See Op. Tex. Att’y Gen. Nos. GA-0124 (2003), JM-690 (1987).

⁶⁸ *Id.*

⁶⁹ See generally Tex. Tax Code §§ 351.101(a), (b).

Finally, it is a good practice to utilize a hotel tax application form. THLA has a sample hotel occupancy tax application form and a “post event” form that are already in use by many city governments throughout Texas. For a copy of these two forms, simply call THLA at (512) 474-2996, or email THLA at news@texaslodging.com. These forms pose questions of funding applicants such as “Do you have a hotel room block for your events?” and “What do you expect to be the number of room nights sold for this event?” Additionally, the application asks if the entity has negotiated a special hotel price for attendees of their funded event. If the entity does not find the need to reserve a hotel block or negotiate a special hotel rate, it is not likely that they anticipate their event/s will have a meaningful impact on hotel activity.

Funded entities can also visit with area hoteliers who, in many cases, can provide feedback on whether any of their hotel guests expressed an interest in attending such events or facilities in the past. Hotel front desk and management staff usually know what local events and facilities were of interest to their guests by notes in their reservation systems, requests for directions, information and transportation to such venues by hotel patrons.

After an applicant’s event or program is offered for several years, the applicant should have a reasonable idea as to whether their event or program’s attendance includes a number of tourists and hotel guests. For example, some entities track whether guests are staying at local hotels via their guest registry. Other entities measure potential out-of-town attendance from their ticket sales records or other survey information.

It is important to note that Texas law also provides that the hotel occupancy tax may not be used for general revenue purposes or general governmental operations of a municipality.⁷⁰ It also may not be used to pay for governmental expenses that are not directly related to increasing tourism and hotel and convention activity.⁷¹ For example, consider a request to use the hotel occupancy tax to pay for construction of additional lighting, restrooms, roads, sidewalks, or landscaping in a downtown area. These are expenditures for which the city would traditionally use its general revenues. Therefore, such an expenditure would violate the prohibition against using the hotel tax for “general governmental operations of a municipality.”⁷² It is difficult to argue that such improvements to a non-tourism facility would “directly” promote tourism and hotel activity. At best, one could argue the improvements would “indirectly” enhance tourism and hotel activity—which is not sufficient under the clear language of the Tax Code to qualify for funding from the hotel occupancy tax.

⁷⁰ Tex. Tax Code § 351.101(b); *see also* Op. Tex. Att’y Gen. Nos. JM-184 (1984), JM-965(1988).

⁷¹ *Id.*

⁷² *Id.*

Criteria #2: Every expenditure of the hotel occupancy tax must clearly fit into one of nine statutorily provided categories for expenditure of local hotel occupancy tax revenues.⁷³

The nine categories for expenditure of the hotel occupancy tax are as follows:

1) Funding the establishment, improvement, or maintenance of a convention center or visitor information center.

This category allows expenditures of the hotel tax for the creation, improvement, or upkeep of a convention center or a visitor information center.⁷⁴ The term “convention center” is defined to include civic centers, auditoriums, exhibition halls, and coliseums that are owned by the city or another governmental entity or that are managed in whole or in part by the city.⁷⁵ It also includes parking areas in the immediate vicinity of a convention center facility, and certain hotels that are owned by the city or another governmental entity, or that are managed in whole or in part by the city.⁷⁶ It does not include facilities that are not of the same general characteristics as the structures listed above.

Texas law specifies that for a facility to be funded as a convention center, it must be a facility primarily used to host conventions and meetings.⁷⁷ “Primarily used” in this context would arguably mean that more than 50 percent of the bookings for the facility are to host conventions or meetings that directly promote tourism and the hotel and convention industry.⁷⁸ In other words, holding local resident meetings in a facility would not count toward qualifying the facility as a convention center, but meetings of individuals from out-of-town who in part stay at hotels would qualify.

Simply naming a facility a convention center or visitor information center does not automatically qualify the facility as a “convention center.” The authority to use the hotel occupancy tax for facilities is limited and any such facility must meet the above noted “primary usage” test. For example, general civic buildings such as the city hall, local senior citizen centers or activity centers would not qualify as convention centers that could be funded by hotel tax.

2) Paying the administrative costs for facilitating convention registration.

This provision allows expenditures for administrative costs that are actually incurred for assisting in the registration of convention delegates or attendees.⁷⁹ This is generally an expenditure for larger cities that hold large conventions, and includes covering the personnel costs and costs of materials for the registration of convention delegates or attendees.

⁷³ Tex. Tax Code § 351.101(a).

⁷⁴ § 351.101(a)(1).

⁷⁵ § 351.001(2).

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*; see generally Tex. Tax Code §§ 351.101(a), (b).

⁷⁹ Tex. Tax Code § 351.101(a)(2).

3) Paying for advertising, solicitations, and promotions that attract tourists and convention delegates to the city or its vicinity.

This provision allows expenditures for solicitations or promotional programs/advertising directly related to attracting tourists and convention delegates to the city or its vicinity.⁸⁰ Such expenditures are traditionally in the form of internet, newspaper, mail, television, or radio ads; or solicitations to promote an event or facility. The advertising or promotion must directly promote the hotel and convention industry.⁸¹ For example, the Texas Attorney General ruled that the local hotel occupancy tax may not be used for advertising or other economic development initiatives or improvements to attract new businesses or permanent residents to a city.⁸²

In certain cases, a city may be able to use the advertising and promotion category to justify covering the costs of advertising an event that will attract tourists and hotel guests, even though the administrative or facility costs for the underlying event would not qualify for hotel tax funding.⁸³

4) Expenditures that promote the arts.

This section authorizes the expenditure of local hotel occupancy tax for a variety of art-related programs that also promote tourism and local hotel and convention activity.⁸⁴ Specifically, it allows funding the encouragement, promotion, improvement, and application of the arts including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution and exhibition of these major art forms.⁸⁵ However, it is not enough that a facility or event promotes the arts; Texas law requires that the arts related expenditure also directly promote tourism and the hotel and convention industry.⁸⁶

Section 351.101(a) of the Tax Code specifically states that “the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry.” The Texas Attorney General reaffirmed this standard when it held in Opinion GA-0124: “Under section 351.101 of the Tax Code, a municipality may expend its municipal hotel occupancy tax revenue only to promote tourism and the convention and hotel industry, and only for the specific uses listed in the statute.”

Additionally, THLA and Texans for the Arts (TFA) have formed a partnership to assist local governments in implementing hotel tax laws. In order to comply with the hotel occupancy tax statute, THLA and TFA agree that to be eligible for municipal arts funding with HOT revenues, recipients must satisfy the following requirements:

1. The recipient presents, performs, promotes, encourages or otherwise makes possible, artistic events, cultural performances, programs, exhibitions or lectures involving the major art forms listed in the statute, or “other arts related to the presentation, performance, execution and

⁸⁰ § 351.101(a)(3).

⁸¹ § 351.101(b).

⁸² Op. Tex. Att’y Gen. No. JM-690 (1987).

⁸³ See generally Tex. Tax Code § 351.101(a)(3).

⁸⁴ Tex. Tax Code § 351.101(a)(4).

⁸⁵ *Id.*

⁸⁶ § 351.101(b).

- exhibition of these major art forms.”
2. The hotel occupancy tax funded programs and events are advertised and open to the general public.
 3. The recipient directly enhances and promotes tourism and the convention and hotel industry.

With regard to requirement No. 3 above, THLA and TFA agree that the statute does not require a recipient to demonstrate a set level of direct impact on tourism and the convention and hotel industry to be eligible for hotel occupancy tax revenue funding. **However, the demonstration of some level of direct impact on tourism and the convention and hotel industry should be required.** Because the statute provides no specific methodology for determining a recipient’s impact on tourism or the convention/hotel industry, each funding entity has the flexibility to consider a number of factors.

The following factors may be beneficial to consider, but this list is neither exhaustive nor mandatory. Cities and counties using hotel occupancy tax may consider any or all the below listed factors or other factors that are appropriate for determining a recipient’s impact on tourism and the convention and/or hotel industry in a particular community:

- a. The recipient works with its area lodging operators and/or the convention and visitor’s bureau (CVB), either independently or in conjunction with other local arts organizations, to promote local arts events through hotel concierge services, training of hotel staff, hotel or CVB lobby area exhibitions, flyers or similar measures to better serve visitors to the area and encourage their extended stay in area hotels or a return to stay in area lodging facilities.
- b. The recipient provides entertainment to conventions, conferences and meetings offered in their cities and towns at which attendees are drawn from both in and out of the region.
- c. The recipient uses local hotel and lodging facilities for galas, meetings or other events sponsored by the recipient, including the use of hotel dining facilities by their patrons both pre and post events.
- d. The recipient books hotel rooms for visiting artists and offers hotel related information to attendees of the organization’s hotel occupancy tax funded events.
- e. The recipient promotes or markets its events outside of the local area through standard media promotion or advertising, websites, mailing lists, local, regional and national listings in publications and calendars and use of social media and where appropriate includes a link to information about area hotels.
- f. The recipient produces its events in conjunction with or within the boundaries of a Cultural and Fine Arts District established pursuant to Texas Government Code § 444.031.
- g. The recipient, either through audience or attendee questionnaires, polling, or hotel block booking codes, demonstrates that hotel guests, tourists, convention attendees or other out-of-town visitors have attended its hotel tax funded events.
- h. A performance, exhibition or other event sponsored by the hotel occupancy tax recipient has been reviewed or otherwise noted in a publication that circulates outside of the recipient’s local community, which helps promote tourism and hotel activity in the area.

There are many success stories of cities that have partnered with the arts entities to turn one day arts events into multi-day events that can substantially increase tourism and hotel activity. Such partnerships and long term planning can help both foster the arts and grow hotel tax proceeds that can be made available to the arts.

Additionally, the amount of funding a city allocates to the arts category may be limited by statute. See the “Special Rules” section of this guide, starting on page 24.

5) Funding historical restoration or preservation programs.

A city may spend a portion of its hotel occupancy tax revenues to enhance historical restoration and preservation projects or activities, or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums that are likely to attract tourists and hotel guests.⁸⁷ Texas law does not limit such funding to structures that are owned by a public or nonprofit entity, or to whether the project is listed on a historic registry, but the city may choose to impose such limitations.

It is not enough that a project or activity event merely be historical in nature; Texas law requires that the historical related expenditure also directly promote tourism and the hotel and convention industry.⁸⁸ Section 351.101(a) of the Tax Code specifically states that “the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry.” The Attorney General in Opinion GA-0124 (2003) reaffirmed this standard when it held: “Under section 351.101 of the Tax Code, a municipality may expend its municipal hotel occupancy tax revenue “only to promote tourism and the convention and hotel industry” and only for the specific uses listed in the statute.”

Additionally, the amount of funding a city allocates to the historical programs category may be limited by statute. See the “Special Rules” section of this guide, starting on page 24.

6) Funding certain expenses, including promotional expenses, directly related to a sporting event within counties with a population of under 1 million.

This section authorizes a municipality located in a county with a population of under 1 million to use local hotel occupancy tax revenue to fund certain expenses, including promotional expenses, directly related to a sporting event.⁸⁹ To qualify under this authorization, the sporting event must be one that would “substantially increase economic activity at hotels and motels within the city or its vicinity.”⁹⁰ The statutory authorization also requires that a majority of the participants in the sporting event also be tourists to the area.⁹¹

This category is intended to allow communities to fund the event costs for sporting tournaments that result in substantial hotel activity. For example, if a city had to pay an application fee to seek a particular sporting event or tournament, it could use hotel tax for such an expenditure if the sporting event would substantially increase economic activity at hotels and the city was within a county of under one million population. The requirement that a majority of the participants must be “tourists” is included in the statutory authority to prohibit the use of local hotel tax for sporting related facilities or events that are purely local (e.g.; local recreation centers, local little league and parks events, intramural sports, etc.).

⁸⁷ § 351.101(a)(5).

⁸⁸ § 351.101(b).

⁸⁹ § 351.101(a)(6).

⁹⁰ *Id.*

⁹¹ *Id.*

7) Funding the enhancement or upgrading of existing sports facilities or sports fields for certain municipalities.

Certain statutorily bracketed cities may use local hotel occupancy tax to enhance and upgrade existing sports facilities owned by the municipality.⁹² Acceptable sports facilities include those for baseball, softball, soccer, rodeos, and flag football.⁹³ The municipality must own the sporting facility, and the municipality must meet one of the following population requirements:

- i. The municipality has a population of 80,000 or more, and is located in a county that has a population of 350,000 or less: **Abilene, Amarillo, Beaumont, College Station, Corpus Christi, Killeen, Laredo, League City, Longview, Lubbock, Midland, Odessa, Pearland, San Angelo, Tyler, Waco, and Wichita Falls.**⁹⁴
- ii. The municipality has a population of at least 75,000, but not more than 95,000, and is located in a county that has a population of less than 200,000 but more than 160,000: **Bryan and College Station.**⁹⁵
- iii. The municipality has population of at least 36,000, but not more than 39,000, and is located in a county that has a population of 100,000 or less that is not adjacent to a county with a population of more than two million: **Huntsville and Texarkana.**⁹⁶
- iv. The municipality has a population of at least 13,000 but not more than 39,000, and is located in a county that has a population of at least 200,000: **Addison, Alamo, Alvin, Angleton, Balch Springs, Bellaire, Benbrook, Burleson, Colleyville, Converse, Coppell, Copperas Cove, Corinth, Deer Park, Dickinson, Donna, Duncanville, Farmers Branch, Friendswood, Groves, Hewitt, Highland Village, Horizon City, Harker Heights, Humble, Hurst, Hutto, Katy, La Marque, La Porte, Lake Jackson, Lancaster, Leander, Little Elm, Live Oak, Mercedes, Murphy, Nederland, Port Neches, Portland, Rio Grande City, Rosenberg, Sachse, Saginaw, San Benito, San Juan, Schertz, Seagoville, Socorro, South Houston, Southlake, Stafford, Taylor, The Colony, Universal City, University Park, Watauga, Weslaco, West University Place, and White Settlement.**⁹⁷
- v. The municipality has a population of at least 70,000, but not more than 90,000, and no part of the city is located in a county with a population greater than 150,000: **Longview.**⁹⁸
- vi. The municipality is located in a county that is adjacent to the Texas-Mexico border, the county has a population of at least 500,000, and the county does not have a municipality with a population greater than 500,000: Cities in Hidalgo County including, but not limited to **McAllen, Edinburg, Mission, and Pharr.**⁹⁹
- vii. The municipality has a population of at least 25,000 but not more than 26,000, and is located in a county that has a population of 90,000 or less: **Greenville and Paris.**¹⁰⁰
- viii. The municipality is located in a county that has a population of not more than 300,000 and in which a component university of the University of Houston System is located: **Victoria.**¹⁰¹

⁹² § 351.101(a)(7).

⁹³ *Id.*

⁹⁴ § 351.101(a)(7)(B)(i).

⁹⁵ § 351.101(a)(7)(B)(ii).

⁹⁶ § 351.101(a)(7)(B)(iii).

⁹⁷ § 351.101(a)(7)(B)(iv).

⁹⁸ § 351.101(a)(7)(B)(v).

⁹⁹ § 351.101(a)(7)(B)(vi).

¹⁰⁰ § 351.101(a)(7)(B)(vii).

¹⁰¹ § 351.101(a)(7)(B)(viii).

- ix. The municipality has a population of at least 40,000 and the San Marcos River flows through the municipality: **San Marcos**.¹⁰²
- x. The municipality is intersected by both State Highways 71 and 95: **Bastrop**.¹⁰³

[Note that statutory population brackets are based on the decennial U.S. Census, most recently conducted in 2010.¹⁰⁴]

Texas law further requires that before local hotel tax to be used for this purpose, the sports facilities and fields must have been used a combined total of more than 10 times for district, state, regional, or national sports tournaments in the preceding calendar year.¹⁰⁵

If hotel tax revenues are spent on enhancing or upgrading a sports facility, the municipality must also determine the amount of “area hotel revenue” generated by hotel activity from sports events held at the hotel tax funded facility for five years after the upgrades to the sport facility are completed.¹⁰⁶ The area hotel revenues that were generated from sports events at the hotel tax funded facility over that five year period must at least equal the amount of hotel tax that was spent to upgrade the sports facility.¹⁰⁷ If the amount of hotel tax that was spent on the facility upgrades exceeds hotel revenue attributable to events held at that facility over that five year period, the municipality must reimburse the hotel occupancy tax revenue fund any such difference from the municipality’s general fund.¹⁰⁸

For example, if a city spent \$400,000 on improvements to its soccer fields, it would have to show at least \$400,000 in area hotel revenue directly attributable to events held at that soccer field over the five year period after the soccer field improvements were completed. If the city could only show \$300,000 in hotel industry revenue due to events held at that soccer field, the city would have to reimburse the city hotel tax with the \$100,000 difference from the city’s general fund.

8) Funding transportation systems for tourists

Often with conventions and large meetings, there is a need to transport the attendees to different tourism venues. In 2007, the Texas Legislature authorized the use of city hotel tax for any sized city to cover the costs for transporting tourists from hotels to and near the city to any of the following destinations:

- the commercial center of the city;
- a convention center in the city;
- other hotels in or near the city; and
- tourist attractions in or near the city.¹⁰⁹

The reimbursed transportation system must be owned and operated by the city, or privately owned and operated but financed in part by the city.¹¹⁰ For example, this authority could be used to cover the costs of a city to finance certain private shuttles to operate between the convention center and area hotels

¹⁰² § 351.101(a)(7)(B)(x).

¹⁰³ § 351.101(k).

¹⁰⁴ Tex. Gov’t Code Ann. § 311.005(3) (Vernon 2015).

¹⁰⁵ Tex. Tax Code §§ 351.101(a)(7), 351.1076.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ § 351.110(a).

¹¹⁰ § 351.110(b).

and attractions for a large city-wide convention. The law specifically prohibits the use of the local hotel tax to cover the costs for a transportation system that serves the general public.¹¹¹

9) Signage directing tourists to sights and attractions that are visited frequently by hotel guests in the municipality.

In 2009, the Texas Legislature added a statutory category that allows cities to use municipal hotel occupancy tax revenue to pay for signage directing tourists to sights and attractions frequently visited by hotel guests in the municipality.¹¹² Arguably, this type of expenditure was permissible as “advertising and promotion” prior to this 2009 legislation. However, the Legislature codified this understanding to officially include signage directing tourists to sights and attractions that are frequently visited by hotel guests.¹¹³

Summary of the Nine Uses for the Local Hotel Occupancy Tax

In summary, local hotel occupancy tax revenues only may be spent to establish or enhance a convention center or visitor information center, cover the administrative expenses for registering convention delegates, pay for tourism-related advertising and promotions, fund arts programs or facilities that will directly promote tourism and hotel and convention activity, fund historic restoration or preservation projects that will enhance tourism and hotel and convention activity, in certain counties and cities noted above fund certain costs for holding sporting events and making upgrades to sporting facilities that substantially increase local hotel activity, certain transportation costs for taking tourists from hotels to various locations, and pay for signage directing tourists to sights and attractions frequently visited by hotel guests. If the city cannot fit an expenditure within one of these nine categories, hotel occupancy tax revenues cannot be used for that purpose, unless a special state statute was passed to allow such additional uses. This article includes a summary of special provisions and limitations placed on cities that fall into certain population brackets or special geographic areas of the state.

With regard to the use of local hotel occupancy taxes, there is no time limit for a city to expend all of its hotel occupancy tax funds. At a minimum, however, state law does require that for cities with a seven percent local hotel tax rate, at least one-seventh of the hotel tax proceeds must be spent advertising and promoting the city to directly impact tourism and the hotel and convention industry.¹¹⁴ It should also be noted that state law requires that interest earned on hotel tax must be spent in the same way as other hotel tax revenues.¹¹⁵ State law does not address revenues that are earned from events funded by the local hotel occupancy tax.

¹¹¹ § 351.110(c).

¹¹² § 351.101(a)(9).

¹¹³ *Id.*

¹¹⁴ §§ 351.103, 351.1035, 351.104(d), 351.105(b), and 351.106(a).

¹¹⁵ §§ 351.001(9), (10).

Administering Hotel Occupancy Tax Revenue Expenditures

Duty of funded entities to provide a list of activities.

All entities (including the city itself) that are directly or indirectly funded by the local hotel occupancy tax are annually required to provide a list of the scheduled activities, programs, or events that will directly enhance and promote tourism and the convention and hotel industry.¹¹⁶ This list is to be provided annually to the city secretary or his/her designee prior to the expenditure of the hotel occupancy tax funding by the funded entity.¹¹⁷ An entity may add items to this list at any time, and each city decides the format for providing this information. This documentation requirement does not apply if the entity already provides written information to the city indicating which scheduled activities or events that it offers that directly enhance and promote tourism and the convention and hotel industry. For example, cities that require quarterly or annual reports on the use of hotel tax by hotel tax funded entities would satisfy this requirement if their report addresses the extent to which their events directly promote tourism and hotel activity.¹¹⁸

It is important to remember that if an entity does not have any such events or programs reasonably expected to directly promote tourism and the hotel and convention industry, it is not eligible for local hotel occupancy tax funding.¹¹⁹ If only a portion of an entity's programs fit these criteria, then only a proportionate amount of that entity's costs should be covered by the local hotel occupancy tax.¹²⁰

Delegating management of funded activities.

The governing body of a city may delegate the management or supervision of programs funded by the hotel occupancy tax by written contract.¹²¹ This delegation may be made to a person, another governmental entity, or to a private organization.¹²² This delegation is often made to a local arts council, a chamber of commerce, or to the convention and visitors bureau. The municipality shall approve the entity's annual budget prior to delegating the management or supervision of hotel tax funded programs.¹²³ Furthermore, the municipality shall require the delegated entity to make periodic reports, at least quarterly, listing the hotel occupancy tax expenditures made by the delegated entity.¹²⁴ Additionally, the Code requires that the contracted entity maintain complete and accurate financial records for every expenditure of hotel occupancy tax revenue, and upon the request of the municipality or another person, make the records available for inspection and review.¹²⁵

An entity with delegated authority to manage hotel tax funded programs undertakes a fiduciary duty with respect to the use of the tax revenue.¹²⁶ Such entities are also required to maintain the city hotel occupancy tax revenue in a separate bank account that may not be commingled with any other account or funds.¹²⁷ The Tax Code does not contain similar prohibitions against commingling the funds for

¹¹⁶ § 351.108(b).

¹¹⁷ *Id.*; § 351.108(d).

¹¹⁸ § 351.108(g).

¹¹⁹ § 351.101(b).

¹²⁰ § 351.101(e).

¹²¹ § 351.101(c).

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ § 351.101(d).

¹²⁶ § 351.101(c).

¹²⁷ *Id.*

individual organizations, such as an arts or historical group that receives hotel tax funding for their individual program, but do not themselves oversee hotel tax funding to other entities.

Use of hotel occupancy tax revenues to cover administrative expenses.

Texas law allows proceeds of the municipal hotel occupancy tax to be used to cover the portion of administrative costs that are directly attributable to work on activities that may be funded by the tax.¹²⁸ For example, entities that manage activities funded by the hotel occupancy tax may spend some of the tax for certain day-to-day operational expenses.¹²⁹ These expenses may include supplies, salaries, office rental, travel expenses, and other administrative costs.¹³⁰ However, these costs may be reimbursed only if the expenses are incurred in the promotion and servicing of expenditures authorized under the hotel occupancy tax laws.¹³¹ The portion of the administrative costs that are covered should not exceed the percentage of the cost that is attributable to the activity funded by the hotel occupancy tax.¹³² For example, administrators who spend 33 percent of their time overseeing hotel occupancy tax funded programs should seek funding for no more than 33 percent of their salary or 33 percent of other related overhead costs. Additionally, hotel occupancy tax revenues may be spent on travel that is directly related to the performance of the person's job in an efficient and professional manner.¹³³ This travel should facilitate the acquisition of skills and knowledge that will promote tourism and the convention and hotel industry.¹³⁴

¹²⁸ § 351.101(e).

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ § 351.101(f).

¹³⁴ *Id.*

Special Rules for Selected Municipalities

The Texas Tax Code provides additional rules for certain Texas cities based on the city's population bracket. Where noted, these special rules supplement or further restrict the general two-part test for hotel occupancy tax revenue expenditures, discussed earlier in this guide. For statutory construction purposes, population brackets are based on the decennial federal census, most recently conducted in 2010.¹³⁵

Cities with a population of 200,000 or greater (except Houston): Arlington, Austin, Corpus Christi, Dallas, El Paso, Fort Worth, Garland, Irving, Laredo, Lubbock, Plano, and San Antonio.

In addition to the general two part test for all expenditures of the hotel occupancy tax revenue, the above cities have certain specific expenditure limitations that apply to their handling of the local hotel occupancy tax.

Minimum expenditure that must be spent on advertising and promotion:

A city with a population of 200,000 or greater is required to spend at least 50 percent of the hotel occupancy tax collected by the city on advertising and conducting solicitations and promotional programs to attract tourists to the city or its vicinity.¹³⁶ However, if the city collects more than \$2 million in hotel tax revenues annually, this 50 percent minimum expenditure requirement does not apply.¹³⁷

15 Percent maximum expenditure for the arts and 15 percent maximum expenditure for historical restoration and preservation:

Under § 351.103(c), a city with a population of at least 200,000 may not expend more than the greater of either 15 percent of the hotel occupancy tax revenue collected or the amount of tax received by the city at the rate of 1 percent of the cost of a room on promotion of the arts.¹³⁸ Also, a city with a population of more than 125,000 may not spend more than 15 percent of its hotel occupancy tax revenue on historical restoration and preservation programs.¹³⁹

Special rules for the City of Houston.

Maximum hotel occupancy tax rate for Houston:

Houston is capped by statute at a total combined hotel occupancy tax rate of 17 percent.¹⁴⁰ This includes the state, city, county, and sports authority hotel occupancy taxes.¹⁴¹

Minimum 23 percent expenditure for advertising and promotion:

The City of Houston must spend at least 23 percent of the tax revenue it collects on advertising and

¹³⁵ Tex. Gov't Code § 311.005(3).

¹³⁶ Tex. Tax Code § 351.103(a).

¹³⁷ § 351.103(b).

¹³⁸ § 351.103(c).

¹³⁹ § 351.103(c).

¹⁴⁰ Tex. Tax Code §§ 352.003, 351.003(a); Tex. Local Gov't Code Ann. § 382.155 (Vernon 2015).

¹⁴¹ *Id.*

promotion, unless the allocation impairs the City's ability to operate and maintain its convention center facilities or to pledge revenue for the payment of convention center bonds.¹⁴²

Maximum 19.3 percent expenditure for arts:

The City of Houston may not expend more than the greater of 19.3 percent of the hotel occupancy tax revenue collected or the amount of tax received by the city at the rate of 1 percent of the cost of a room on promotion of the arts.¹⁴³

Additional rules for “eligible central municipalities” and certain other cities: Amarillo, Austin, Arlington, Corpus Christi, Dallas, El Paso, Fort Worth, Frisco, Garland, Grand Prairie, Irving, Midland, Nacogdoches, Odessa, Plano, Round Rock, San Antonio, and Tyler.

Austin, Arlington, Corpus Christi, Dallas, El Paso, Fort Worth, Frisco, Garland, Grand Prairie, Irving, Nacogdoches, and San Antonio fall under the statutory definition of an “eligible central municipality.”¹⁴⁴ An “eligible central municipality” is defined as a municipality with a population of more than 140,000 but less than 1.5 million that is located in a county with a population of one million or more, and that has adopted a capital improvement plan for the expansion of an existing convention center facility; a municipality with a population of 250,000 or more that is located wholly or partly on a barrier island in the Gulf of Mexico, is located in a county with a population of 300,000 or more; a municipality with a population of 116,000 or more that is located in two counties both of which have a population of 660,000 or more; a municipality with a population of less than 50,000 that contains a general academic teaching institution that is not a component of a university system; or a municipality with a population of 640,000 this is located on an international border; and has adopted a capital improvement plan to expand an existing convention center facility.”¹⁴⁵

Amarillo and Plano are both cities with a population of 173,000 or more, and are located within two counties, and also have similar authority as eligible central municipalities.¹⁴⁶ However, Amarillo and Plano may not pledge tax revenue to the hotel project any earlier than either, the 20th anniversary of the date the city first pledged revenue to the project, or the date the revenue project equals 40 percent of the hotel project's total construction cost.¹⁴⁷

Additionally, for the Cities of Tyler, Round Rock, Midland, and Odessa, state law provides the same eligibility for incentives for a convention center hotel that have traditionally been available to “Eligible Central Municipalities.”¹⁴⁸

State Tax Rebates:

Eligible central municipalities are entitled to receive a rebate of state hotel occupancy taxes, state sales taxes, and state alcoholic beverage taxes from the eligible project for the first 10 years after the project

¹⁴² Tex. Tax Code § 351.103(b).

¹⁴³ § 351.103(c).

¹⁴⁴ § 351.001(7).

¹⁴⁵ *Id.*

¹⁴⁶ § 351.102(b).

¹⁴⁷ § 351.102(b-1).

¹⁴⁸ § 351.102(b).

opens for occupancy.¹⁴⁹

Ability to pledge hotel tax revenue and other tax revenue for a convention center hotel or a historic hotel:

Eligible central municipalities, the county, or other political subdivision may agree to pledge state and local hotel occupancy tax revenue for the construction or expansion of a convention center hotel, a historic hotel, convention center entertainment related facilities, restaurants, or certain civic projects.¹⁵⁰ However, only the revenue collected from that particular project for a period of up to ten years may be pledged.¹⁵¹ Additionally, for up to 10 years, an eligible central municipality, a county, or other political subdivision may agree to rebate, refund, or pay eligible tax proceeds to the owner of the hotel project. Eligible tax proceeds include hotel occupancy taxes, ad valorem taxes, sales and use taxes, and mixed beverage taxes.¹⁵²

Minimum threshold for advertising and promotion funding: Amarillo, Austin, Arlington, Corpus Christi, Dallas, El Paso, Fort Worth, Frisco, Garland, Grand Prairie, Irving, Midland, Odessa, Plano, Round Rock, San Antonio, and Tyler:

Except for Nacogdoches, cities that undertake funding a convention center hotel with hotel occupancy tax revenues must allocate a minimum threshold of funding for advertising and promotion of tourism and hotel activity under § 351.101(a)(3).¹⁵³ Specifically, these cities may not allocate hotel tax funding under § 351.101(a)(3) to a percentage that is less than the average percentage of that revenue allocated by the municipality for that purpose during the 36-month period preceding the date the municipality begins using hotel tax revenues for the hotel project.¹⁵⁴

Dallas only: 55% maximum on convention center and 45% minimum on advertising.

Dallas falls into an additional category, “Populous Municipalities with Council-Manager Government,” which requires it to use the revenue derived from the portion of the municipal hotel occupancy tax rate that exceeds 4 percent for the following purposes: 1) no more than 55 percent for the municipality’s convention center complex; and 2) at least 45 percent for advertising and promotion.¹⁵⁵

Additional 2 percent rate for a convention center facility (Austin, Fort Worth, and San Antonio):

Austin, Fort Worth, and San Antonio are authorized to implement up to a 9 percent maximum municipal hotel occupancy tax rate.¹⁵⁶ The revenue derived from application of the tax at a rate more than 7 percent, and its interest income, may only be used for the construction in an expansion of an existing convention center facility.¹⁵⁷ This nine percent maximum rate does not apply to Dallas, or to eligible central municipalities with a population of less than 440,000: Arlington, Corpus Christi, Garland, Grand Prairie, and Irving.¹⁵⁸

Project financing zones (Dallas and Fort Worth):

Additionally, the City of Fort Worth and the City of Dallas have recent statutory authority to receive new

¹⁴⁹ §§ 351.102(c), 151.429(h); Gov’t Code § 2303.5055.

¹⁵⁰ §§ 351.102, 151.429(h).

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ § 351.102(d).

¹⁵⁴ *Id.*

¹⁵⁵ § 351.106.

¹⁵⁶ § 351.003(b).

¹⁵⁷ §§ 351.1065, 351.003(b).

¹⁵⁸ § 351.003(b).

“incremental” state hotel occupancy tax revenues, state sales tax revenues, and mixed beverage tax revenues from hotels within a three mile radius of their convention center and/or other statutory designated city facilities.¹⁵⁹ This incremental tax revenue is the additional state hotel occupancy tax revenues, state sales tax revenues, and mixed beverage tax revenues at certain hotels that exceed a base amount collected from hotels within a three-mile radius of the project. The state funding can be used to enhance and upgrade the convention center in either city, as well as the Will Rogers Memorial Center complex in Fort Worth. The process is performed as follows:

1. The city designates the project financing zone (i.e. the convention center and/or the Will Rogers Memorial complex), with a project expiration date of less than 30 years. Within 30 days of the designation of the project financing zone, the city notifies the Comptroller about the designation.
2. Base year amounts are determined for state hotel occupancy tax revenues, state sales tax revenues, and mixed beverage tax revenues collected from hotels located within the three mile zone in the year in which financing zone is designated.
3. Then the “incremental hotel-associated revenue” is calculated by determining the amount of annual state hotel occupancy tax revenues, state sales tax revenues, and mixed beverage tax revenues collected from hotels within the three mile zone that are in excess of the “base year amount.” The city is entitled to receive this incremental revenue from the Texas Comptroller, beginning on January 1st after the project’s designation, and ending when the project financing zone expires.

Cities with populations between 125,000 and 200,000: Amarillo, Brownsville, Grand Prairie, Killeen, McAllen, McKinney, Mesquite, and Pasadena.

Minimum expenditure on advertising and promotion:

Cities with populations between 125,000 and 200,000 must spend a minimum amount of hotel occupancy tax revenue on advertising and promotion, and that minimum depends on the hotel occupancy tax rate adopted by the city.¹⁶⁰ If the city adopts a tax rate of not more than 3 percent, at least one-half of 1 percent of the rate must be spent on advertising and promotion of the city and its vicinity.¹⁶¹ If the city adopted a rate that exceeds 3 percent, at least 1 percent of the rate must be spent on advertising and promotion of the city and its vicinity.¹⁶² For example, if a city has a 7 percent hotel occupancy tax rate, at least 1/7 of the hotel occupancy tax proceeds must be spent on advertising and promoting the city and its vicinity to attract tourists and hotel and convention activity. An exception to the minimum threshold for advertising and promotion expenditures is provided if the city receives in excess of \$2 million in hotel tax revenues annually, in which case, the city should allocate its revenue by ordinance.¹⁶³

15 Percent maximum expenditure for the arts and 15 percent maximum expenditure for historical restoration and preservation:

Under § 351.103(c), a city with a population between 125,000 and 200,000 may not expend more than the greater of either 15 percent of the hotel occupancy tax revenue collected, or the amount of tax

¹⁵⁹ Tax Code § 351.1015.

¹⁶⁰ § 351.103.

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

received by the city at the rate of 1 percent of the cost of a room, on promotion of the arts.¹⁶⁴ Additionally, a city with a population of more than 125,000 may not spend more than 15 percent of its hotel occupancy tax revenue on historical restoration and preservation programs.¹⁶⁵

Cities with populations of less than 125,000.

Minimum expenditure on advertising and promotion:

Cities with populations of less than 125,000 must spend a minimum amount of hotel occupancy tax revenue on advertising and promotion, and that minimum depends on the hotel occupancy tax rate adopted by the city.¹⁶⁶ If the city adopts a tax rate of not more than 3 percent, at least one-half of 1 percent of the rate must be spent on advertising and promotion of the city and its vicinity.¹⁶⁷ If the city adopted a rate that exceeds 3 percent, at least 1 percent of the rate must be spent on advertising and promotion of the city and its vicinity.¹⁶⁸ For example, if a city has a 7 percent hotel occupancy tax rate, at least 1/7 of the hotel occupancy tax proceeds must be spent on advertising and promoting the city and its vicinity to attract tourists and hotel and convention activity. An exception to the minimum threshold for advertising and promotion expenditures is provided if the city receives in excess of \$2 million in hotel tax revenues annually, in which case, the city should allocate its revenue by ordinance.¹⁶⁹

15 percent maximum expenditure for the arts and 50 percent maximum expenditure for historical restoration and preservation:

Under § 351.103(c), a city with a population of under 125,000 may not expend more than the greater of either 15 percent of the hotel occupancy tax revenue collected or the amount of tax received by the city at the rate of 1 percent of the cost of a room on promotion of the arts.¹⁷⁰ Additionally if a city with a population of under 125,000 does not allocate any hotel tax money for a convention center, the Tax Code prohibits the city from allocating more than 50 percent of its hotel occupancy tax for historical restoration or preservation projects.¹⁷¹

Additional rules for certain large coastal municipalities: Corpus Christi.

Public beach expenditures:

The City of Corpus Christi is authorized to use all or any portion of the city hotel occupancy tax collected from hotels that are within areas that were annexed by the City of Corpus Christi and were previously subject to the county hotel occupancy tax toward cleaning and maintaining public beaches.¹⁷²

Expenditures from the portion of municipal hotel tax rate exceeding 7 percent:

The City of Corpus Christi must separately account for all hotel occupancy tax revenue it derives from a city hotel occupancy tax rate that exceeds 7 percent (up to a maximum of 9 percent).¹⁷³ The city may

¹⁶⁴ § 351.103(c).

¹⁶⁵ *Id.*

¹⁶⁶ § 351.103.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² § 351.1055.

¹⁷³ §§ 351.1055, 351.003(c), 351.107(e).

use revenue from the portion of the city hotel occupancy tax rate that exceeds 7 percent for acquiring land for a municipally owned convention center; constructing, improving, operating and maintaining the convention center; and paying bonds to finance these activities.¹⁷⁴

Special rules for medium sized “eligible coastal municipalities:” Galveston.

A different set of revenue expenditure rules apply for eligible coastal municipalities, defined as a “home-rule municipality that borders the Gulf of Mexico and has a population of less than 80,000.”¹⁷⁵ The City of Galveston fits this bracket’s description. The Tax Code limits the allocation of local hotel occupancy tax revenue for eligible coastal municipalities in the following ways:

- **Minimum expenditure for improvements to civic centers, hotels, marinas, golf courses, trolleys, and other improvements that attract tourists:**
If the city levies a rate of 7 percent, at least 1 percent of the cost of a room shall be used for the payment of bonds issued to establish, acquire, purchase, construct, or improve public improvements that serve the purpose of attracting visitors and tourists, such as parks, civic centers, auditoriums, coliseums, marinas, cruise ship terminals, hotels, motels, parking facilities, golf courses, trolleys or trolley transportation systems.¹⁷⁶ This 1 percent may also be used for maintenance, improvement, or operation of any of the above facilities.¹⁷⁷ For eligible coastal cities with a 7 percent rate, this requirement mandates dedicating 1/7 of the hotel occupancy tax revenue for items within the above noted purposes.¹⁷⁸
- **Minimum expenditure for matching funds for beach clean-up:**
If the city levies a rate of 6 percent or more, at least 1 percent of the cost of a room shall be used as matching funds for state funds and other funds available to clean and maintain public beaches.¹⁷⁹ For example, if the city levied a 7 percent local hotel occupancy tax, at least 1/7 of the hotel occupancy tax must be spent on beach clean-up. However, a city may credit any funds it receives from the state hotel occupancy tax for beach clean-up toward meeting this obligation.
- **Minimum 1 percent expenditure for other beach related expenditures:**
If the city levies a rate of 5 percent or more, at least 1 percent of the cost of a room shall be used for beach patrol, lifeguard services, marine water safety, and park law enforcement.¹⁸⁰ For example, if the city levied a 7 percent local hotel occupancy tax, at least 1/7 of the hotel occupancy tax must be spent on the above noted beach related expenditures. However, a city may credit any funds it receives from the state hotel occupancy tax for beach related expenditures toward meeting this obligation.¹⁸¹
- **Minimum 3 percent expenditure for advertising and promotion:**

¹⁷⁴ *Id.*

¹⁷⁵ § 351.001(3).

¹⁷⁶ § 351.105.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

If the city levies a rate of 4 percent or more, at least 3 percent of the cost of a room shall be used for advertising and promotion.¹⁸² For example, if the city levied a 7 percent local hotel occupancy tax, at least 3/7 of the hotel occupancy tax must be spent on advertising and promotion.

Special state funding for beach clean-up: Galveston.

In 1995, the Texas Legislature passed a special statute that dedicates the revenue generated from the state hotel tax at a rate of two percent (one third of the state hotel occupancy tax) from Galveston lodging operators to beach clean-up.¹⁸³ For example, if the 6 percent state hotel tax generates \$300 in state hotel tax proceeds, \$100 is given back to the City of Galveston to use for clean-up of beaches within the City of Galveston.

The implementing legislation that authorizes this funding only applies to an “eligible coastal municipality” that has created a park board of trustees to clean and maintain public beaches.¹⁸⁴ An eligible coastal municipality is defined under state law to be a city that,

1. Borders on the Gulf of Mexico; and
2. Has a population of less than 80,000.¹⁸⁵

A city is eligible to adopt a park board of trustees for beach clean-up only if it,

1. Is a home rule city;
2. Has over 40,000 in population;
3. Is under 80,000 in population; and
4. Borders the Gulf of Mexico.¹⁸⁶

According to the Texas Comptroller's Office, the only Texas city that fits both the definition of an "eligible coastal municipality" and the definition of a city that may adopt a park board of trustees for beach clean-up is Galveston.¹⁸⁷ Accordingly, Galveston receives one-third of the state hotel occupancy taxes collected from Galveston area hoteliers for beach clean-up purposes through a rebate from the Texas Comptroller.

Special state funding for beach clean-up: Corpus Christi, Port Aransas, Quintana, South Padre Island, and Surfside Beach.

Originally enacted in 1999, and amended in 2009, 2013, and 2015, the Texas Legislature passed a special statute, similar to the authority relating to Galveston, dedicating a portion of the state hotel occupancy tax generated from certain eligible barrier island coastal municipalities to beach clean-up.¹⁸⁸

The implementing legislation for this funding applies only to certain eligible “barrier island coastal municipalities:” Corpus Christi, Port Aransas, Quintana, South Padre Island, and Surfside Beach.¹⁸⁹ The

¹⁸² *Id.*

¹⁸³ § 156.2511.

¹⁸⁴ *Id.*

¹⁸⁵ § 351.001(3).

¹⁸⁶ Tex. Loc. Gov't Code Ch. 306.

¹⁸⁷ Tex. Comptroller Opinion Letter No. 200007471L, July 6, 2000.

¹⁸⁸ Tax Code § 156.2512.

¹⁸⁹ *Id.*

State of Texas provides a rebate to the city of 2/6 of the state hotel occupancy collected by the State from lodging operators in the municipality.¹⁹⁰ This rebated amount can be used by each city only to clean and maintain public beaches in that municipality, for an erosion response project in that municipality, and to clean and maintain bay shores owned by the municipality or leased by the municipality from the State.¹⁹¹

Municipal hotel occupancy tax funding for coastal erosion: South Padre Island.

In 2009, the Texas Legislature amended Chapter 351 of the Tax Code to allow the City of South Padre Island to increase its hotel occupancy tax rate to 8 ½ percent.¹⁹² The law dedicates 7 percent of the 8 ½ percent rate to advertising and promotion or convention center related purposes.¹⁹³ One percent can be used for any purpose authorized under Tax Code § 351.101. This legislation dedicates the remaining ½ percent of municipal hotel occupancy tax to coastal erosion projects.¹⁹⁴

Special rules for medium sized home rule coastal cities with a population of less than 80,000 and that border bays: Ingleside, Portland, Aransas Pass, La Porte, Seabrook, Port Aransas, Port Lavaca, Rockport, Baytown, Texas City, and Palacios.

Home-rule cities that have a population of less than 80,000 and border bays may use up to 10 percent of the revenue derived from the local hotel occupancy tax for certain special beach related purposes and for tourism related public improvements.¹⁹⁵ Specifically, such cities can use up to 10 percent of the local hotel occupancy tax to clean and maintain publicly owned land that is adjacent to a bay, to mitigate coastal erosion, or to pay for the operation or debt for certain tourism related public improvements, as defined under Tax Code §§ 351.105(a)(1) or 351.105(a)(2). This authority does not apply to eligible coastal municipalities such as Galveston.¹⁹⁶

If the city uses any of the local hotel occupancy tax for beach maintenance under this authority, it may not reduce the amount of revenue that the city uses for tourism advertising and promotion.¹⁹⁷ In particular, the city's advertising and promotion budget may not be set at an amount that is less than the average amount of revenue used by the city for advertising and promoting during the 36-month period that preceded the city's use of city hotel tax for beach maintenance or tourism related public improvements.¹⁹⁸

Additionally, the amount that is spent from the hotel occupancy tax for beach maintenance or tourism related public improvements (e.g.; a convention center facility) must be matched by the city with the same amount of revenue from a non-hotel occupancy tax source (e.g.; property tax or sales tax or other general fund dollars).¹⁹⁹

¹⁹⁰ Tax Code § 156.2512

¹⁹¹ *Id.*

¹⁹² Tax Code §§ 351.001(11), 351.003(d).

¹⁹³ § 351.1055(d).

¹⁹⁴ § 351.1055(e).

¹⁹⁵ § 351.104.

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

Special rules for small coastal municipalities with a population of less than 5,000, adjacent to a home-rule city with a population of less than 80,000: Jamaica Beach.

Coastal cities with a population of less than 5,000 adjacent to a home-rule city with a population of less than 80,000 may use all or any portion of the municipal hotel tax revenue it collects to clean or maintain beaches within the city, to provide beach security (defined as beach patrol, lifeguard services, marine water safety and park law enforcement) within the municipality, and to pay for any purpose allowed by Tex. Tax Code § 351.105 or Tex. Gov't Code § 1504.001.²⁰⁰ The maximum municipal hotel occupancy rate for cities in this bracket is 9 percent.²⁰¹

Special rules for the City of Alpine.

Minimum expenditure on advertising and promotion:

The City of Alpine must spend at least 50 percent of its hotel occupancy tax revenue on advertising and promotion to attract tourists and convention delegates or registrants to the city or its vicinity.²⁰²

Maximum expenditure for arts:

Alpine's maximum percentage for the promotion of the arts is 15 percent of its hotel occupancy tax revenues.²⁰³

Maximum expenditure for historical restoration and promotion projects:

Alpine's maximum percentage for historical restoration and promotion of historical projects is 15 percent of its hotel occupancy tax revenues.²⁰⁴

Special rules for the City of Nassau Bay.

The City of Nassau Bay has special legislation on point that allows that city to use hotel tax revenue for a convention center, marina, visitor center meeting room, or hotel facility that substantially enhances hotel activity in the city.²⁰⁵ The facility must be owned by a city and be located within a 1,000 feet of a hotel property.²⁰⁶ The total amount spent may not exceed the amount of hotel revenue attributable to events at that facility for the fifteen year period following the construction of the improvement.²⁰⁷ The City must annually publish a report noting the hotel activity that is generated from activities funded by this expenditure of hotel tax and is subject to a requirement to refund the hotel tax fund from the City's General Fund if the project does not have the required return on investment in hotel activity.²⁰⁸

Special rules for the City of South Padre Island: Spaceport Viewing and Eco-Tourism.

The City of South Padre Island has specific legislation allowing the City to use a limited amount of hotel tax revenue for the promotional and event expenses of an ecological tourism event if the majority of the

²⁰⁰ § 351.1055(c).

²⁰¹ § 351.003(c).

²⁰² § 351.1035.

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ Tax Code §§ 351.101(j), 351.1071.

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ *Id.*

event's participants are tourists, and if the event substantially increases economic activity at area hotels.²⁰⁹

The legislation also allows South Padre Island to expend local hotel tax on expenses related to the improvement of sites for hotel guests to observe spacecraft launches.²¹⁰ If South Padre Island uses hotel occupancy tax revenue for a spaceport viewing facility, the City may not reduce the amount of revenue that is used for advertising and promotion to an amount that is less than the average amount of revenue used by the City for advertising and promotion during the 36-month period that precedes the City's first use of revenue for a spaceport viewing facility.²¹¹

Both of these uses (spaceport viewing facilities and eco-tourism events) are capped to a combined total of no more than 15% of the hotel tax collected by the municipality.²¹²

Special rules for the Bryan and College Station: Sports Facilities.

The cities of Bryan and College Station have special legislation that provides authority to use hotel tax revenue for new sporting facilities or fields if the facilities or fields are owned by the municipality, and if a majority of the events at the facility or field are directly related to a sporting event that substantially increases hotel activity.²¹³ The city may not use hotel tax for the acquisition of the land.²¹⁴ The facilities must meet strict requirements for return on investment for the hotel industry: The city may not spend more on the facility or field than will be generated in hotel revenue from sporting events held at that facility over the next five years.²¹⁵ The city must publish an annual report of the actual room night and economic impact of events held at the facility or field and must reimburse the hotel tax fund for any deficit between the amount spent on the facility from hotel tax and the amount of hotel revenue generated from events at the facility over the subsequent five years.²¹⁶

Special rules for Pecos, Pleasanton, Jourdanton and Dilley: Sports Facilities.

The cities of Pecos, Pleasanton, Jourdanton, and Dilley have special legislation that provides authority to issue bonds payable with hotel tax revenue for certain limited sporting facilities.²¹⁷ The sporting facility must have the requisite amount of hotel impact before they are funded, and the city must annually report the room night and economic impact of events held at the facility.²¹⁸ The city may not expend more hotel tax on the facility improvements than will be generated in room night revenue from events held at the facility over a 15 year period, and this must be projected by an independent analyst before hotel taxes are used for this purpose.²¹⁹

²⁰⁹ Tax Code §§ 351.1054, 351.1055(d).

²¹⁰ *Id.*

²¹¹ *Id.*

²¹² *Id.*

²¹³ Tax Code §§ 351.101(j), 351.1078.

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ Tex. Tax Code § 351.1066.

²¹⁸ *Id.*

²¹⁹ *Id.*

Additional Information

If a city or funded entity has additional questions about the administration or use of the hotel occupancy tax, it is welcome to contact the Texas Hotel & Lodging Association for assistance by phone at (512) 474-2996. THLA has sample documents available to assist in administering hotel taxes, such as funding grant application forms, post event forms, and tax collection guidelines.

Texas city officials can also make inquiries to the legal staff of the Texas Municipal League at (512) 231-7400. Finally, all entities may make inquiries to the Municipal Affairs Section of the Office of the Attorney General of Texas (OAG). The OAG's Municipal Affairs Division can be reached by phone at (512) 475-4683.

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ORDINANCE NO. 2016-1221

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, PROVIDING FOR THE COLLECTION OF A HOTEL/MOTEL OCCUPANCY TAX AND RULES AND REGULATIONS FOR SUCH COLLECTION AND USE; PROVIDING FOR A PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; AND PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, the Texas Tax Code authorizes municipal collection of a hotel and motel occupancy tax; and

WHEREAS, the use of the tax is authorized to promote tourism and the convention and Hotel industry; and

WHEREAS, the City of Fulshear, Texas, ("City") is experiencing tremendous growth and desires to promote its tourism and convention and hotel industry;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. All of the facts and recitations found in the preamble of this Ordinance are hereby found to be true and correct and incorporated herein for all purposes.

Section 2. Definitions. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- a. *City.* The City of Fulshear, Texas, and, variously, the incorporated territory and the extraterritorial jurisdiction of Fulshear, wherein the City government is empowered to impose this Tax by Chapter 351 of the Texas Tax Code.
- b. *Finance Director.* The duly appointed Finance Director of the City or his/her designee.
- c. *Due Date.* The twentieth (20th) day after the close of the Monthly Period for which the Tax is to be computed.

- d. *Folio.* Primary documentation produced by a Hotel that demonstrates interaction between the Lodging Provider and the Guest, and which, at a minimum, reflects the name and address given by the Guest, the date(s) of Occupancy, the amount of Rent charged for each date together with the amounts of applicable Tax, and the means of payment.
- e. *Guest.* Any person who, for a consideration, uses, possesses, or has the right to use or possess any Guest Room in a Hotel under any lease, concession, permit, right of access, license, contract, or agreement.
- f. *Guest Room.* A room in a Hotel occupied, or intended, arranged, or designed for sleeping, and Rented for more than two dollars (\$2.00) per day.
- g. *Hotel.* Any structure or any portion of a structure, including any hotel, motel, inn, tourist house, tourist court, lodging house, rooming house, or bed and breakfast, containing Guest Rooms and which is occupied, or is intended or designed for Occupancy, by paying Guests, whether Rent is paid in money, goods, labor, or otherwise. The meaning does not include any hospital, sanitarium, nursing home, or the dormitory facilities at an institution of higher education.
- h. *Lodging Provider.* Any person operating a Hotel in the City, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, lender in possession, licensee or any other person operating such Hotel and who is subject to collecting and remitting the Tax imposed upon Guests.
- i. *Monthly Period.* The calendar months of any year.
- j. *Occupancy.* The use or possession, or the right to the use or possession of any Guest Room in a Hotel.
- k. *Permanent Resident.* Any Guest who, as of a given date, has or shall have occupied or has or shall have established the right of Occupancy to any Guest Room in a Hotel for more than thirty (30) continuous days.
- l. *Person.* Any individual, firm, partnership, joint adventure, association, social club, fraternal organization, joint stock company, corporation, cooperative, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number.

- m. *Rent.* The consideration charged for the Occupancy of a Guest Room, valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which credit is allowed by the Lodging Provider to the Guest, without any deduction therefrom whatsoever.
- n. *Tax.* The Tax on Guests imposed by this article, as provided for by Chapter 351 of the Texas Tax Code.

Section 3. *Tax rate.* There shall be paid by the Guest for every Occupancy of a Guest Room in the City a Tax at the rate of seven (7) percent of the amount of Rent unless an exception is provided in this Ordinance.

Section 4. *Collection of Tax by Lodging Provider.* Every Lodging Provider renting Guest Rooms in the City shall collect a Tax of seven (7) percent on the amount of Rent from the Guest unless an exception is provided in this Ordinance. The Lodging Provider shall provide a receipt to each Guest, which receipt shall reflect both the amount of Rent and the amounts of the Tax and any other applicable taxes. This Tax shall be due from the Guest, and shall be collected by the Lodging Provider at the same time that the Rent is collected. The Lodging Provider shall be liable to the City for the full amount received or collected as Tax, whether collected appropriately or inappropriately; and for any amount of Tax that should have been collected, but was not.

- a. Any person who receives or collects the Tax or any consideration represented to be the Tax from another person holds the amount so collected in trust for the benefit of the City and is liable to the City for the full amount collected, plus any costs incurred by the City in collecting the Tax, plus penalty.
- b. An individual who controls or supervises the collection of the Tax from another person, or an individual who controls the accounting for or remittance of the Tax, and who willfully fails to remit or cause to be remitted the Tax is liable as a responsible individual for an amount equal to the Tax not remitted or caused to be remitted, plus any costs incurred by the City in collecting the Tax, plus penalty. The dissolution of a corporation, partnership or other business or fraternal association does not affect a responsible individual's liability under this Section. Furthermore, the liability imposed by this subsection shall be in addition to any other penalty provided by law.

Section 5. *Exceptions.*

- a. No Tax shall be collected from a Guest after becoming a Permanent Resident. A Guest becomes a Permanent Resident either after thirty (30) continuous days' Occupancy, or upon notifying the Lodging Provider in writing of his intention to occupy a Guest Room for longer than thirty (30) continuous days and then proceeding to actually occupy the Guest Room for such period. A Guest who would express intent, but fails to stay thirty (30) continuous days, is not a Permanent Resident and is not excepted from the Tax. However, a Guest who expresses intent and does stay is excepted from the Tax as of the date he notified the Lodging Provider of his intention.
- b. No Tax shall be collected from the federal government nor an officer or employee of said government when traveling on government business and presenting official identification. The American Red Cross, federally chartered credit unions and the regional home loan banks are recognized as instrumentalities of the federal government.
- c. No Tax shall be collected from the following Texas quasi-governmental entities formed under the Texas Local Government, and Health and Safety Codes, nor an officer or employee of any thereof when presenting a Hotel Occupancy Tax exemption certificate: public facility corporations, housing authorities, housing finance corporations, and health facilities development corporations.
- d. No Tax shall be collected from electric cooperatives formed under Chapter 161 of the Texas Utilities Code, nor telephone cooperatives formed under Chapter 162, nor an officer or employee of either thereof when presenting a Hotel Occupancy Tax exemption certificate.
- e. No Tax shall be collected from a State of Texas officer or employee when presenting a photo identification card or other documentation that indicates that the bearer is exempt from paying Hotel Occupancy Tax.
- f. No Tax shall be collected from a foreign sovereign when presenting a Tax exemption card issued by the United States Department of State.

Section 6. *Registration of Lodging Provider, form and contents, execution, certificate of authority.* Every person engaging or about to engage in business as a Lodging Provider in the City shall immediately register with the Finance Director on a form provided by said official. Persons engaged in such business must so register not later than

thirty (30) days after the date that this Ordinance becomes effective. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of his place(s) of business and such other information which would facilitate the administration of the Tax as prescribed by the Finance Director. The registration shall be signed by the owner if a natural person in case of ownership by an association or partnership, by a member or partnering case of ownership by a corporation, by an officer. The Finance Director shall, after such registration, issue without charge a certificate of authority to each Lodging Provider to collect the Tax from the occupant. A separate registration shall be required for each place of business of a Lodging Provider. Each certificate shall state the name and location of the business to which it is applicable.

Section 7. *Determination generally, returns, payments.*

- a. *Due Date of Taxes.* All amounts of such Tax shall be due and payable to the Finance Director monthly on or before the twentieth (20th) day of the month next succeeding the respective Monthly Period. The Tax shall become delinquent for any Monthly Period after the twentieth (20th) day of the succeeding month in which it remains unpaid.
- b. *Penalty for failure to pay Tax by Due Date.* A Lodging Provider who fails to make any return or to pay the amount of Tax as prescribed, shall be assessed a specific penalty to be added to the Tax in the amount of five (5) percent. If remittance is made within ten (10) days of the Due Date, such return may be accepted exclusive of penalty. Delinquent Taxes shall draw interest at the rate of ten (10) percent per annum beginning sixty (60) days from the Due Date.
- c. *Waiving of penalty.* Only the governing authority of the City may waive the penalty prescribed.
- d. *Return, remittance, time of filing, Lodging Providers required to file, contents.* On or before the twentieth (20th) day of the month succeeding each Monthly Period, a return for the preceding Monthly Period together with appropriate remittance shall be filed with the Finance Director. The return shall report the gross Rent, Taxable Rent, and non-Taxable Rent earned, the amount of Tax collected or otherwise due for the period, and such other information as may be required by the Finance Director.
- e. *Collection fee allowed Lodging Providers.* Lodging Providers collecting the Tax shall be allowed a percentage of the Tax due and accounted for and

shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be one (1) percent of the amount due, but only if the amount due was not delinquent at the time of payment.

Section 8. *Deficiency determinations.*

- a. *Recomputation of Tax, authority to make, basis of recomputation.* If the Finance Director is not satisfied with the return or returns of the Tax or the amount of the Tax required to be paid to the City by any Lodging Provider, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One (1) or more deficiency determinations may be made of the amount due for one (1) or more Monthly Periods.
- b. *Penalty.* Penalty shall be assessed upon the amount of any determination, as provided herein.
- c. *Notice of determination, service of.* The Finance Director shall give to the Lodging Provider written notice of his determination. The notice may be served personally or by mail if by mail, such service shall be addressed to the Lodging Provider at his address as it appears in the records of the City. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee, or when made by statutory overnight delivery.
- d. *Time within which notice of deficiency determination to be mailed.* Except in cases of failure to make a return or of fraud, every notice of deficiency determination shall be mailed within four (4) years after the twentieth (20th) day of the calendar month following the Monthly Period for which the amount is proposed to be determined, or within four (4) years after the return is filed, whichever period should last expire.
- e. *Appeal or protest of deficiency determination.* Within ten (10) days of being served a notice of deficiency determination, the Lodging Provider may contest such in writing addressed to the Finance Director. The Lodging Provider shall include such documents as he believes may present grounds for abatement of the determination. The Finance Director shall give written notice of his decision to the Lodging Provider in the same manner as provided herein. The decision of the Finance Director shall be deemed final unless an appeal is made in writing to the governing authority with ten (10)

days of the Lodging Provider having been served with the Finance Director's decision. The governing authority shall approve or disapprove the appeal, and notify the appellant of its decision.

Section 9. *Determination if no return made.*

- a. *Estimate of gross receipts.* If any Lodging Provider fails to make a return, the Finance Director shall make an estimate of the amount of the gross receipts of the Lodging Provider, or as the case may be, of the amount of total Rentals in the City which are subject to the Tax. The estimate shall be made for the period or periods in respect to which the Lodging Provider failed to make the return, and shall be based upon the returns filed for the state Hotel Occupancy Tax for such periods or, in their absence, from returns made to the City for the preceding calendar year. This estimate shall be considered "prima facie" correct. Written notice shall be given in the manner prescribed herein, and the Lodging Provider shall enjoy the same rights of protest as prescribed herein.
- b. *Penalty.* Penalty shall be assessed upon the amount of any determination, as provided herein.

Section 10. *Collection of Tax by City.*

- a. *Action for delinquent Tax, time for.* At any time within four (4) years after any Tax or any amount of Tax required to be collected becomes due and payable, and at any time within four (4) years after the delinquency of any Tax or any amount of Tax required to be collected, the governing authority may bring an action in a court of competent jurisdiction in the name of the City to collect the amount delinquent together with penalty, court fees, filing fees, attorney's fees and other legal fees incident thereto. The governing authority may also seek to have the Lodging Provider enjoined from operating the Hotel until such time as the delinquency is paid, as well as to require forfeiture of any applicable collection fee retained by the Lodging Provider.
- b. *Lodging Provider selling or quitting business.* If any Lodging Provider liable for any amount under this article sells out his business or quits his business, he shall make a final return and remittance within fifteen (15) days after the date of selling or quitting the business.

- c. *Duty of successors or assignees of Lodging Provider to withhold Tax from purchase money.* If any Lodging Provider liable for any amount of Tax, interest or penalty under this article sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the Finance Director either a receipt reflecting full payment or a certificate stating that no amount is due.
- d. *Liability for failure to withhold.* If the purchaser of a business fails to withhold from the purchase price as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.
- e. *Credit for Tax or penalty paid more than once or erroneously or illegally collected.* Whenever the amount of any Tax or penalty has been paid more than once, or has been erroneously or illegally collected or received by the City, it may be refunded by the governing authority. If the Lodging Provider or person determines that he has overpaid or paid more than once, which fact has not been determined by the Finance Director, such person shall have four (4) years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. The claimant may request a hearing before the governing authority at which the claim and any other information available will be considered. The governing authority shall approve or disapprove the claim, and notify the claimant of its action.

Section 11. *Administration of article, recordkeeping.*

- a. *Authority of Finance Director.* The Finance Director shall administer and enforce the provisions of this article for the collection of the Tax.
- b. *Records required from Lodging Providers, etc., form.* Every Lodging Provider Renting Guest Rooms in the City shall preserve, for a minimum of four (4) years, all Folios, receipts, certificates of exemption and such other documents as the Finance Director may prescribe, and in such form as he may require. Said records shall at all times be available for examination within the City.
- c. *Examination of records, audits.* The Finance Director or any person authorized in writing by him may examine the books, papers, records, financial reports, equipment and other facilities of any Lodging Provider

Renting Guest Rooms and any Lodging Provider liable for the Tax, in order to verify the accuracy of any return made, or if no return is made by the Lodging Provider, to ascertain and determine the amount required to be paid. Such examination shall be conducted at the place of lodging provision, unless the Finance Director shall authorize another place within the City. In the event that the Tax has been delinquent for at least two (2) complete fiscal quarters, the reasonable cost of the examination may be assessed against the Lodging Provider.

- d. *Authority to require reports, contents.* In administration of the provisions of this article, the Finance Director may require the filing of reports by any person or class of persons having in their possession or custody information relating to the Rental of Guest Rooms which are subject to the Tax. The reports shall be filed with the Finance Director when required by said official, and shall set forth the Rental charged for each Occupancy, the date(s) of Occupancy, the basis for exemption, or such other information as the Finance Director may prescribe.

Section 12. Penalties. Any Lodging Provider who fails, neglects or refuses to collect the Tax as provided herein shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00). Any Lodging Provider who fails or refuses to make any return as provided herein, to keep adequate records or to open them for inspection by the City, or to furnish other data reasonably requested by the governing authority shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) Any Lodging Provider who makes a false or fraudulent return with intent to evade the Tax shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00). Each and every day during any portion of which any violation is committed, continued or permitted, shall constitute a separate offense and shall be punished accordingly.

Section 13. Option to contract with others for administration of funds. The City may at its option enter into contracts with outside agencies to administer, spend or obligate occupancy tax revenues levied and collected under this Ordinance in order to carry out the purposes for which the tax is levied. Whenever the City contracts with an outside agency the conditions of the contract will govern the use of such funds, provided such uses are in accordance with state law.

Section 14. *Severability.* In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 15. *Repeal.* All other ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

Section 16. *Effective Date.* This Ordinance shall be effective and in full force when published as required by law.

[signature page follows]

PASSED, APPROVED, and ADOPTED on this ___ day of ____, 2016.

Jeff Roberts, Mayor

ATTEST:

D. Gordon Offord, City Secretary

AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS

AGENDA OF:	July 19, 2016	AGENDA ITEM:	
DATE SUBMITTED:	July 14, 2016	DEPARTMENT:	Administration
PREPARED BY:	Michael Ross, Assistant City Manager	PRESENTER:	Michael Ross, Assistant City Manager
SUBJECT:	Creation of Pool of Engineering Firms for General Engineering Services		
ATTACHMENTS:			
EXPENDITURE REQUIRED:			\$0
AMOUNT BUDGETED:			\$0
ACCOUNT NO:			
ADDITIONAL APPROPRIATION REQUIRED:			\$0
ACCOUNT NO:			

EXECUTIVE SUMMARY

Staff has reviewed statements of qualifications for General Engineering Services and finds that the following firms meet the standards needed to work for the City of Fulshear:

- Kimley-Horn
- KSA
- McManus & Johnson
- HDR

This list of approved firms may grow as other firms submit and are approved in the future.

RECOMMENDATION

Staff recommends the following:

1. Create a pool of approved engineering firms for general engineering services and include these four firms in the pool.
2. Authorize the City Manager to engage firms from the pool as needed to meet the city's engineering needs within the approved budget.

**AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS**

AGENDA OF:	July 19, 2016	AGENDA ITEM:	
DATE SUBMITTED:	July 15, 2016	DEPARTMENT:	Administration
PREPARED BY:	Michael Ross, Assistant City Manager	PRESENTER:	Michael Ross, Assistant City Manager
SUBJECT:	Professional Engineering Services to Develop Impact Fees in the City		
ATTACHMENTS:			
EXPENDITURE REQUIRED:			\$0
AMOUNT BUDGETED:			\$0
ACCOUNT NO:			
ADDITIONAL APPROPRIATION REQUIRED:			\$0
ACCOUNT NO:			

EXECUTIVE SUMMARY

Staff has completed their review of the statements of qualifications (SOQs) submitted for the City's Impact Fee Study. The following firms submitted SOQ's:

- Freese & Nichols
- Kimley-Horn
- HDR

Based on the review of the submittals and their presentation, it is staff's opinion that Kimley-Horn is the best choice for the City's Impact Fee Study.

RECOMMENDATION

Staff recommends Kimley-Horn for the City's Impact Fee Study and asks City Council to authorize staff to negotiate a proposal with them for these professional engineering services. Staff will plan to bring back the proposal to City Council at the August meeting for consideration.

**AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS**

AGENDA OF:	July 19, 2016	AGENDA ITEM:
DATE SUBMITTED:	July 14, 2016	DEPARTMENT: City Administration / Legal
PREPARED BY:	CJ Snipes, City Manager	PRESENTER: CJ Snipes/ J. Grady Randle
SUBJECTS:	Professional Services related to the creation of Single Member Districts	
ATTACHMENTS:	Statements of Qualifications	
EXPENDITURE REQUIRED:	TBD	
AMOUNT BUDGETED:	\$38,000	
FUNDING ACCOUNT:	100-5-000-5414	
ADDITIONAL APPROPRIATION REQUIRED:	TBD	
FUNDING ACCOUNT:	Non-Departmental Consulting	

EXECUTIVE SUMMARY

Among the many things required under the recently adopted Home Rule Charter is the transition from At-Large Council representation to the creation of Single Member Districts. In order to achieve that change, the City solicited Statements of Qualifications from a number of firms who participate in such work. We have attached the responses received from those firms.

RECOMMENDATION

Staff recommends the selection of _____ for the provision of Professional Services related to the creation of Single Member Districts. Further we ask that Council provide authorization for the negotiation and execution of a Professional Services Agreement so that work can begin as soon as possible on this matter.

CJ Snipes

From: Maureen Murray
Sent: Wednesday, July 6, 2016 9:48 AM
To: Morrison, Michael D.
Cc: CJ Snipes
Subject: RE: Request for Qualifications

Thank you Mr. Morrison.

From: Morrison, Michael D. [mailto:Michael_Morrison@baylor.edu]
Sent: Wednesday, July 06, 2016 9:40 AM
To: Maureen Murray <mmurray@fulsheartexas.gov>
Cc: CJ Snipes <cjsnipes@fulsheartexas.gov>
Subject: Re: Request for Qualifications

Ms. Murray,

We appreciate being approached to respond to the city's RFQ. However, we are not in a position to take on new clients at the moment.

Best wishes with your upcoming process.

Mike Morrison

M Morrison
Baylor Law School

From: Maureen Murray <mmurray@fulsheartexas.gov>
Sent: Wednesday, July 6, 2016 8:41 AM
To: Morrison, Michael D.
Cc: CJ Snipes
Subject: Request for Qualifications

Dear Mr. Morrison:

Attached please find a Request for Qualifications for the City of Fulshear.

Thank you.

Maureen Murray
City of Fulshear
30603 FM 1093 West/ PO Box 279
Fulshear, Texas 77441
Phone: 281-346-8849
Email: mmurray@fulsheartexas.gov

CJ Snipes

From: Maureen Murray
Sent: Wednesday, July 6, 2016 9:50 AM
To: Stacey Tepera
Cc: CJ Snipes
Subject: RE: Request for Qualifications

Thank you Ms. Tepera.

Maureen Murray
City of Fulshear
30603 FM 1093 West/ PO Box 279
Fulshear, Texas 77441
Phone: 281-346-8849
Email: mmurray@fulsheartexas.gov



From: Stacey Tepera [mailto:stepera@pasademographics.com]
Sent: Wednesday, July 06, 2016 9:47 AM
To: Maureen Murray <mmurray@fulsheartexas.gov>
Cc: CJ Snipes <cjsnipes@fulsheartexas.gov>
Subject: FW: Request for Qualifications

Ms. Murray,

Thank you for sending the RFQ related to single member redistricting. Our firm greatly appreciates the cooperative effort the City of Fulshear provides for our annual demographic studies for Lamar CISD, and we relish that working relationship. However, our focus at this time must remain on providing enrollment projections for school districts, so we will not respond to the RFQ.

Thank you for considering us, and we look forward to continuing to work with the City as it relates to our Demographic Updates for Lamar CISD.

Stacey Tepera, Ph.D.
Population and Survey Analysts
303 Anderson
College Station, Texas 77845
979-693-8962
stepera@pasademographics.com

From: Pat Guseman
Sent: Wednesday, July 06, 2016 8:54 AM
To: Stacey Tepera <sttepera@pasademographics.com>
Subject: FW: Request for Qualifications

From: Maureen Murray
Sent: Wednesday, July 6, 2016 8:53:17 AM (UTC-06:00) Central Time (US & Canada)
To: Pat Guseman
Cc: CJ Snipes
Subject: Request for Qualifications

Dear Ms. Guseman:

Attached please find a Request for Qualifications for the City of Fulshear.

Thank you.

Maureen Murray
City of Fulshear
30603 FM 1093 West/ PO Box 279
Fulshear, Texas 77441
Phone: 281-346-8849
Email: mmurray@fulsheartexas.gov



AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS

AGENDA OF:	July 19, 2016	AGENDA ITEM:	
DATE SUBMITTED:	July 14, 2016	DEPARTMENT:	Administration
PREPARED BY:	Maureen Murray Executive Assistant	PRESENTER:	Michael Ross, Assistant City Manager
SUBJECT:	Surplus Items for Auction		
ATTACHMENTS:	Auction Item List		
EXPENDITURE REQUIRED:			\$0
AMOUNT BUDGETED:			\$0
ACCOUNT NO:			
ADDITIONAL APPROPRIATION REQUIRED:			\$0
ACCOUNT NO:			

EXECUTIVE SUMMARY

The Texas Local Government Code requires a City to dispose of “salvage property” and “surplus property” under Section 263.152 of the Texas Local Government Code by competitive bid or auction. The City of Fulshear has various surplus items available for auction. The Code defines “surplus property” as personal property that (1) is not salvage property or items routinely discarded as waste; (2) is not currently needed by its owner; (3) is not required for the owner’s foreseeable needs; and (4) possesses some usefulness for the purpose for which it was intended.

Staff has compiled a list of surplus items for auction which is attached for reference.

RECOMMENDATION

Staff recommends the following:

1. Declare the attached list of items as surplus and allow for their auction by GovDeals.com.
2. Declare items that do not receive a bid as worthless and approve the elimination of those remaining items by any means necessary.

READY FOR AUCTION

Asset ID	Inventory ID	# Photos	Description
19	Lot 9	3	Various Desks
20	Lot 10	2	Entertainment Center/Podium
21	Lot 11	2	Various Office Furniture
22	Lot 12	1	Metal Door Frames
23	Lot 13	3	Filing Cabinets
24	Lot 14	2	Dry Erase Boards
25	Lot 15	3	Chairs
26	Lot 16	1	Glass
27	Lot 17	2	Desk
28	Lot 18	1	Vacuum Cleaners
29	Lot 19	2	Various Lawn Equipment
30	Lot 1	9	Office Furniture
31	Lot 2	2	Rug
32	Lot 3	4	File Cabinets
33	Lot 4	4	Office Chairs
34	Lot 5	4	Table & Chairs
35	Lot 6	4	Cherry Office Furniture
36	Lot 7	6	Office Furniture
37	Lot 8	3	Television
38	Lot 20	1	Refrigerator
39	Lot 21	1	Ceiling Fans
41	Lot 22	4	2009 Dodge Charger SE

UND ACCT	ACCOJNT	DATE	DESCRIPTION	ADJUSTMENT	ORIGINAL BUDGET	PREVIOUS ADJUSTMENTS	NEW BUDGET	BUDGET BALANCE
Budget Adj. # 000089 -----								
00	5-700-5710-01	7/14/2016	Debt Serv Principal Debt Service - Principal DEPT: Debt Service	6,387.00	0.00	0.00	6,387.00	6,387.00
00	5-700-5710-02	7/14/2016	Debt Serv Interest Debt Service - Interest DEPT: Debt Service	4,339.00	0.00	0.00	4,339.00	4,339.00
00	5-700-5710-00	7/14/2016	Debt Service App Fe DEBT SERVICE APP FEES DEPT: Debt Service	5,500.00	0.00	0.00	5,500.00	5,000.00
00	5-100-5411-02	7/14/2016	Security Prof. Services - Security DEPT: Administrative	1,500.00	0.00	0.00	1,500.00	860.00
00	5-100-5526-00	7/14/2016	Notices Public Notices DEPT: Administrative	100.00	0.00	0.00	100.00	68.70
00	5-200-5381-00	7/14/2016	Contingency Marketing - Contingency DEPT: Marketing	8,775.00	5,000.00	0.00	13,775.00	13,775.00
00	5-400-5650-02	7/14/2016	Capital Capital - Gateway Signage DEPT: Community Development	10,375.00-	45,000.00	0.00	34,625.00	34,625.00
00	49500	7/14/2016	transfer Transfer In - Fund Balance DEPT: Business Development PACKET NOTES:	16,226.00-	94,377.27-	0.00	78,151.27-	78,151.27-
TOTAL NO. ADJUSTMENTS--REVENUE:						1	16,226.00-	
TOTAL NO. ADJUSTMENTS--EXPENSE:						7	16,226.00	
TOTAL IN PACKET--							<u>0.00</u>	

** NO WARNINGS ***

** NO ERRORS ***

*** END OF REPORT ***

RESOLUTION No. 2016-313

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS APPOINTING MEMBERS TO THE CITY'S PLANNING AND ZONING COMMISSION

WHEREAS, the City Council of the City of Fulshear, Texas is desirous of continuing the function and positive impact of the Planning and Zoning Commission, and;

WHEREAS, the City Council of the City of Fulshear, Texas appreciates the service and dedication of those previously and currently serving, and;

WHEREAS, the City Council of the City of Fulshear, Texas has been presented a slate of qualified willing volunteers to serve in the capacity as Members of the Planning and Zoning Commission;

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS that those listed below:

7 – Members who will serve through June 2018

Amy Pearce

Term expires: June 1, 2018

Harold Collins

Term expires: June 1, 2018

Austin Weant

Term expires: June 1, 2018

Dar Hakimzadeh

Term expires: June 1, 2018

BJ Aryal

Term expires: June 1, 2018

Dawn McRea

Term expires: June 1, 2018

Jason Cherubini

Term expires: June 1, 2018

Be named to serve as Members of the Planning and Zoning Commission for terms as designated above during which they are expected to duly executing those responsibilities.

This resolution duly passed this 19th day of July, 2016.

Jeff W. Roberts, Mayor
City of Fulshear, Texas

ATTEST:

D. Gordon Offord, City Secretary
City of Fulshear, Texas

RESOLUTION No. 2016-314

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS CREATING A HISTORIC PRESERVATION AND MUSEUM COMMITTEE AND APPOINTING MEMBERS THERETO

WHEREAS, the City Council of the City of Fulshear, Texas is desirous of creating a Committee to assist in the preservation of our historic and cultural artifacts and guiding the development of a Museum intended for such a purpose; and

WHEREAS, the City Council of the City of Fulshear is desirous of appointing Members to such a Committee and;

WHEREAS, the City Council of the City of Fulshear, Texas appreciates the willingness of those selected to serve and;

WHEREAS, the City Council of the City of Fulshear, Texas has considered the merits of such appointments and finds the persons listed below as competent and eligible for service;

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

Section 1

That an Historic Preservation and Museum Committee is hereby created to assist in the preservation of documents, materials, media and artifacts related to the City's Historic and Cultural heritage through the collection and preservation of such materials within a Museum.

Section 2

Further that those listed below shall serve as the Historic Preservation and Museum Committee:

4 – Members who will serve through June 2018

Cayce Saban _____ Term expires: June 1, 2018

Viola Randle _____ Term expires: June 1, 2018

Sonya Simmons _____ Term expires: June 1, 2018

Eric Garcia _____ Term expires: June 1, 2018

2 - Ex-Officio Members who will serve through June 2018

_____ Term expires: June 1, 2018

_____ Term expires: June 1, 2018

Be named to serve as Members of the Historic Preservation and Museum Committee for terms as designated above during which they are expected to duly executing those responsibilities.

This resolution duly passed this 19th day of July, 2016.

Jeff W. Roberts, Mayor
City of Fulshear, Texas

ATTEST:

D. Gordon Offord, City Secretary
City of Fulshear, Texas

RESOLUTION No. 2016-315

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS REMOVING, APPOINTING AND REAPPOINTING CERTAIN MEMBERS TO THE PARKS AND RECREATION COMMISSION

WHEREAS, the City Council of the City of Fulshear, Texas is desirous of changing the makeup of the City's Parks and Recreation Commission, and;

WHEREAS, the City Council of the City of Fulshear, Texas appreciates the service and dedication of those previously and currently serving and;

WHEREAS, the City Council of the City of Fulshear, Texas has considered the merits of such appointments and finds the persons listed below as competent and eligible for service;

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS that the Commission roster is changed: removing those individuals currently serving and appointing/ reappointing those listed below shall serve as the Resident Representatives on the City's Parks and Recreation Commission:

4 – Members who will serve through June 2018

<u>Ramona Ridge</u>	Term expires: June 1, 2018
<u>Dawn Brien</u>	Term expires: June 1, 2018
<u>Jennifer Gros</u>	Term expires: June 1, 2018
<u>Megan Hutchinson</u>	Term expires: June 1, 2018

3 – Members who will serve through June 2017

<u>Dave Bundrick</u>	Term expires: June 1, 2017
<u>Pat Mollere</u>	Term expires: June 1, 2017
<u>Matthew Banister</u>	Term expires: June 1, 2017

Be named to serve as Members of the Fulshear Parks and Recreation Commission for terms as designated above during which they are expected to duly executing those responsibilities.

This resolution duly passed this 19th day of July, 2016.

Jeff W. Roberts, Mayor
City of Fulshear, Texas

ATTEST:

D. Gordon Offord, City Secretary
City of Fulshear, Texas

RESOLUTION No. 2016-316

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS REMOVING, APPOINTING AND REAPPOINTING CERTAIN MEMBERS TO THE BOARD OF DIRECTORS FOR THE FULSHEAR 4A COMMUNITY DEVELOPMENT CORPORATION

WHEREAS, the City Council of the City of Fulshear, Texas is desirous of changing the makeup of the City's 4A Community Development Corporation, and;

WHEREAS, the City Council of the City of Fulshear, Texas appreciates the service and dedication of those previously and currently serving and;

WHEREAS, the City Council of the City of Fulshear, Texas has considered the merits of such appointments and finds the persons listed below as competent and eligible for service;

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS that the Commission roster is changed: removing those individuals currently serving and appointing/ reappointing those listed below shall serve as the Board of Director's for the Fulshear 4A Community Development Corporation:

2 – Members who will serve through June 2018

Ewelina Forker

Term expires: June 1, 2018

Randy Hutchinson

Term expires: June 1, 2018

3 – Members who will serve through June 2017

Rev. Jackie Gilmore

Term expires: June 1, 2017

Randy Katz

Term expires: June 1, 2017

Faye Burke

Term expires: June 1, 2017

Be named to serve as Members of the Board of Directors to the Fulshear 4A Community Development Corporation for terms as designated above during which they are expected to duly executing those responsibilities.

This resolution duly passed this 19th day of July, 2016.

Jeff W. Roberts, Mayor
City of Fulshear, Texas

ATTEST:

D. Gordon Offord, City Secretary
City of Fulshear, Texas

RESOLUTION No. 2016-317

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS REMOVING, APPOINTING AND REAPPOINTING CERTAIN MEMBERS TO THE BOARD OF DIRECTORS FOR THE FULSHEAR 4B DEVELOPMENT CORPORATION

WHEREAS, the City Council of the City of Fulshear, Texas is desirous of changing the makeup of the City's 4B Community Development Corporation, and;

WHEREAS, the City Council of the City of Fulshear, Texas appreciates the service and dedication of those previously and currently serving and;

WHEREAS, the City Council of the City of Fulshear, Texas has considered the merits of such appointments and finds the persons listed below as competent and eligible for service;

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS that the Commission roster is changed: removing those individuals currently serving and appointing/ reappointing those listed below shall serve as the Board of Director's for the Fulshear 4B Development Corporation:

4 – Members who will serve through June 2018

<u>Stacy Ryan</u>	Term expires: June 1, 2018
<u>Aaron Groff</u>	Term expires: June 1, 2018
<u>Laurie Szantay</u>	Term expires: June 1, 2018
<u>(See other)</u>	Term expires: June 1, 2018

3 – Members who will serve through June 2017

<u>Wes Wausson</u>	Term expires: June 1, 2017
<u>Carol Riggs</u>	Term expires: June 1, 2017
<u>Kent Johnston</u>	Term expires: June 1, 2017

Be named to serve as Members of the Board of Directors to the Fulshear 4B Development Corporation for terms as designated above during which they are expected to duly executing those responsibilities.

This resolution duly passed this 19th day of July, 2016.

Jeff W. Roberts, Mayor
City of Fulshear, Texas

ATTEST:

D. Gordon Offord, City Secretary
City of Fulshear, Texas

RESOLUTION No. 2016-318

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS REMOVING, APPOINTING A MEMBER TO THE BOARD OF DIRECTORS FOR THE FULSHEAR 4B DEVELOPMENT CORPORATION

WHEREAS, the City Council of the City of Fulshear, Texas is desirous of changing the makeup of the City's 4B Community Development Corporation, and;

WHEREAS, the City Council of the City of Fulshear, Texas appreciates the service and dedication of those previously and currently serving and;

WHEREAS, the City Council of the City of Fulshear, Texas has considered the merits of such appointments and finds the person listed below as competent and eligible for service;

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS that the Commission roster is changed: removing those individuals currently serving and appointing/ reappointing those listed below shall serve as the Board of Director's for the Fulshear 4B Development Corporation:

1 – Members who will serve through June 2018

Jonathan Tristan

Term expires: June 1, 2018

Be named to serve as a Member of the Board of Directors to the Fulshear 4B Development Corporation for the term as designated above during which they are expected to duly executing those responsibilities.

This resolution duly passed this 19th day of July, 2016.

Jeff W. Roberts, Mayor
City of Fulshear, Texas

ATTEST:

D. Gordon Offord, City Secretary
City of Fulshear, Texas

CJ Snipes

From: Paula Ryan
Sent: Thursday, July 14, 2016 10:41 AM
To: Michael Ross; CJ Snipes
Cc: Kristina Brashear
Subject: RE: Health Insurance Renewal RE: COUNCIL AGENDA ITEM NEEDED JULY!!

CJ and Michael,

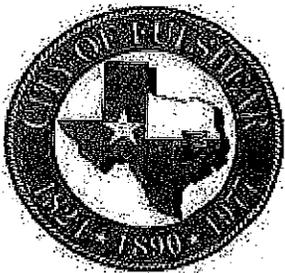
I reviewed the renewal packet from TMLIEBP. The medical premiums are increasing 2% (\$11.50 - \$26.44 increase depending on tier). Dental premiums are increasing by 9% (\$3.12 - \$6.44 increase depending on tier). Vision, Life, and AD&D remain the same with no increase in premiums. The signed rerate form is due back to TMLIEBP by July 31, 2016. Therefore, this needs to be placed on the July 19 Council Agenda, in order for you to enter into the renewal agreement timely. Our plan year starts November 1, 2016 and open enrollment is September 15 – October 15, 2016.

For additional background and discussion, for Plan year 2016-17, the average overall rate increase was 4.6%, with 45% of pool Members receiving an increase under 5% (including us). Some Member groups saw double-digit increases (5% of Members had an increase between 11%-15%; and 12% of Members had an increase over 15%).

I have given Maureen the renewal forms for your signature following Council action, to be returned to Kristi so she can submit these to TMLIEBP by the 7/31/16 deadline.

Thank you.

Paula P. Ryan, M.A.
Human Resources Director
City of Fulshear
P.O. Box 279 ~ 30603 FM 1093
Fulshear, TX 77441
Office: 281-346-1796 x 325
Direct: 281-346-8875
Fax: 281-346-8844
pryan@fulsheartexas.gov



From: Kristina Brashear
Sent: Thursday, July 14, 2016 9:31 AM
To: Michael Ross <mross@fulsheartexas.gov>; CJ Snipes <cjsnipes@fulsheartexas.gov>
Cc: Paula Ryan <pryan@fulsheartexas.gov>

Subject: RE: COUNCIL AGENDA ITEM NEEDED JULY!!

Importance: High

TMLIEBP – Insurance Rerate

The re- rate does need to go on council agenda. It was on last year’s July agenda item J.

Paula and I have spoken and agree this is a council action item. Paula will give Maureen the docs to have for council.

Thank You,

Kristi J. Brashear
Finance Director
City of Fulshear
City: 281-346-1796 x 202
Direct: 281-346-8802
Cell: 832-493-1544
kbrashear@fulsheartexas.gov



Be advised that emails are subject to the Texas Public Information Act. City emails should not be considered confidential.

ELECTED OFFICIALS, BOARD AND COMMITTEE MEMBERS:

Be advised that email communications could lead to violations of the Texas Open Meetings Act.



TML MultiState Intergovernmental Employee Benefits Pool Rerate Notice and Benefit Verification Form

Fulshear

Original

Plan Year 2016-2017 (12 Months)

Rates are subject to change if there is any legislation passed during the plan year affecting benefits. Supplemental benefits cannot be accessed without accessing the TML MultiState IEBP Medical Benefit Plan

Medical

Employer Group Medical Plan

Plan	Benefit Percent	In Net Ded	Out Net Ded	In Net OOP	Office Visit	XRay & Lab in OV	Rates	Current	New
P85-100-30-Mac A	80/50	\$1000	\$1250	\$3000	\$30	No	Employee:	\$574.56	\$586.06
							Spouse:	\$591.80	\$603.64
							Child(ren):	\$436.66	\$445.40
							Family:	\$1,321.44	\$1,347.88

Dental III

	Current Rate	New Rate
Employee:	\$34.52	\$37.64
Spouse:	\$36.34	\$39.62
Child(ren):	\$39.98	\$43.58
Family:	\$71.46	\$77.90

Vision B

	Current Rate	New Rate
Employee:	\$9.00	\$9.00
Family:	\$18.00	\$18.00

Calendar Year Pre-65 Retiree Medical

No Pre-65 Retiree Medical Coverage

Calendar Year Pre-65 Retiree Dental

No Pre-65 Retiree Dental Coverage

Calendar Year Pre-65 Retiree Vision

No Pre-65 Retiree Vision Coverage

LTD

No LTD Coverage

STD

No STD Coverage

Basic Life and AD&D Plan 10 (\$25,000)

	<u>Current Rate</u>	<u>New Rate</u>
Life:	\$0.230	\$0.230
AD&D:	\$0.035	\$0.035

Dependent Life

No Dependent Life Coverage

Voluntary AD&D

No Voluntary AD&D Coverage

Additional Employee Life and AD&D

No Additional Employee Life and AD&D Coverage

Basic & Additional Retiree Life

No Basic & Additional Retiree Life Coverage

Continuation of Coverage (COC)

Yes

Benefit Waiting Period

Medical: 30 days after date of hire

Life: 30 days after date of hire

Medical Network

Choice Plus

Flex, HRA, HSA & RRA

<u>Flex Admin</u>	<u>HRA Admin</u>	<u>HSA Admin</u>	<u>RRA Admin</u>
No	No	No	No

Select one of the following options for Flex:

Select one or all of the following options for HRA, HSA & RRA:

Debit Card Flex (\$3.70 per participant per month)

HRA (\$3.70 per participant per month - debit card only)

Paper Flex (\$5 per participant per month)

HSA (\$3.70 per participant per month - debit card only)

RRA (\$3.70 per participant per month - debit card only)

If employer accesses Debit Card Flex and/or HRA, HSA or RRA, only one charge of \$3.70 per participant per month will be incurred.

Medication Therapy Management Program

MAC A Plan: If a brand name drug is dispensed and a generic alternate drug exists, the **Covered Individual** pays the difference between the brand name and generic price in addition to the appropriate copayment for the brand name. The **cost difference between the brand name and generic price does not apply to any individual deductibles or out of pocket amounts.** The MAC differential applies to all prescriptions purchased through this program when a generic alternate is available.

MAC C Plan: If a brand name drug is dispensed and a generic alternate drug exists, the Covered Individual pays the appropriate brand copay.

Lessor of Benefit: Through the OptumRx network contract, the covered individual's out of pocket expense is managed by the pharmacy network agreement that the covered individual will receive the most advantageous pricing. This would be determined by the lessor of pharmacy contracts, Usual & Customary cost (U&C), copayments or the discounted cost the covered individual would be charged. Due to the lessor of Benefit the OptumRx Reportal will be an important price transparency resource to ensure covered individual is purchasing the prescription from the most cost effective pharmacy.

The most effective way to control costs is through the use of generic drugs and a drug formulary.

\$	Drug Tier	Includes	Helpful Tips
\$	Tier 1 Lowest Cost	Lower cost, commonly used generic drugs. Some low cost brands may be included.	Use Tier 1 drugs for the lowest out-of-pocket costs.
\$\$	Tier 2 Mid-range Cost	Many common brand-name drugs, called preferred brands.	Use Tier 2 drugs, instead of Tier 3, to help reduce your out-of-pocket costs.
\$\$\$	Tier 3 Highest Cost	Mostly higher cost brand drugs, also known as non-preferred brands.	Many Tier-3 drugs have lower cost options in Tier 1 or 2. Ask your doctor if they could work for you.

Covered Individual Out of Pocket (OOP)

Prescribed (Doctor Ordered) Over the Counter Alternates and Prescription Networks	Retail: (up to 34 day supply max unless noted otherwise)	Mail/Maintenance: (up to 90 day dispensement)	SpecialtyRx/Biotech/Biosimilar: (up to 34 day dispensement)
<ul style="list-style-type: none"> Smoking Cessation (Nicorette Gum), Quantity Limit - 3 months per plan year Aspirin, Folic Acid, Fluoride Chemoprevention Supplements, Iron Deficiency Supplements, and Vitamin D supplementation to prevent falls in community-dwelling adults age 65 years and older who are at an increased risk for falls; per prescription 	\$0.00	N/A	N/A
Network Retail: 34 day <u>Non-Cost Share most Generic</u> Dispensement	\$5.00 (up to 34 day supply)	N/A	N/A
Network Retail: 90 day <u>Non-Cost Share most Generic</u> Dispensement	\$14.00 (35 up to 90 day supply)	\$30.00	
OptumRx Network <u>Non-Cost Share</u> Best Brand/Formulary List	\$43.00	\$100.00	
OptumRx Network <u>Non-Cost Share</u> Non-Best Brand/Non-Formulary List	\$65.00	\$155.00	
OptumRx Network Cost Share	\$120.00	\$300.00	
OptumRx Specialty/Biotech Prescriptions	N/A	N/A	\$100.00 (up to 34 day supply)
OptumRx Biosimilar Generic Prescriptions	N/A	N/A	\$75.00 (up to 34 day supply)
Prescription Refill Control Standards	75%	70%	

Signature Section

The undersigned employer hereby acknowledges that for an employee to receive coverage, TML MultiState Intergovernmental Employee Benefits Pool (IEBP) must receive enrollment information within thirty-one (31) days of the commencement of employment regardless of whether the Employer has a waiting or a waiting and orientation period. If an employee is not enrolled within thirty-one (31) days of hire, the employee cannot be added to the Plan until the next Open Enrollment period or a qualifying event occurs.

_____	_____	_____
Employer	Authorized Signature	Date
_____		_____
Printed Name		Title

The entity named on this Rerate and Benefit Verification Form desires large claim information as specified in Article 21.49-15 of the Insurance Code in Section 2.(2), to be for individual claims that reach or exceed \$35,000 during the plan year. This information is considered confidential for purposes of Chapter 552 of the Local Government Code.

The rates are based on census information five months prior to plan year. If the census changes by more than 10%, TML MultiState IEBP reserves the right to revise rates due to census change and underwriting impact.

_____	_____	_____
Tax ID Number	Authorized Signature	Date



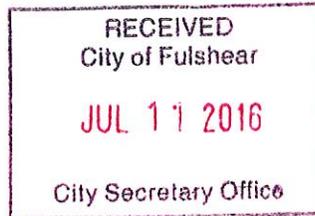
COUNTY TAX ASSESSOR / COLLECTOR

Fort Bend County, Texas

Patsy Schultz, RTA
County Tax Assessor/Collector
1317 Eugene Heimann Circle
Richmond, TX 77469-3623

(281) 341-3710
Fax (281) 341-9267
Email: schulpat@co.fort-bend.tx.us
www.fortbendcountytax.com

July 7, 2016



City of Fulshear
Attn: Mayor Jeff Robers
PO Box 279
Fulshear, Texas 77441-0279

RE: 10/20 Year Write off of Property Taxes

Dear Mayor Robers:

Attached is a summary of the 10/20 Year Write Off per Texas Property Code Section 33.05 "Limitation on Collection of Taxes". Please acknowledge receipt of the attached report by signing this letter and returning a copy to my office.

If further assistance is needed you may contact me direct at (281) 341-3735.

Sincerely,

Patsy Schultz, PCC
Fort Bend County Tax Assessor/Collector

Enclosures

Name of Jurisdiction: City of Fulshear

Jurisdiction Signature

Date

FORT BEND COUNTY
10/20 YEARS ACCOUNTS
LEVY WRITE-OFF BY TAXUNIT SUMMARY
POST - PROCESS

writeoff_accounts_post.rep v1.16

Run-Date: 06/24/2016

Run-Time: 18:50:36

For Effective Change Date: 06/24/2016

Juris 41

CITY OF FULSHEAR

Year	Account	Owner Name	Levy	Levy Paid	Remaining Levy
2006	0029000001011901	FREEMAN ERMA DEAN	\$9.88	\$0.00	\$9.88
2006	0029000001012901	HENDERSON LEE EDDIE	\$7.32	\$0.00	\$7.32
2006	9960022040048901	BAUMAN APPLIANCE SERVICE LLC	\$7.51	\$0.00	\$7.51
2006	9960062020077901	FLOWERS R BEAUTIFUL	\$1.31	\$0.00	\$1.31
2006	9960072050026901	GULF COAST INDUSTRIAL AUTOMA'	\$20.59	\$0.00	\$20.59
2006	9960082060019901	HAMMER BUILT DESIGN & CONSTRI	\$24.23	\$0.00	\$24.23
2006	9963072040067901	GLOBAL SERVICES CAPITAL CORP	\$6.69	\$6.25	\$0.44

City Of Fulshear Yearly Totals:

Year	Num. Acct(s)	Levy	Levy Paid	Remain Levy
2006	7	\$77.53	\$6.25	\$71.28
Totals for Jurisdiction	7	\$77.53	\$6.25	\$71.28

TAX COLLECTION SYSTEM
TAX COLLECTOR MONTHLY REPORT
FROM 06/24/2016 TO 06/24/2016

FISCAL START: 10/01/2015 END: 09/30/2016 JURISDICTION: 0041 CITY OF FULSHEAR

	CERT TAXABLE VALUE	ADJUSTMENTS	ADJ TAX VALUE	TAX RATE	TAX LEVY	PAID ACCTS
CURRENT YEAR	881,443,587	55,008,562	936,452,149	00.161631	1,514,038.59	4,447

YEAR	TAXES DUE	MONTH ADJ	ADJUSTMENT YTD	LEVY PAID	PAID YTD	BALANCE	COLL %	YTD UNCOLL
2015	1,424,732.89	.00	89,305.70	1.90	1,494,174.74	19,863.85	98.69	0.00
2014	4,396.11	.00	8,456.72	0.00	9,967.84	2,884.99	77.55	50.97-
2013	3,032.53	.00	9,320.79	0.00	10,035.89	2,317.43	81.24	56.36-
2012	2,159.82	.00	8,151.61	0.00	8,205.15	2,106.28	79.57	58.23-
2011	2,650.79	.00	8,695.30	0.00	8,647.21	2,698.88	76.21	58.87-
2010	2,813.80	.00	8,541.59	0.00	8,734.00	2,621.39	76.92	58.87-
2009	3,741.54	.00	58.87-	0.00	49.74	3,632.93	1.35	58.87-
2008	1,290.33	.00	29.43-	0.00	5.21	1,255.69	.41	29.43-
2007	1,436.79	.00	3.07-	0.00	31.59	1,402.13	2.20	3.07-
2006	757.43	71.28-	71.28-	0.00	35.13	651.02	5.12	0.00
2005	813.77	.00	0.00	0.00	20.17	793.60	2.48	0.00
2004	712.05	.00	0.00	0.00	114.35	597.70	16.06	0.00
2003	679.32	.00	0.00	0.00	22.68	656.64	3.34	0.00
2002	644.63	.00	0.00	0.00	24.06	620.57	3.73	0.00
2001	621.46	.00	0.00	0.00	24.65	596.81	3.97	0.00
2000	689.49	.00	0.00	0.00	25.85	663.64	3.75	0.00
1999	655.85	.00	0.00	0.00	27.58	628.27	4.21	0.00
1998	506.95	.00	0.00	0.00	29.13	477.82	5.75	0.00
1997	333.13	.00	0.00	0.00	0.00	333.13		0.00
1996	57.60	.00	0.00	0.00	4.92	52.68	8.54	0.00
1995	57.60	.00	0.00	0.00	42.24	15.36	73.33	0.00
1994	37.90	.00	0.00	0.00	0.00	37.90		0.00
****	1,452,821.78	71.28-	132,309.06	1.90	1,540,222.13	44,908.71		374.67-