BUSINESS ITEMS

PROCLAIMING SEPTEMBER 2016
AS PROSTATE CANCER AWARENESS MONTH
IN THE CITY OF FULSHEAR

WHEREAS, Prostate cancer is both the second most commonly diagnosed cancer and the second leading cause of cancer deaths; and

WHEREAS, In 2013 alone, 239,000 men in the United States were diagnosed with the illness, and almost 30, 000 men died from the disease; and

WHEREAS, National Prostate Health Month is observed every September in the United States by health experts, health advocates, and individuals concerned with men's prostate cancer; and

WHEREAS, Designating a month for the issue serves the purpose of increasing public awareness of the importance of prostate health; providing easily accessible prostate health screenings; educating about risk factors and symptoms of prostate related diseases; and advocating for further research on prostate health issues; and

WHEREAS, Cancer research will enhance our knowledge and improve prostate cancer prevention and treatment; and

NOW, THEREFORE, I, Jeff W. Roberts, Mayor of the City of Fulshear, urge all citizens and individuals, to raise awareness, support research, improve care, and prevention of prostate cancer.

IN WITNESS WHEREOF, I have hereunto set
my hand and caused the official Seal of
City of Fulshear to be affixed this 20th day of
September, 2016

_____

Jeff W. Roberts, Mayor

Attest:

_____

BREAST CANCER PROCLAMATION

WHEREAS, *an estimated 74,600 Texans are newly diagnosed with cancer each year, and 33,100 will not survive; and*

WHEREAS, *City of Fulshear is joining over 5,200 other communities acknowledging the extraordinary commitment and effort invested in this cause, to celebrate cancer survivors, and remember those who are no longer with us; and*

WHEREAS, *Mammography, an "x-ray of the breast," is recognized as the single most effective method of detecting breast changes long before physical symptoms can be seen or felt. Early detecting and improved treatment is believed to have significantly reduced the number of deaths cause by breast cancer; and*

WHEREAS, *we recognize that over two and half million Americans are breast cancer survivors that gives us hope of a better future.*

NOW, THEREFORE, *in recognition of the important work done by the American Cancer Society's Relay For Life, I, Jeff W. Roberts, as Mayor of the City of Fulshear, hereby proclaim the month of October as:*

CANCER PREVENTION MONTH

in the City of Fulshear, and urge all citizens to eat healthy, be active, be safe in the sun, and stay away from tobacco.

IN WITNESS WHEREOF, *I have hereunto set my hand and caused the seal of the City of Fulshear to be affixed this 20th day of September, 2016.*

_____

Jeff W. Roberts, *Mayor*

Attest:

_____

PRESENTATION ON FLOODING ALTERNATIVES FOR RED BIRD LANE AREA BY COSTELLO, INC.

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	D
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	CJ Snipes, City Manager	**PRESENTER:**	Bickerstaff, CM Krenek and CM Gill
SUBJECTS:	**Districting**		
ATTACHMENTS:			
EXPENDITURE REQUIRED: **AMOUNT BUDGETED:** **FUNDING ACCOUNT:** **ADDITIONAL APPROPRIATION REQUIRED:** **FUNDING ACCOUNT:**			

EXECUTIVE SUMMARY

The Council Members appoint to serve as the Districting Working Group met in person and via teleconference with the staff from Bickerstaff on the morning of Wednesday, September 14, 2016 to review potential models/ maps in association with the City's Districting Initiative. Based on that meeting, the staff at Bickerstaff and the working group feel that they are ready to present plans to the public for comment during the period identified in the timeline previously adopted. Staff will ensure that all related information will be placed on the City's Website following Council's approval of the proposed information.

RECOMMENDATION

Staff recommends that Council take action to approve the designated Districting plans as recommended by the working group.

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	E
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	CJ Snipes, City Manager	**PRESENTER:**	CJ Snipes
SUBJECTS:	**Fiscal Year 2016-2017 Operating Budgets**		
ATTACHMENTS:	Fiscal Year 2016-2017 Operating Budgets		

EXPENDITURE REQUIRED:

AMOUNT BUDGETED:
FUNDING ACCOUNT:

ADDITIONAL APPROPRIATION REQUIRED:
FUNDING ACCOUNT:

EXECUTIVE SUMMARY

At long last, Staff is pleased to present the final version of the Fiscal Year 2016-2017 Annual Operating Budget for the City of Fulshear and its components. For additional information please see the Certifications and notes provided within the Budgets as attached. I would like to personally thank the Department Heads, support staff, Council Members and most notably the families of all involved in the process of developing this most important of documents.

RECOMMENDATION

Staff recommends that Council take action to approve the Fiscal Year 2016-2017 Annual Operating Budget for the City of Fulshear.

ORDINANCE NO. 2016-1222
AN ORDINANCE ADOPTING THE CITY OF FULSHEAR'S FISCAL YEAR 2016-2017 BUDGET

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY OF FULSHEAR FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016 AND ENDING SEPTEMBER 30, 2017; APPROPRIATING FUNDS FOR THE GENERAL AND ENTERPRISE OPERATIONS, CAPITAL IMPROVEMENTS, REGIONAL PARKS AND THE OPERATIONS OF THE 4A AND 4B DEVELOPMENT CORPORATIONS; FURTHER APPROPRIATING FUNDS TO PAY INTEREST AND PRINCIPAL ON THE CITY'S INDEBTEDNESS; PROVIDING FOR REPEAL; AND PROVIDING FOR SEVERABILITY AND ADOPTING THE ANNUAL BUDGET OF THE CITY OF FULSHEAR FOR THE 2016-2017 FISCAL YEAR.

WHEREAS, the budget appended here as Exhibit A for the Fiscal Year beginning October 1, 2016 and ending September 30, 2017 was duly presented to the City Council and a public notice of a public hearing was caused and said notice was duly published in the paper of record and said public hearing was held according to said notice.

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

SECTION 1.0
PURPOSE: The purpose of this Ordinance is to budget and appropriate funds for the Fiscal year 2016-2017.

SECTION 2.0
APPROPRIATED: The appropriations for the Fiscal Year beginning October 1, 2016 and ending September 30, 2017, for the support of the General government, its Enterprise operations, Capital Improvements, Regional Parks and the City's 4A and 4B Corporations of the City of Fulshear, Texas be fixed and determined for said terms in accordance with the expenditures shown in the City's Fiscal Year 2016-2017 Budget, a copy of which is appended hereto as Exhibit A.

SECTION 3.0
ADOPTED: The budget as shown in words and figures in Exhibit A is hereby adopted in all respects as the City's budget for the Fiscal Year beginning October 1, 2016 and ending September 30, 2017.

SECTION 4.0
DEBT PAYMENTS APPROPRIATED: Any and all amounts of interest and principal due on debt held by the City and shown in the City budget is hereby appropriated toward the retirement of said debt.

SECTION 5.0
REPEALING CLAUSE: All provisions in conflict with the provisions of this Ordinance shall be, and the same are hereby repealed, and all other provisions not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 7.0
SEVERABILITY CLAUSE: That if any provision, word, sentence, paragraph, clause, phrase or section of this Ordinance or its application to any person or circumstances is adjudged or held invalid, void or unconstitutional, the invalid, void or unconstitutional portion shall not affect the validity of the remaining portions of this ordinance which shall remain in full force and effect.

_____
Jeff W. Roberts, Mayor

ATTEST:

_____
D. Gordon Offord, City Secretary

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	V-F
DATE SUBMITTED:	September 15, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	Kristi Brashear, Finance Manager	**PRESENTER:**	Kristi Brashear, Finance Manager
SUBJECT:	**Engagement Letter for Audit Services**		
ATTACHMENTS:		Change Order One	
EXPENDITURE REQUIRED:		$32,000.00	
AMOUNT BUDGETED:		$35,000.00	
FUNDING ACCOUNT:			
ADDITIONAL APPROPRIATION REQUIRED:			
FUNDING ACCOUNT:			

EXECUTIVE SUMMARY

In accordance with Section 5.04 of the City Charter, an independent audit is required of the city-wide financial statements. Whitley Penn has been providing audit services for the City of Fulshear since 2014 and are Certified Public Accounts.

RECOMMENDATION

Staff recommends that City Council approve the Engagement Letter between COF and Whitley Penn.

whitleypenn

Houston Office
3411 Richmond Avenue
Suite 500
Houston, Texas 77046
713.621.1515 Main

whitleypenn.com

September 15, 2016

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

We are pleased to confirm our understanding of the services we are to provide the City of Fulshear, Texas (the "City") for the year ended September 30, 2016. We will audit the 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, including the related notes to the financial statements, which collectively comprise the basic financial statements of the City as of and for the year ended September 30, 2016. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the City's 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. As part of our engagement, we will apply certain limited procedures to the City's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding 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 will 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. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1) Management's Discussion and Analysis.
2) General Fund Budgetary Information
3) Required Pension Information

We have also been engaged to report on supplementary information other than RSI that accompanies the City's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statements:

1) Combining Fund Information
2) Individual Component Unit Fund Information

Audit Objective

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and will include tests of the accounting records and other procedures we consider necessary to enable us to express such opinions We will issue a written report upon completion of our audit of the City's financial statements. Our report will be addressed to the City Council of the City's. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or may withdraw from this engagement.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. 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 will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards. In addition, an audit is not designed to detect immaterial misstatements, or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

Other Services

We will also assist in preparing the financial statements of the City in conformity with U.S. generally accepted accounting principles based on information provided by you.

Management Responsibilities

Management is responsible for establishing and maintaining effective internal controls, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements in conformity with U.S. generally accepted accounting principles.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws and regulations.

You are responsible for the preparation of the supplementary information in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

You agree to assume all management responsibilities for financial statement preparation services and any other nonattest services we provide; oversee the services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Engagement Administration, Fees, and Other

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

The audit documentation for this engagement is the property of Whitley Penn LLP and constitutes confidential information.

We expect to begin our audit in October 2016 and to issue our reports no later than March 2017. Christopher L. Breaux, CPA is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) we anticipate that our gross fee, including expenses will be $32,000. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 60 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our

report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

We would like to make the following comments regarding fee estimates:

1) Any weaknesses noted in the internal control may affect the nature, timing, and extent of our procedures and accordingly our fees will be adjusted to reflect such changes.
2) Our fee estimates have not considered the effects of any changes to auditing standards and accounting principles, which may be promulgated by the AICPA, Congress or any other regulatory body in the future and are unknown to us at this time. If significant additional time is necessary resulting in increased fees, we will endeavor to notify you of any such circumstances as they are assessed.
3) The City's staff is responsible for the preparation of all items requested in the "PBC List" and received by the date requested. Any delays caused by not preparing the items when requested may result in additional fees.

We appreciate the opportunity to be of service to the City and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

Whitley Penn LLP

RESPONSE:

This letter correctly sets forth the understanding of the City of Fulshear, Texas.

Governance signature: _____

Title: Mayor

Date: _____

Management signature: _____

Title: City Administrator

Date: _____

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	V-G
DATE SUBMITTED:	September 15, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	Kristi Brashear, Finance Manager	**PRESENTER:**	Kristi Brashear, Finance Manager
SUBJECT:	**Siemens AMR Conversion Project – Change Order**		
ATTACHMENTS:	Change Order One		
EXPENDITURE REQUIRED:	$2,028,695.00		
AMOUNT BUDGETED:	$1,998,100.00		
FUNDING ACCOUNT:	Enterprise Funds		
ADDITIONAL APPROPRIATION REQUIRED:	$30,595.00		
FUNDING ACCOUNT:	Enterprise Funds		

EXECUTIVE SUMMARY

Meter counts under the contract scope of work were based on data provided to Siemens by the City as well as Severn Trent Services. Upon field work, it was discovered that sizes and quantities varied from the original scope. See attached change order provided by Siemens. Siemens is not charging the City for labor, only cost of materials.

RECOMMENDATION

Staff recommends that City Council approve a change order in the amount of $30,595.00.

City of Fulshear, TX Change Order Form

CHANGE ORDER NO. 1 to
PERFORMANCE CONTRACTING AGREEMENT
dated March 15, 2016 (Siemens Job No. 440P-183907)

Pursuant to Article 7 of the Agreement, the Parties agree to modify the Project's scope of work as follows:

DESCRIPTION:

Due to the quantity differences in the meter counts and sizes from the City's meter database and the Siemens contract, additional meters and radios will be purchased and installed per the new quantities as listed in Attachment #1 to this Change Order.

CHANGE TO TERM OF CONSTRUCTION PERIOD:

ORIGINAL TERM:	360 days
CURRENT TERM (as adjusted by previous CHANGE ORDER):	0 days
Per this CHANGE ORDER, the Term will be **increased** by:	0 days
NEW CONSTRUCTION PERIOD TERM (including this CHANGE ORDER):	**360 days**

CHANGE TO PRICE FOR SCOPE OF WORK:

ORIGINAL PRICE:	$1,998,100.00
CURRENT PRICE (as adjusted by previous CHANGE ORDER):	$1,998,100.00
Per this CHANGE ORDER, the Price will be **increased** by:	**$ 30,595.00**

NEW PRICE FOR SCOPE OF WORK (including this CHANGE ORDER): **$2,028,695.00**

WHEREFORE, this Change Order amends and modifies the Agreement. In all other respects, the terms and conditions of the Agreement remain in full force and effect.

DATED this September 2, 2016.

SIEMENS INDUSTRY, INC.	**CITY OF FULSHEAR, TEXAS**
Signature	Signature
Printed Name	Printed Name

Attachment #1 to City of Fulshear Change Order #1

DESCRIPTION	Contract Scope	Actual Meters Required	Difference Actual vs Contract	Material Costs EACH	Sum of Material Costs
Materials					
5/8 x 3/4 Neptune T-10 Meter w/R900I Register	30	0	-30	$ 204.32	$ (6,129.60)
5/8 x 3/4 Neptune T-10 R900I Register Only	11	0	-11	$ 196.50	$ (2,161.50)
3/4 Short Neptune T-10 Meter with R900i Register	2363	2717	354	$ 251.30	$ 88,960.20
3/4 Short Neptune T-10 Meter R900i Register Only	57	40	-17	$ 196.50	$ (3,340.50)
1" Neptune T-10 Meter with R900i Register	103	156	53	$ 348.68	$ 18,480.04
1" Neptune T-1o R900i register Only	112	98	-14	$ 196.50	$ (2,751.00)
1.5" Neptune T-10 (PD) Meter with R900i Register	39	9	-30	$ 563.16	$ (16,894.80)
1.5" Neptune HPT (Turbine) Meter with R900i Register	39	0	-39	$ 772.83	$ (30,140.37)
1.5" Neptune R900i Register Only	10	4	-6	$ 196.50	$ (1,179.00)
2" Neptune T-10 (PD) Meter with R900i Register	24	13	-11	$ 703.40	$ (7,737.40)
2" Neptune HPT (Turbine) Meter with R900i Register	23	12	-11	$ 816.67	$ (8,983.37)
2" Neptune T-10 (PD)R900i Register Only	28	4	-24	$ 196.50	$ (4,716.00)
2" Neptune HPT (Turbine)R900i Register Only	0	12	12	$ 196.50	$ 2,358.00
4" Sensus OMNI Retrofit with R900 MIU	1	1	0	$ 196.50	$ -
6" Sensus OMNI Retrofit with R900 MIU	1	2	1	$ 196.50	$ 196.50
8" Neptune Retrofit with R900i Register	1	3	2	$ 196.50	$ 393.00
Sub -Total Replacements (Meter & Radio)	2621	2907			
Sub-Total of Retrofits (Radio only)	221	164			
TOTALS	***2842***	***3071***	***229***		***$ 26,354.20***
Material Handling & Shipping					**$ 1,054.17**
Warranty & Risk					**$ 790.63**
Profit					**$ 2,396.91**
Total Cost for Change Order					**$ 30,595.91**

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	
DATE SUBMITTED:	September 15, 2016	**DEPARTMENT:**	Economic Development
PREPARED BY:	Angela Fritz Eco. Dev. Director	**PRESENTER:**	Same
SUBJECT:	**EDC Administrative Services Agreement**		
ATTACHMENTS:	1. FY 2016-2017 Administrative Services Agreement – City of Fulshear Development Corporation (A) 2. Previous Agreement		
EXPENDITURE REQUIRED:		N/A	
AMOUNT BUDGETED: **FUNDING ACCOUNT:**			
ADDITIONAL APPROPRIATION REQUIRED: **FUNDING ACCOUNT:**		N/A	

EXECUTIVE SUMMARY

The proposed administrative services agreement was adopted by the A Corporation Board at their September 12, 2016 Meeting. The Agreement provides for the administration of Corporation funds via the City of Fulshear and its personnel, and for the reimbursement of the City's General Fund for operational costs associated with the Economic Development department. The FY2017 Agreement includes expenditure controls requested by the Board related to operational line items for Travel and Training and Memberships and Dues. Additionally, it outlines that any expenditure in the Corporation's projects fund would require Board approval. The agreement runs concurrent with the budget and fiscal year, and is intended to be revisited annually in conjunction with City and Corporation budget development.

RECOMMENDATION

Staff recommends approval of the FY 2016-2017 Administrative Services Agreement between the City of Fulshear and the City of Fulshear Development Corporation.

ADMINISTRATIVE SERVICES AGREEMENT BETWEEN THE CITY OF FULSHEAR DEVELOPMENT CORPORATION AND THE CITY OF FULSHEAR

This Agreement is entered into by and between the **City of Fulshear Development Corporation** (hereinafter referred to as the **"Corporation"** and) the **City of Fulshear,** Texas (hereinafter referred to as the **"CITY").**

WHEREAS, the **CORPORATION** and CITY wish to aid, and cooperate with each other in coordinating certain functions and services including administrative services for the effective, efficient operation of the **CORPORATION**; and

WHEREAS, it is in the best interests of the CITY to cooperate with the **CORPORATION** in that the **CORPORATION** is a public instrumentality acting on behalf of the CITY in furtherance of the public purposes of the Development Corporation Act of 1979, now located in Texas Local Government Code, Title 12, Subtitle C1, Chapters 504 and 505; and

WHEREAS, the governing body of CITY has duly authorized this agreement; and

WHEREAS, the governing body of **CORPORATION** has duly authorized this agreement;

NOW THEREFORE, in consideration of the foregoing and further consideration of the mutual promises, covenants and conditions herein CITY and **CORPORATION** hereby agree as follows:

Use of City Facilities

1. The CITY will agree to allow the **CORPORATION** to use the City Council Chamber and City Hall Conference Room, Community Center, and additional City conference rooms without fee. Adequate office space for **CORPORATION** daily operations, utilities and common space (restrooms, break rooms and storage) will be provided by the City. Utilities include telephone service and hardware, internet connections, and shared building utilities. Also, the CITY agrees to allow the **CORPORATION** to post notices for public hearings, special or regular meetings or workshops.

2. The CITY agrees to share a Post Office box and a box at City Hall for receipt of mail to the **CORPORATION** and to disseminate any and all mail to the **CORPORATION** box at City Hall without charge.

Services to be Provided

The CITY agrees to provide the following services to the **CORPORATION** pursuant to the City Manager's direction and approval, and such employees furnishing said services are to be considered at all times to be employees of the CITY.

a. Economic Development Director Services

1. Develop and implement strategies for the retention, expansion, and recruitment of business enterprises.

2. Provide administrative services as required by the **CORPORATION**.

3. Perform services related to the office of Executive Director of the **CORPORATION.**

4. Perform all services related to State of Texas requirements for Economic Development Corporation's reporting. Maintain all public documents and records of the Corporation.

5. Administer budgets (including Economic Development Department operating budget (100) and Corporation operating budget 600 and projects fund 601 in accordance with City, Corporation, and State purchasing and expenditure requirements. Once adopted, and approved by the City Council, the Economic Development Director shall be allowed to expend any funds within operating budgets (100, 600) to reimburse the City's expenditures for purposes described in the budgets without further Corporation approval, with the exception of the "Dues and Memberships" and "Travel and Training" line items. Once detail for these two line items has been approved by the Corporation, staff may expend funds within the line item for such approved purposes. In the event of a proposed change to approved expenditures in either category, the proposed change(s) shall be presented to the Corporation for approval before funds may be expended. At no time shall any funds be expended from the projects fund (601) without prior Corporation approval of the expenditure.

b. Economic Development Assistant Services

1. Assist the Economic Development Director in the day-to-day operation of the **CORPORATION** and the development and implementation of sound, fact-based economic development

strategies to retain, expand and recruit business enterprises.

c. Finance and Accounting

1. Payment of any and all bills submitted by the **CORPORATION** within **CORPORATION** budgetary and bylaw requirements. The City accepts no responsibility for the accuracy of bills submitted.

2. Receive, manage and invest **CORPORATION** funds in accordance with the adopted **CORPORATION** Investment Policy.

3. Maintenance of accounting records, including but not limited to general ledger, income and expense accounts and balance sheet.

4. Processing and preparation of annual budget, including monthly budget reports.

d. Other Services

1. The **CORPORATION** may request other needed services from the CITY via the City Manager.

2. The City shall provide general legal services to the Corporation, including advice, the review and preparation of resolutions, general contracts, and other legal documents or records for the Corporation. Legal services provided in regard to specific **CORPORATION** projects will be charged to the individual project.

Compensation

In consideration for the services and related costs provided by the CITY for the benefit of the **CORPORATION**, the **CORPORATION** agrees to reimburse the CITY Administrative Services Fees in an amount not to exceed to total "Administrative Services Fee" line item in the Corporation's approved fiscal year budget, a copy of which is attached hereto as Exhibit "A". Estimated fees will be prepared concurrently with the establishment of the annual budget, will be billed to the **CORPORATION** quarterly based on the following schedule, and will be reconciled to actual costs incurred.

The Corporation shall provide payment as set forth in the Corporation's annual operating budget (Fund 600) under the "Administrative Services Agreement Fees" line item, equivalent to 50% of the City's Economic Development Department operating costs as outlined in the City's Fund 100 budget, which includes funding for Economic Development Personnel, Equipment and

Supplies, Dues and Memberships, and Travel and Training. The Corporation's budget commitment is based upon budget projections provided by the City. Said sum shall be payable on a reimbursement basis to the City following presentment of a detailed quarterly invoice from the City to the Corporation.

The Corporation may provide funding as outlined in their annual operating budget (Fund 600), for transfers to the Corporation's Projects Fund (Fund 601) to be administered by City personnel under the direction of the Corporation. For FY 2017, these transfers include funding for Community Events, Promotional Expenses, and Professional Services.

Quarterly payments to the CITY by the **CORPORATION** shall be made as expediently as possible upon invoice after the following dates:

- December 31
- March 31
- June 30
- September 30

Period of Duration

This Agreement shall remain in force and effect for a one-year period. The parties agree to use best efforts to continue this Agreement from year to year. The Agreement shall be reviewed annually, and any modifications or extension of the terms and conditions of the Agreement shall be of no force and effect except in a subsequent document in writing signed by the parties hereto.

This agreement will have no force or effect until duly executed by all parties hereto, will run concurrent to the City and Corporation's fiscal year (October 1 through September 30),terminating at ***12:01 a.m. on October 1, 2017.***

The **CORPORATION** and the CITY may cancel this agreement at any time upon sixty (60) days written notice to the other party. The obligations of the **CORPORATION**, including its obligation to pay the CITY for all costs incurred under this agreement prior to such notice, shall survive such cancellation, as well as any other obligation incurred under this agreement, until performed or discharged by the **CORPORATION**.

Nothing in this Agreement shall constitute a waiver by the Parties of governmental immunity nor shall the Parties' enforcement of any legal right or assertion of any affirmative defense arising out of this Agreement constitute a waiver of the Parties' governmental immunity. Nothing in this Agreement shall be construed as express or implied consent of the Parties to being sued.

Execution

Executed, in duplicate originals, by the **CORPORATION** on the 12th day of September, 2016, and by the CITY on the _____ day of _____, 20___, at Fulshear, Fort Bend County, Texas, to be ***effective on October 1, 2016***.

CITY OF FULSHEAR DEVELOPMENT CORPORATION

By: Fay K. Burke
Fay Burke, Secretary

By: Ewelina Forker
Ewelina Forker, President

CITY OF FULSHEAR

By: _____
Diana Gordon Offord, City Secretary

By: _____
Jeff W. Roberts, Mayor

EXHIBIT "A"

CITY OF FULSHEAR, TEXAS
FY 2016-2017 BUDGET

CDC FUND - FUND: 600

Classification	2014-15 Actual	2015-16 Adopted Budget	2015-16 Amended Budget	8/19/2016 15-16 to-date	2015-16 Estimated Final	2016-17 Proposed Budget	FY Var %	% Total Revenue
REVENUES:								
Sales Tax	320,543.99	393,000.00	393,000.00	241,748.72	322,378.97	338,497.91		
Interest	1,334.70	500.00	500.00	726.65	968.87	1,000.00		
Interest W/S Project Fund	14.36	-	-	-	-	-		
Private contributions	-	-	-	-	-	-		
Miscellaneous	-	-	-	-	-	-		
REVENUE TOTALS	321,893.05	393,500.00	393,500.00	242,475.37	323,347.84	339,497.91	-13.7%	
EXPENSES:								
ADMIN:								
Administrative Supplies	-	587.85	587.85	-	100.00	250.00		
Uniform/Shirt Expenses	-	300.00	300.00	-	-	-		
Admin - Meeting Expenses	-	500.00	500.00	-	-	-		
Admin - Legal Services	685.50	2,500.00	2,500.00	2,176.60	2,500.00	2,500.00		
Admin - Admin Services	1,756.25	-	-	-	-	-		
Admin - Audit Services	1,400.00	2,000.00	2,000.00	-	-	-		
Admin - EDC Consulting Services	4,913.40	5,000.00	5,000.00	2,346.00	2,900.00	2,900.00		
Admin - Indemnity Insurance	150.00	500.00	500.00	-	500.00	500.00		
Admin - Adminstrative Fees (MOU)	-	10,250.00	10,250.00	-	10,250.00	-		
Admin - Bank Fees	250.00	400.00	400.00	-	400.00	400.00		
Public Notices	-	-	-	30.25	100.00	100.00		
Admin - Dues/Memberships	530.00	-	-	-	-	-		
Continuing Education	-	2,000.00	2,000.00	-	2,000.00	2,500.00		
Travel Expenses	-	2,000.00	2,000.00	-	500.00	2,500.00		
Sub-Total Admin	9,685.15	26,037.85	26,037.85	4,552.85	19,250.00	11,650.00		3.4%
COMMUNITY DEVELOPMENT:								
Comm Dev. - City Events (MOU)	25,999.71	41,750.00	41,750.00	30,149.34	40,199.12	-		
Comm Dev. - Administration (MOU)	30,288.51	80,419.65	80,419.65	26,768.83	35,691.77	-		
Comm Dev. - Marketing (MOU)	19,316.83	28,105.00	28,105.00	10,340.00	13,786.67	-		
Comm Dev. - Land Acquisition	-	155,000.00	5,000.00	-	-	-		
Administrative Services Agreement Fees						122,059.01		36.0%
Sub-Total Community Development	75,605.05	305,274.65	155,274.65	67,258.17	89,677.56	122,059.01		36.0%
BUSINESS DEVELOPMENT:								
Business Dev. - Meeting Expenses	-	-	-	-	-	-		
Business Dev. - Professional Services	-	25,600.00	25,600.00	-	-	-		
Business Dev. - Incentives	-	5,000.00	5,000.00	-	-	-		
Business Dev. - Memberships/Subcrip (MOU)	-	10,862.50	10,862.50	5,975.00	7,966.67	-		
Business Dev. - Infrastructure	-	20,725.00	20,725.00	-	-	-		
Sub-Total Business Development	-	62,187.50	62,187.50	5,975.00	7,966.67	-		
DEBT SERVICE:								
Debt Service - App Fees	-		5,500.00	500.00	500.00	-		
Debt Service - Loan Principal	380,592.41		6,387.00	-	-	26,759.64		
Debt Service - Loan Interest	8,024.46		4,339.00	-	-	17,499.96		
Sub-Total Debt Service	388,616.87	-	16,226.00	500.00	500.00	44,259.60		13.0%
XFERS TO PROJECTS FUND:								
Projects Fund - Land Acquisition - EDC	-	-	150,000.00	150,000.00	150,000.00	-		
Projects Fund - Targeted Incentives - EDC	-	-	-	-	-	33,849.79		
Sub-Total EDC	-	-	150,000.00	150,000.00	150,000.00	33,849.79		10.0%
Projects Fund - Promotional - Admin Services	-	-	-	-	-	33,849.79		10.0%
Projects Fund - Professional Services - Admin Se	-	-	-	-	-	50,000.00		14.7%
Projects Fund - Events - Admin Services	-	-	-	-	-	37,500.00		11.0%
Sub-Total Admin Services	-	-	-	-	-	121,349.79		35.7%
Sub-Total Projects Fund	-	-	-	150,000.00	150,000.00	155,199.58		45.7%
TOTAL CDC EXPENDITURES	473,907.07	393,500.00	409,726.00	228,286.02	267,394.23	333,168.19	-18.7%	98.1%
NET REVENUE	(152,014.02)	-	(16,226.00)	14,189.35	55,953.61	6,329.72		1.9%

EXHIBIT "A"

CITY OF FULSHEAR, TEXAS
FY 2016-2017 BUDGET

CITY OF FULSHEAR DEVELOPMENT CORPORATION
PROJECTS FUND - FUND: 601

Classification	2014-15 Actual	2015-16 Budget	2016-17 Proposed Budget
REVENUE			
REVENUES:			
Interest	-	10.00	100.00
Transfer in CDC Fund 600	-	150,000.00	155,199.58
Loan Proceeds	-	500,000.00	-
REVENUE TOTALS	-	650,010.00	155,299.58
PROJECTS			
BALANCES			
Projects Fund - Land Acquisition - EDC (WWTP)	-	500,000.00	-
Projects Fund - Land Acquisition - EDC (Parks)	-	150,000.00	-
Projects Fund - Targeted Incentives - EDC	-	-	33,849.79
Sub-Total EDC	-	650,000.00	33,849.79
Projects Fund - Promotional - Admin Services	-	-	33,849.79
Projects Fund - Feasability Studies - Admin Services	-	-	50,000.00
Projects Fund - Events - Admin Services	-	-	37,500.00
Sub-Total Admin Services	-	-	121,349.79
TOTAL PROJECTS:	-	650,000.00	155,199.58
PROJECTS FUND TOTAL			805,309.58

INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF FULSHEAR, TEXAS AND THE CITY OF FULSHEAR, TEXAS 4A ECONOMIC DEVELOPMENT CORPORATION

This Interlocal Cooperation Agreement (the " Agreement") is entered into pursuant to Chapter 791, Texas Government Code (the "Interlocal Cooperation Act"), by and between the City of Fulshear, Texas ("City") and the City of Fulshear, Texas 4A Community Development Corporation ("CDC") sometimes jointly referred to herein as "Parties" or individually as "Party."

WHEREAS, the City and the CDC are each "local governments," as defined in Sec. 791.003, Texas Government Code.

WHEREAS, it is agreed by the Parties to be of mutual advantage that both the City and the CDC would benefit from an exchange of services.

NOW, THEREFORE, for and in consideration of the mutual obligations and benefits to be derived hereunder, the Parties to this agreement agree as follows:

I

The Purpose of this Agreement is to establish the duties and responsibilities of the Parties. Outlined in Section II and III of this Agreement are the services that the City and CDC agree to perform as a part of the Agreement.

II

In consideration for the monetary sum described in Section III below, the City shall deliver services related to the administration, marketing and other projects as described in Exhibit A to this agreement.

III

The CDC shall provide a payment as set forth in the CDC's annual budget for Administrative Salaries, Marketing, Equipment and Supplies, Dues and Memberships, Travel and Training, and Events of the City. The CDC's budget commitment is based upon budget projections provided by the City. The payment shall be in total the amount of up to $102,865 and shall be comprised of the allocations/uses as set forth in the CDC's budget for the fiscal year 2014-2015. Said sum shall be payable on a reimbursement basis to the City following presentment of a detailed quarterly invoice from the City to the CDC.

IV

This Agreement shall remain in force and effect for a one-year period. In good faith, the parties agree to properly budget, on an annual basis, any and all necessary funds and resources to successfully fulfill each parties' duties and obligations hereunder and to use best efforts to continue this Agreement from year to year.

V

This Agreement has been executed in, and shall be construed and enforced in accordance with, the laws of the State of Texas. Venue for any legal proceeding arising out of this Agreement shall be in Fort Bend County, Texas.

VI

This Agreement is effective when approved by both the City and the CDC. Either party may terminate this Agreement without cause, after written notice of the same o f at least sixty (60) days is delivered to the other party. Notice shall be given by Registered or Certified Mail to the other party at the addresses shown below:

City of Fulshear, Texas

Attn: City Administrator

30603 FM 1093

Fulshear, Texas 77441

With a copy to:

J. Grady Randle

Randle Law Office LTD, LLP

820 Gessner Suite, 1570

Houston, Texas 77024

(832) 476 9554

And:

City of Fulshear 4A Community Development Corporation

Attn: Bill Archer

PO Box 906

Fulshear, TX 77441

With a copy to:

_____

_____

_____

_____

VII

Any and all compensation due pursuant to the Agreement shall be payable from current revenues available to the paying party.

VIII

Both Parties understand that this Agreement is not intended, nor shall it be construed, to create any third party rights or obligations in or to this Agreement or the services provided hereunder.

IX

The sole obligation of the Parties is to provide the services as described in this Agreement. Should the City fail, for any reason, to carry out its obligations under this Agreement, the sole remedy of the CDC shall be to terminate this Agreement in the manner specified in this Agreement.

X

This instrument contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. The Agreement shall be reviewed annually, and any modifications of the terms and conditions of the Agreement shall be of no force and effect except in a subsequent document in writing signed by the parties hereto.

XI

No part of this Agreement, or of the rights granted to either Party hereunder, may be assigned by either Party without the prior, written consent of the other Party. This Agreement shall be binding upon, and inure to the benefit of the Parties hereto and their respective successors and assigns.

XII

Nothing in this Agreement shall constitute a waiver by the Parties of governmental immunity, nor shall the Parties' enforcement of any legal right or assertion of any affirmative defense arising out of this Agreement constitute a waiver of the Parties' governmental immunity. Nothing in this Agreement shall be construed as express or implied consent of the Parties to being sued.

THE CITY OF FULSHEAR, TEXAS

By: _____

Thomas C. Kuykendall, Jr., Mayor

ATTEST:

By: _____

Diana Gordon Offord, City Secretary

THE CITY OF FULSHEAR, TEXAS 4A COMMUNITY DEVELOPMENT CORPORATION

By: _____

Guerdon W. "Bill" Archer

President

City of Fulshear
4A Development Corp. Fund
FY 2014/2015 Budget

	FY 2013-2014 as Approved	Projected Final Actuals	FY 2014-2015 Proposed Budget	Year v Year Pct.
Revenues	$220,000.00	$202,174.29	**$337,182.00**	53.26%
Expenditures	$243,500.00	$64,359.03	**$337,182.00**	38.47%
Rev. Over/ Under Exp.	($23,500.00)	$137,815.26	$0.00	-100.00%

City of Fulshear
4A Development Corp. Fund
FY 2014/2015 Budget

Description	FY 2013-2014 as Approved	Projected Final Actual	FY 2014-2015 Proposed Budget	Year v Year Pct.
Admin. - Supplies	500.00	97.13	**250.00**	-50.00%
Admin. - BOD Meeting Expenses	500.00	0.00	**500.00**	0.00%
Admin. - Indemnity Insurance	400.00	351.00	**700.00**	75.00%
Admin. - Continuing Education	2,000.00	0.00	**2,000.00**	0.00%
Admin. - Bank Charges	400.00	174.00	**400.00**	0.00%
Admin. - Dues, Puclications & Memberships	14,500.00	16,012.50	**8,500.00**	-41.38%
Admin. - Travel	500.00	0.00	**2,000.00**	300.00%
Admin. - Prof. Services: COF Admin.	2,000.00	2,700.00	**0.00**	-100.00%
Admin. - Prof. Services: Audit	5,000.00	0.00	**1,500.00**	-70.00%
Admin. - Prof. Services: Admin	4,000.00	2,400.00	**0.00**	-100.00%
Admin. - Prof. Services: EDC Consultant	5,000.00	2,483.40	**5,000.00**	0.00%
Admin. - Prof. Services: Legal	2,500.00	351.00	**2,500.00**	0.00%
Admin. - Contingency	1,700.00	0.00	**0.00**	-100.00%
Bus. Dev. - Incentives	5,000.00	0.00	**5,000.00**	0.00%
Bus. Dev. - Meetings	3,000.00	0.00	**3,000.00**	0.00%
Bus. Dev. - Property Acquisition	5,000.00	0.00	**5,000.00**	0.00%
Bus. Dev. - Infrastructure	10,000.00	1,790.00	**10,000.00**	0.00%
Bus. Dev. - Contingency	1,000.00	0.00	**0.00**	-100.00%
City Econ. Dev. - Administration	0.00	0.00	**39,623.00**	396230.00%
City Econ. Dev. - Marketing	0.00	0.00	**29,431.00**	294310.00%
City Econ. Dev. - Tourism Development	0.00	0.00	**33,810.00**	338100.00%
Comm. Dev. - Land Acquisition	142,500.00	0.00	**150,000.00**	5.26%
Debt Service - TLF Principal	22,394.45	22,394.45	**11,934.00**	-46.71%
Debt Service - Interest	15,605.55	15,605.55	**26,034.00**	66.83%
Totals	$243,500.00	$64,359.03	$337,182.00	38.47%

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	
DATE SUBMITTED:	September 15, 2016	**DEPARTMENT:**	Economic Development
PREPARED BY:	Angela Fritz Eco. Dev. Director	**PRESENTER:**	Same
SUBJECT:	**Hotel Occupancy Tax (HOT) Establishment**		
ATTACHMENTS:	1. FY 2016-2017 Administrative Services Agreement –Fulshear Development Corporation (B) 2. Previous Agreement		
EXPENDITURE REQUIRED:		N/A	
AMOUNT BUDGETED: **FUNDING ACCOUNT:**			
ADDITIONAL APPROPRIATION REQUIRED: **FUNDING ACCOUNT:**		N/A	

EXECUTIVE SUMMARY

The proposed administrative services agreement was adopted by the B Corporation Board at their September 08, 2016 Meeting. The Agreement provides for the administration of Corporation funds via the City of Fulshear and its personnel, and for the reimbursement of the City's General Fund for operational costs associated with the Economic Development department. The FY2017 Agreement includes expenditure controls requested by the Board related to operational line items for Travel and Training and Memberships and Dues. Additionally, it outlines that any expenditure in the Corporation's projects fund would require Board approval. The agreement runs concurrent with the budget and fiscal year, and is intended to be revisited annually in conjunction with City and Corporation budget development.

RECOMMENDATION

Staff recommends approval of the FY 2016-2017 Administrative Services Agreement between the City of Fulshear and the Fulshear Development Corporation.

ADMINISTRATIVE SERVICES AGREEMENT BETWEEN THE FULSHEAR DEVELOPMENT CORPORATION AND THE CITY OF FULSHEAR

This Agreement is entered into by and between the **Fulshear Development Corporation** (hereinafter referred to as the **"Corporation"** and) the **City of Fulshear,** Texas (hereinafter referred to as the **"CITY").**

WHEREAS, the **CORPORATION** and CITY wish to aid, and cooperate with each other in coordinating certain functions and services including administrative services for the effective, efficient operation of the **CORPORATION**; and

WHEREAS, it is in the best interests of the CITY to cooperate with the **CORPORATION** in that the **CORPORATION** is a public instrumentality acting on behalf of the CITY in furtherance of the public purposes of the Development Corporation Act of 1979, now located in Texas Local Government Code, Title 12, Subtitle C1, Chapters 504 and 505; and

WHEREAS, the governing body of CITY has duly authorized this agreement; and

WHEREAS, the governing body of **CORPORATION** has duly authorized this agreement;

NOW THEREFORE, in consideration of the foregoing and further consideration of the mutual promises, covenants and conditions herein CITY and **CORPORATION** hereby agree as follows:

Use of City Facilities

1. The CITY will agree to allow the **CORPORATION** to use the City Council Chamber and City Hall Conference Room, Community Center, and additional City conference rooms without fee. Adequate office space for **CORPORATION** daily operations, utilities and common space (restrooms, break rooms and storage) will be provided by the City. Utilities include telephone service and hardware, internet connections, and shared building utilities. Also, the CITY agrees to allow the **CORPORATION** to post notices for public hearings, special or regular meetings or workshops.

2. The CITY agrees to share a Post Office box and a box at City Hall for receipt of mail to the **CORPORATION** and to disseminate any and all mail to the **CORPORATION** box at City Hall without charge.

Services to be Provided

The CITY agrees to provide the following services to the **CORPORATION** pursuant to the City Manager's direction and approval, and such employees furnishing said services are to be considered at all times to be employees of the CITY.

a. Economic Development Director Services

1. Develop and implement strategies for the retention, expansion, and recruitment of business enterprises.

2. Provide administrative services as required by the **CORPORATION**.

3. Perform services related to the office of Executive Director of the **CORPORATION.**

4. Perform all services related to State of Texas requirements for Economic Development Corporation's reporting. Maintain all public documents and records of the Corporation.

5. Administer budgets (including Economic Development Department operating budget (100) and Corporation operating budget 600/700 and projects fund 601/701 in accordance with City, Corporation, and State purchasing and expenditure requirements. Once adopted, and approved by the City Council, the Economic Development Director shall be allowed to expend any funds within operating budgets (100, 600/700) to reimburse the City's expenditures for purposes described in the budgets without further Corporation approval, with the exception of the "Dues and Memberships" and "Travel and Training" line items. Once detail for these two line items has been approved by the Corporation, staff may expend funds within the line item for such approved purposes. In the event of a proposed change to approved expenditures in either category, the proposed change(s) shall be presented to the Corporation for approval before funds may be expended. At no time shall any funds be expended from the projects fund (601/701) without prior Corporation approval of the expenditure.

b. Economic Development Assistant Services

1. Assist the Economic Development Director in the day-to-day operation of the **CORPORATION** and the development and implementation of sound, fact-based economic development

strategies to retain, expand and recruit business enterprises.

c. Finance and Accounting

1. Payment of any and all bills submitted by the **CORPORATION** within **CORPORATION** budgetary and bylaw requirements. The City accepts no responsibility for the accuracy of bills submitted.

2. Receive, manage and invest **CORPORATION** funds in accordance with the adopted **CORPORATION** Investment Policy.

3. Maintenance of accounting records, including but not limited to general ledger, income and expense accounts and balance sheet.

4. Processing and preparation of annual budget, including monthly budget reports.

d. Other Services

1. The **CORPORATION** may request other needed services from the CITY via the City Manager.

2. The City shall provide general legal services to the Corporation, including advice, the review and preparation of resolutions, general contracts, and other legal documents or records for the Corporation. Legal services provided in regard to specific **CORPORATION** projects will be charged to the individual project.

Compensation

In consideration for the services and related costs provided by the CITY for the benefit of the **CORPORATION**, the **CORPORATION** agrees to reimburse the CITY Administrative Services Fees in an amount not to exceed to total "Administrative Services Fee" line item in the Corporation's approved fiscal year budget, a copy of which is attached hereto as Exhibit "A". Estimated fees will be prepared concurrently with the establishment of the annual budget, will be billed to the **CORPORATION** quarterly based on the following schedule, and will be reconciled to actual costs incurred.

The Corporation shall provide payment as set forth in the Corporation's annual operating budget (Fund 600/700) under the "Administrative Services Agreement Fees" line item, equivalent to 50% of the City's Economic Development Department operating costs as outlined in the City's Fund 100 budget, which includes funding for Economic Development Personnel, Equipment

and Supplies, Dues and Memberships, and Travel and Training. The Corporation's budget commitment is based upon budget projections provided by the City. Said sum shall be payable on a reimbursement basis to the City following presentment of a detailed quarterly invoice from the City to the EDC.

The Corporation may provide funding as outlined in their annual operating budget (Fund 600/700), for transfers to the Corporation's Projects Fund (Fund 601/701) to be administered by City personnel under the direction of the Corporation. For FY 2017, these transfers include funding for Community Events, Promotional Expenses, and Professional Services.

Quarterly payments to the CITY by the **CORPORATION** shall be made as expediently as possible upon invoice after the following dates:

- December 31
- March 31
- June 30
- September 30

Period of Duration

This Agreement shall remain in force and effect for a one-year period. The parties agree to use best efforts to continue this Agreement from year to year. The Agreement shall be reviewed annually, and any modifications or extension of the terms and conditions of the Agreement shall be of no force and effect except in a subsequent document in writing signed by the parties hereto.

This agreement will have no force or effect until duly executed by all parties hereto, will run concurrent to the City and Corporation's fiscal year (October 1 through September 30),terminating at ***12:01 a.m. on October 1, 2017.***

The **CORPORATION** and the CITY may cancel this agreement at any time upon sixty (60) days written notice to the other party. The obligations of the **CORPORATION**, including its obligation to pay the CITY for all costs incurred under this agreement prior to such notice, shall survive such cancellation, as well as any other obligation incurred under this agreement, until performed or discharged by the **CORPORATION**.

Nothing in this Agreement shall constitute a waiver by the Parties of governmental immunity nor shall the Parties' enforcement of any legal right or assertion of any affirmative defense arising out of this Agreement constitute a waiver of the Parties' governmental immunity. Nothing in this Agreement shall be construed as express or implied consent of the Parties to being sued.

Execution

Executed, in duplicate originals, by the **CORPORATION** on the 8th day of September, 2016, and by the CITY on the _____ day of _____, 20___, at Fulshear, Fort Bend County, Texas, to be ***effective on October 1, 2016***.

FULSHEAR DEVELOPMENT CORPORATION

By: _____
Carol Riggs, Secretary

By: _____
J.W. Wauson, President

CITY OF FULSHEAR

By: _____
Diana Gordon Offord, City Secretary

By: _____
Jeff W. Roberts, Mayor

EXHIBIT "A"

CITY OF FULSHEAR, TEXAS
FY 2016-2017 BUDGET

FDC - FUND: 700

Classification	2014-15 Actual	2015-16 Adopted Budget	2015-16 Amended Budget	8/19/2016 15-16 to-date	2015-16 Estimated Final	2016-17 Proposed Budget	FY Var %	% Total Revenue
REVENUES:								
Sales Tax	320,543.99	393,000.00	393,000.00	241,784.21	322,378.97	338,497.91		
Interest	818.92	500.00	500.00	435.48	538.37	750.00		
Interest W/S Project Fund	-	-	-	-	-	-		
Private contributions	-	-	-	-	-	-		
Miscellaneous	450.00	-	-	-	-	-		
REVENUE TOTALS	321,812.91	393,500.00	393,500.00	242,219.69	322,917.34	339,247.91	-13.8%	
EXPENSES:								
ADMIN:								
Administrative Supplies	-	250.00	250.00	-	150.00	250.00		
Uniform/Shirt Expenses	-	300.00	300.00	-	-	-		
Admin - Meeting Expenses	-	500.00	500.00	-	-	-		
Admin - Legal Services	1,336.50	2,500.00	2,500.00	2,391.36	2,500.00	2,500.00		
Admin - Admin Services	400.00	-	-	-	-	-		
Prof. Services - Security		-	1,500.00	800.00	800.00	-		
Admin - Audit Services	200.00	2,000.00	2,000.00	-	-	-		
Admin - EDC Consulting Services	-	-	-	-	-	-		
Admin - Indemnity Insurance	150.00	500.00	500.00	477.26	500.00	500.00		
Admin - Adminstrative Fees	-	10,250.00	10,250.00	-	10,250.00	-		
Admin - Bank Fees	500.00	100.00	100.00	-	100.00			
Public Notices	-	-	100.00	31.30	100.00	100.00		
Admin - Dues/Memberships	2,030.00	-	-	-	-	-		
Continuing Education	-	2,000.00	2,000.00	-	2,800.00	3,500.00		
Travel Expenses	-	2,000.00	2,000.00	-	700.00	3,500.00		
Sub-Total Admin	4,616.50	20,400.00	22,000.00	3,699.92	17,900.00	10,350.00		3.1%
MARKETING:								
Marketing - Contingency	1,722.00	5,000.00	13,775.00	-	-	-		
Sub-Total Marketing	1,722.00	5,000.00	13,775.00	-	-	-		
COMMUNITY DEVELOPMENT:								
Comm Dev. - Contingency	-	-	-	-	-	-		
Comm Dev. - City Events (MOU)	25,999.71	41,750.00	41,750.00	30,149.34	40,199.12	-		
Comm Dev. - Administration (MOU)	29,106.70	85,659.77	85,659.77	26,768.83	35,691.77	-		
Comm Dev. - Marketing (MOU)	22,498.34	28,105.00	28,105.00	10,340.00	13,786.67	-		
Administrative Services Agreement Fees						122,059.01		
Comm Dev. - Sign Maintenance	12,260.00	10,000.00	10,000.00	-	-	-		
Comm Dev. -Capital Expenses	-	200,000.00	50,000.00	-	-	-		
Comm Dev. - Gateway Signs	-	45,000.00	34,625.00	-	-	-		
Sub-Total Community Development	89,864.75	410,514.77	250,139.77	67,258.17	89,677.56	122,059.01		36.0%
BUSINESS DEVELOPMENT:								
Business Dev. - Professional Services	-	25,600.00	25,600.00	-	-	-		
Commercial/Retail Development	-	7,500.00	7,500.00	-	-	-		
Tourism Development	3,500.00	8,000.00	8,000.00	18,225.00	18,225.00	-		
Business Dev. - Memberships/Subcrip (MOU)	-	10,862.50	10,862.50	5,975.00	7,966.67	-		
Sub-Total Business Development	3,500.00	51,962.50	51,962.50	24,200.00	26,191.67	-		
DEBT SERVICE:								
Debt Service - App Fees	-		5,500.00	500.00	500.00	-		
Debt Service - Principal	-		6,387.00	-	-	26,759.64		
Debt Service - Interest	-		4,339.00	-	-	17,499.96		
Sub-Total Debt Service	-	-	16,226.00	500.00	500.00	44,259.60		13.0%
XFERS TO PROJECTS FUND:								
Projects Fund - Land Acquisition - EDC	-	-	150,000.00	150,000.00	150,000.00	-		
Projects Fund - Targeted Incentives - EDC	-	-	-	-	-	33,849.79		
Sub-Total EDC	-	-	150,000.00	150,000.00	150,000.00	33,849.79		10.0%
Projects Fund - Promotional - Admin Services	-	-	-	-	-	33,849.79		10.0%
Projects Fund - Professional Services - Admin Services	-	-	-	-	-	50,000.00		14.7%
Projects Fund - Events - Admin Services	-	-	-	-	-	37,500.00		11.1%
Sub-Total Admin Services	-	-	-	-	-	121,349.79		35.8%
Sub-Total Projects Fund	-	-	150,000.00	150,000.00	150,000.00	155,199.58		45.7%
TOTAL FDC EXPENDITURES	99,703.25	487,877.27	504,103.27	245,658.09	284,269.23	331,868.19	-34.2%	97.8%
NET REVENUE	222,109.66	(94,377.27)	(110,603.27)	(3,438.40)	38,648.11	7,379.72		2.2%

EXHIBIT "A"

CITY OF FULSHEAR, TEXAS
FY 2016-2017 BUDGET

FULSHEAR DEVELOPMENT CORPORATION PROJECTS FUND - FUND: 701

Classification	2014-15 Actual	2015-16 Budget	2016-17 Proposed Budget
REVENUE			
REVENUES:			
Interest	-	10.00	100.00
Transfer in FDC Fund 700	-	150,000.00	155,199.58
Loan Proceeds	-	500,000.00	-
REVENUE TOTALS	-	650,010.00	155,299.58
PROJECTS			
BALANCES			
Projects Fund - Land Acquisition - EDC (WWTP)	-	500,000.00	-
Projects Fund - Land Acquisition - EDC (Parks)	-	150,000.00	-
Projects Fund - Targeted Incentives - EDC	-	-	33,849.79
Sub-Total EDC specific	-	650,000.00	33,849.79
Projects Fund - Promotional - Admin Services	-	-	33,849.79
Projects Fund - Feasability Studies - Admin Services	-	-	50,000.00
Projects Fund - Events - Admin Services	-	-	37,500.00
Sub-Total General Admin	-	-	121,349.79
TOTAL PROJECTS	-	650,000.00	155,199.58
PROJECTS FUND TOTAL			805,309.58

INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF FULSHEAR, TEXAS AND THE CITY OF FULSHEAR, TEXAS 4B ECONOMIC DEVELOPMENT CORPORATION

This Interlocal Cooperation Agreement (the " Agreement") is entered into pursuant to Chapter 791, Texas Government Code (the "Interlocal Cooperation Act"), by and between the City of Fulshear, Texas ("City") and the City of Fulshear, Texas 4B Economic Development Corporation ("EDC") sometimes jointly referred to herein as "Parties" or individually as "Party."

WHEREAS, the City and the EDC are each "local governments," as defined in Sec. 791.003, Texas Government Code.

WHEREAS, it is agreed by the Parties to be of mutual advantage that both the City and the EDC would benefit from an exchange of services.

NOW, THEREFORE, for and in consideration of the mutual obligations and benefits to be derived hereunder, the Parties to this agreement agree as follows:

I

The Purpose of this Agreement is to establish the duties and responsibilities of the Parties. Outlined in Section II and III of this Agreement are the services that the City and EDC agree to perform as a part of the Agreement.

II

In consideration for the monetary sum described in Section III below, the City shall deliver services related to the administration, marketing and other projects as described in Exhibit A to this agreement.

III

The EDC shall provide a payment as set forth in the EDC's annual budget for Administrative Salaries, Marketing, Equipment and Supplies, Dues and Memberships, Travel and Training, and Events of the City. The EDC's budget commitment is based upon budget projections provided by the City. The payment shall be in total the amount of up to $107,865 and shall be comprised of the allocations/uses as set forth in the EDC's budget for the fiscal year 2014-2015. Said sum shall be payable on a reimbursement basis to the City following presentment of a detailed quarterly invoice from the City to the EDC.

IV

This Agreement shall remain in force and effect for a one-year period. Nevertheless, the parties agree to properly budget, on an annual basis, any and all necessary funds and resources to successfully fulfill each parties' duties and obligations hereunder and to use best efforts to continue this Agreement from year to year.

V

This Agreement has been executed in, and shall be construed and enforced in accordance with, the laws of the State of Texas. Venue for any legal proceeding arising out of this Agreement shall be in Fort Bend County, Texas.

VI

This Agreement is effective when approved by both the City and the EDC. Either party may terminate this Agreement without cause, after written notice of the same o f at least sixty (60) days is delivered to the other party. Notice shall be given by Registered or Certified Mail to the other party at the addresses shown below:

City of Fulshear, Texas

Attn: City Administrator

30603 FM 1093

Fulshear, Texas 77441

With a copy to:

J. Grady Randle

Randle Law Office LTD, LLP

820 Gessner Suite, 1570

Houston, Texas 77024

(832) 476 9554

And:

City of Fulshear 4B Economic Development Corporation

Attn: Larry Beustring

6702 Shady Lane

Richmond, TX 77406-7871

With a copy to:

John W. Wauson

Wauson ♦ Probus

One Sugar Creek Center Blvd., Suite 880

Sugar Land, Texas 77478

(281) 242-0303

VII

Any and all compensation due pursuant to the Agreement shall be payable from current revenues available to the paying party.

VIII

Both Parties understand that this Agreement is not intended, nor shall it be construed, to create any third party rights or obligations in or to this Agreement or the services provided hereunder.

IX

The sole obligation of the Parties is to provide the services as described in this Agreement. Should the City fail, for any reason, to carry out its obligations under this Agreement, the sole

remedy of the EDC shall be to terminate this Agreement in the manner specified in this Agreement.

X

This instrument contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. The Agreement shall be reviewed annually, and any modifications of the terms and conditions of the Agreement shall be of no force and effect except in a subsequent document in writing signed by the parties hereto.

XI

No part of this Agreement, or of the rights granted to either Party hereunder, may be assigned by either Party without the prior, written consent of the other Party. This Agreement shall be binding upon, and inure to the benefit of the Parties hereto and their respective successors and assigns.

XII

Nothing in this Agreement shall constitute a waiver by the Parties of governmental immunity, nor shall the Parties' enforcement of any legal right or assertion of any affirmative defense arising out of this Agreement constitute a waiver of the Parties' governmental immunity. Nothing in this Agreement shall be construed as express or implied consent of the Parties to being sued.

THE CITY OF FULSHEAR, TEXAS

By: _____

Thomas C. Kuykendall, Jr., Mayor

ATTEST:

By: _____

Diana Gordon Offord, City Secretary

THE CITY OF FULSHEAR, TEXAS 4B ECONOMIC DEVELOPMENT CORPORATION

By: _____

Larry Beustring

Vice President

City of Fulshear
4B Development Corp. Fund
FY 2014/2015 Budget

	FY 2013-2014 as Approved	Projected Final Actuals	FY 2014-2015 Proposed Budget	Year v Year Pct.
Revenues	$220,000.00	$221,996.83	**$424,664.00**	93.03%
Expenditures	$373,000.00	$105,418.94	**$424,664.00**	13.85%
Rev. Over/ Under Exp.	**($153,000.00)**	**$116,577.89**	**$0.00**	**-100.00%**

City of Fulshear
4B Development Corp. Fund
FY 2014/2015 Budget

Description	FY 2013-2014 as Approved	YTD Actual as of 9/23/2014	Projected Final Actual	FY 2014-2015 Proposed Budget	Year v Year Pct.
Sales Tax Revenue	220,000.00	202,875.24	221,318.44	**300,000.00**	36.36%
Interest Income	0.00	621.85	678.38	**0.00**	0.00%
Transfers in from Reserves	0.00	0.00	0.00	**124,664.00**	0.00%
Miscellaneous Revenue	0.00	0.00	0.00	**0.00**	0.00%
Totals	**$220,000.00**	**$203,497.09**	**$221,996.83**	**$424,664.00**	**93.03%**

City of Fulshear
4B Development Corp. Fund
FY 2014/2015 Budget

Description	FY 2013-2014 as Approved	Projected Final Actual	FY 2014-2015 Proposed Budget	Year v Year Pct.
Admin. - Supplies	500.00	0.00	500.00	0.00%
Admin. - BOD Meeting Expenses	100.00	0.00	500.00	400.00%
Admin. - Indemnity Insurance	500.00	612.00	700.00	40.00%
Admin. - Continuing Education	2,000.00	0.00	2,000.00	0.00%
Admin. - Bank Charges	400.00	500.00	100.00	-75.00%
Admin. - Dues, Puclications & Memberships	14,500.00	12,512.50	3,500.00	-75.86%
Admin. - Travel	2,000.00	0.00	2,000.00	0.00%
Admin. - Prof. Services: COF Admin.	2,000.00	0.00	2,000.00	0.00%
Admin. - Prof. Services: Audit	3,500.00	0.00	1,500.00	-57.14%
Admin. - Prof. Services: Ind. Audit	2,000.00	0.00	2,000.00	0.00%
Admin. - Prof. Services: Admin	5,500.00	3,600.00	5,500.00	0.00%
Admin. - Prof. Services: EDC Consultant	1,000.00	0.00	1,000.00	0.00%
Admin. - Prof. Services: Legal	3,500.00	480.50	3,500.00	0.00%
Admin. - Contingency	1,000.00	0.00	0.00	-100.00%
Marketing	22,500.00	6,840.00	5,000.00	-77.78%
Tourism Development	65,000.00	29,256.44	8,000.00	-87.69%
Commercial/ Retail Development	24,500.00	24,500.00	7,500.00	-69.39%
Comm. Dev. - Gateway Signage	40,000.00	0.00	45,000.00	12.50%
Comm. Dev. - Sign Maintenance	10,000.00	2,122.50	10,000.00	0.00%
Comm. Dev. - Parks	35,000.00	24,995.00	200,000.00	471.43%
Comm. Dev. - Land Acquisition	120,000.00	0.00	0.00	-100.00%
Comm. Dev. - Contingency	500.00	0.00	500.00	0.00%
Bus. Development	17,000.00	0.00	16,000.00	-5.88%
City Econ. Dev. - Administration	0.00	0.00	44,623.00	396230.00%
City Econ. Dev. - Marketing	0.00	0.00	29,431.00	294310.00%
City Econ. Dev. - Tourism Development	0.00	0.00	33,810.00	338100.00%
Totals	$373,000.00	$105,418.94	$424,664.00	13.85%

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Economic Development
PREPARED BY:	Angela Fritz Eco. Dev. Director	**PRESENTER:**	Same
SUBJECT:	**Community Events Guidance**		
ATTACHMENTS:	1. City/EDC FY 2016 Events Detail 2. Fulshear Area Chamber of Commerce Events Information a) Overview of services provided b) Budget Detail - 2015 Events		
EXPENDITURE REQUIRED:		N/A	
AMOUNT BUDGETED: **FUNDING ACCOUNT:**			
ADDITIONAL APPROPRIATION REQUIRED: **FUNDING ACCOUNT:**		N/A	

EXECUTIVE SUMMARY

For Fiscal Year 2017 (FY17), the City's Type A and B Economic Development Corporations (EDCs) have approved an allocated total of $75,000 for community events in their respective projects funds ($37,500 for each EDC). Under the FY 2017 Administrative Services Agreements between the City and the EDCs, these expenditures from these projects funds would require EDC approval.

In FY 2016, the City and EDCs partnered with the Fulshear Area Chamber of Commerce (Chamber) to produce and manage three major community events in downtown Fulshear – a Christmas event, a St. Patty's event, and a July 4 event. In this arrangement, the EDCs provided funding for the events, in essence acting as a financial guarantor for the necessary event expenditures up to the approved budgeted amount, and Chamber staff, along with the efforts of volunteers from their board and membership, provided the required manpower and planning for the events in conjunction with the necessary City logistical and administrative support.

The Chamber has respectfully requested a definitive response from the City by September 30 regarding whether or not the City and EDCs will again partner with them on the 2016 Christmas event, in order that the appropriate amount of event planning can be completed to ensure the Christmas event's success.

Staff initiated informal, preliminary discussions with Chamber staff prior to the FY 17 budget process to begin developing a written agreement outlining formal terms for an event production partnership for eventual consideration by each group's governing bodies. To-date, the Chamber has provided

information as requested by City staff, copies of which are included here (duties/responsibilities overview and event expenditure/revenue information for their last completed fiscal year which ran Jan. 1, 2015 through December 31, 2015). A summary of this data, along with an overview of the EDCs' FY16 and FY15 event expenditures, is included below.

Fulshear Area Chamber of Commerce
Calendar Year 2015

- **Chamber Expenses (including staff costs): $26,451**
  - *Christmas 2015: $7,456*
  - *St. Patty's 2015: $8,850*
  - *July 4th 2015: $10,145*

- **Gross Chamber Event Revenues: $30,293**
  - Christmas 2015: $8,900
  - St. Patty's 2015: $5,627
  - July 4th 2015: $15,766

- **Total Chamber Net: $3,842**
  - Christmas 2015: $1,444
  - St. Patty's 2015: ($3,223)
  - July 4th 2015: $5,621

City of Fulshear Economic Development Corporations

Fiscal Year 2016

Total Event Expenditures: $72,290

Christmas 2015:	*$20,169*
St.Patty's 2016:	$15,595
July 4th 2016:	$36,526

Total City Event Revenues: $0
***City Savings: $38,096**

Fiscal Year 2015

****Total Event Expenditures: $57,055**

Christmas 2014:	$21,781
St. Patty's 2015:	*$11,547*
July 4th 2015:	*$23,727*

**estimated based on staff time allocated to other projects in lieu of direct City staff event management/oversight*

***FY 15 event funds were accounted for via a separate "department" budget (funded via EDC contributions), and security costs were paid from General Fund and are not reflected in FY15 event expenditure totals.*

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

Staff requests direction from City Council related to the following in order that this may be conveyed to the EDCs as they proceed with community event projects fund allocation consideration:

a) 2016 Christmas event production.

b) Any specific terms of importance as relate to future written event management agreement/s beyond City event controls and a basic budgetary transparency requirement for all parties.

RECOMMENDATION

Staff recommends continuing the partnership with the Chamber for this year's (2016) Christmas event production. Staff will continue working towards a process and model agreement related to events management to ensure alignment with City Council directives and subsequent EDC consideration.

CITY OF FULSHEAR
FUND 100 G/L DETAIL VS. BUDGET
FY 2015-2016

ECONOMIC DEVELOPMENT EXPENSES		Current Budget	Year to Date	% of Budget	Budget Balance
PERSONNEL					
5180-5210-00	Salaries - Comm Dev	78,500.00	45,934.40	58.52%	32,565.60
5180-5210-01	Wages	47,500.00	-	0.00%	47,500.00
5180-5211-01	Overtime	1,000.00	-	0.00%	1,000.00
5180-5230-00	Payroll Tax Expense	10,017.00	3,638.28	36.32%	6,378.72
5180-5235-00	Employee Health Benefit	14,993.04	3,779.25	25.21%	11,213.79
5180-5238-00	Retirement Contribution	6,300.00	2,511.18	39.86%	3,788.82
5180-5239-00	Workers Compensation	250.00	-	0.00%	250.00
5180-5240-00	Unemployment	380.00	-	0.00%	380.00
	Total Personnel	158,940.04	55,863.11	35.15%	103,076.93
SUPPLIES					
5180-5311-00	Supplies	4,000.00	1,299.01	32.48%	2,700.99
5180-5314-00	Publication/Ref Material	500.00	111.00	22.20%	389.00
5180-5316-00	Furniture & Light Equip	4,100.00	1,002.42	24.45%	3,097.58
5180-5326-00	Uniform Expense	300.00	141.83	47.28%	158.17
5180-5363-00	Auto Expense	2,400.00	632.17	26.34%	1,767.83
5180-5363-01	Auto Maintenance	4,000.00	-	0.00%	4,000.00
5180-5380-00	Public Relations	500.00	-	0.00%	500.00
5180-5381-00	Meeting Expenses	3,000.00	93.00	3.10%	2,907.00
	Total Supplies	18,800.00	3,279.43	17.44%	15,520.57
CONTRACTUAL					
5180-5434-00	Telecommunications	1,356.00	1,018.76	75.13%	337.24
5180-5461-01	Marketing Expenses	15,400.00	5,000.00	32.47%	10,400.00
5180-5461-02	Prof. Service - Events	83,500.00	73,198.85	87.66%	10,301.15
5180-5461-05	Prof. Services Info Tech	-	-	0.00%	-
	Total Contractual	100,256.00	79,217.61	79.02%	21,038.39
MAINTENANCE					
5180-5515-00	Advertising Expense	40,810.00	15,680.00	38.42%	25,130.00
5180-5520-00	Printing	300.00	-	0.00%	300.00
5180-5527-00	Dues & Membership Fees	21,725.00	11,950.00	55.01%	9,775.00
5180-5528-00	Travel & Training	11,500.00	4,539.73	39.48%	6,960.27
5180-5529-00	Miscellaneous Expense	500.00	240.85	48.17%	259.15
	Total Maintenance	74,835.00	32,410.58	43.31%	42,424.42
TOTAL ECO DEV		352,831.04	170,770.73	48.40%	182,060.31

CITY OF FULSHEAR
FUND 100 G/L DETAIL VS. BUDGET
FY 2015-2016

EXPENSES

5180-5461-02 Prof. Services - Events

Month's with Activity	Date	Budget Per Month	Description	Vendor	Posted Activity	Difference Per Month
October	10/30/2015	6,958.33	Stage Rental	Peron Einkauf	7,700.00	(741.67)
October	10/30/2015	6,958.33	Christmas Fireworks	LGN Enterprises	5,000.00	1,958.33
December	12/3/2015	6,958.33	Snow Machine	Miscellaneous	875.50	6,082.83
December	12/3/2015	6,958.33	Pole Service/Banners	Miscellaneous	250.00	6,708.33
December	12/3/2015	6,958.33	Security Xmas	Miscellaneous	200.00	6,758.33
December	12/3/2015	6,958.33	Security Xmas	Miscellaneous	200.00	6,758.33
December	12/3/2015	6,958.33	Security Xmas	Miscellaneous	200.00	6,758.33
December	12/3/2015	6,958.33	Security Xmas	Miscellaneous	200.00	6,758.33
December	12/3/2015	6,958.33	Security Xmas	Miscellaneous	200.00	6,758.33
December	12/3/2015	6,958.33	Security Xmas	Miscellaneous	200.00	6,758.33
December	12/3/2015	6,958.33	Security Xmas	Miscellaneous	200.00	6,758.33
December	12/3/2015	6,958.33	Curly & Daisy Entertainment	Miscellaneous	400.00	6,558.33
December	12/3/2015	6,958.33	Santa Sevices Xmas	William Bondura	700.00	6,258.33
December	12/3/2015	6,958.33	Banners/ Christmas	Fulshear Graphics	1,425.00	5,533.33
December	12/3/2015	6,958.33	Entertainment Xmas	Lone Star Symph	1,000.00	5,958.33
December	12/7/2015	6,958.33	Street Cleaners	Clean Sweep	325.00	6,633.33
December	12/15/2015	6,958.33	Christmas Light Tower	United Rentals	114.77	6,843.56
December	12/15/2015	6,958.33	Christmas Light Tower	United Rentals	721.54	6,236.79
January	1/11/2016	6,958.33	Stage 4th of July	Peron Einkauf	8,475.00	(1,516.67)
January	1/11/2016	6,958.33	St Patricks Day	Peron Einkauf	7,950.00	(991.67)
January	1/12/2016	6,958.33	Band 4th July Spazma	PWE Productions	3,750.00	3,208.33
February	2/7/2016	6,958.33	St Patricks Day	Fulshear Graphics	1,334.50	5,623.83
February	2/12/2016	6,958.33	St Patrick's Banners	Miscellaneous	250.00	6,708.33
February	2/23/2016	6,958.33	St Patrick's Event-1	Miscellaneous	700.00	6,258.33
February	2/23/2016	6,958.33	St Patrick's Event-1	Miscellaneous	700.00	6,258.33
February	2/23/2016	6,958.33	St Patrick's Event-1	Miscellaneous	500.00	6,458.33
February	2/29/2016	6,958.33	St Patrick's Public	Miscellaneous	750.00	6,208.33
March	3/8/2016	6,958.33	AD Full Pg Online	Miscellaneous	6,000.00	958.33
March	3/16/2016	6,958.33	St Patty's Lighttower	Miscellaneous	699.02	6,259.31
March	3/19/2016	6,958.33	Payroll Expense	Miscellaneous	2,120.00	4,838.33
March	3/21/2016	6,958.33	Miss Fulshear Pageant	Miscellaneous	180.00	6,778.33
March	3/21/2016	6,958.33	Miss Fulshear Tiaras	Miscellaneous	170.50	6,787.83
March	3/21/2016	6,958.33	Miss Fulshear Sashes	Miscellaneous	310.00	6,648.33
March	3/21/2016	6,958.33	St Patty's Security	Miscellaneous	240.00	6,718.33

March	3/21/2016	6,958.33	St Patty's Security	Roger Thurman	240.00	6,718.33
March	3/21/2016	6,958.33	Reverse Voided Check	Miscellaneous	(170.50)	7,128.83
March	3/23/2016	6,958.33	Trophies for Fulshear	Miscellaneous	248.13	6,710.20
March	3/24/2016	6,958.33	St Patty's Cleaning	Clean Sweep	351.81	6,606.52
April	4/12/2016	6,958.33	Correct Conway Expen		(6,000.00)	12,958.33
April	4/21/2016	6,958.33	Fulshera Pageant Tia	Miscellaneous	170.00	6,788.33
April	4/21/2016	6,958.33	Volunteer Security	Roger Thurman	(240.00)	7,198.33
May	5/27/2016	6,958.33	4th of July Event	Golden Entertainment	5,500.00	1,458.33
May	5/27/2016	6,958.33	Performance at Freedom Fest	PWE Productions	3,750.00	3,208.33
May	5/27/2016	6,958.33	Fulshear 4th of July	Front Row Signs	399.76	6,558.57
June	6/13/2016	6,958.33	Stage and sound for Freedom Fest	Fulshear Star	600.00	6,358.33
June	6/15/2016	6,958.33	July 4th Event	Fulshear Area Ch	508.65	6,449.68
June	6/23/2016	6,958.33	Bes Valet Parking	Bes Valet Parking	900.00	6,058.33
July	7/1/2016	6,958.33	Fireworks 4th of July	LGN Enterprises	5,000.00	1,958.33
July	7/1/2016	6,958.33	Light Rentals	United Rentals	403.69	6,554.64
July	7/4/2016	6,958.33	July 4th - Event Sec 1	Miscellaneous	300.00	6,658.33
July	7/4/2016	6,958.33	July 4th - Event Sec 1	Miscellaneous	300.00	6,658.33
July	7/4/2016	6,958.33	July 4th - Event Sec 1	Miscellaneous	300.00	6,658.33
July	7/4/2016	6,958.33	July 4th - Event Sec 1	Miscellaneous	300.00	6,658.33
July	7/4/2016	6,958.33	July 4th - Event Sec 1	Miscellaneous	300.00	6,658.33
July	7/4/2016	6,958.33	July 4th - Event Sec 1	Miscellaneous	300.00	6,658.33
July	7/4/2016	6,958.33	July 4th - Event Sec 1	Miscellaneous	300.00	6,658.33
July	7/4/2016	6,958.33	July 4th - Event Sec 1	Miscellaneous	300.00	6,658.33
July	7/4/2016	6,958.33	July 4th - Event Sec 1	Miscellaneous	300.00	6,658.33
July	7/4/2016	6,958.33	July 4th - Event Sec 1	Miscellaneous	300.00	6,658.33
July	7/4/2016	6,958.33	July 4th - Event Sec 1	Miscellaneous	300.00	6,658.33
July	7/4/2016	6,958.33	July 4th - Event Sec 1	Miscellaneous	300.00	6,658.33
July	7/4/2016	6,958.33	July 4th - Event Sec 1	Miscellaneous	300.00	6,658.33
July	7/6/2016	6,958.33	4th July Clean up	Clean Sweep	325.00	6,633.33
July	7/6/2016	6,958.33	Light Rentals	United Rentals	614.92	6,343.41
July	7/6/2016	6,958.33	Light Rentals	United Rentals	348.96	6,609.37
July	7/13/2016	6,958.33	Payroll Expense		2,050.00	4,908.33
July	7/18/2016	6,958.33	reclass Misposted Expense-Christmas		257.60	6,700.73
Current Budget:	83,500.00			YTD:	73,198.85	393,009.26
					Balance:	**10,301.15**

Prof. Services Events Totals	
Christmas	20,169.41
St. Patrick's Day	15,595.33
Miss Fulshear	908.13
July 4th	36,525.98

FULSHEAR AREA CHAMBER / EVENT RESPONSIBILITIES, MAN-HOURS & VALUE

Fulshear Event Planning and Production Responsibilities
St. Patrick's Day - Freedom Fest - Festival of Lights

- Plan, design and produce events while managing all project delivery elements
- Design theme and do creative of all collateral material and production for the event
- Assist with negotiations for space contracts and book event
- Arrange food and beverage
- Order supplies and audiovisual equipment
- Order event signs, and ensure appropriate décor
- Order and place lights and generators
- Order and place Portable Bathroom facilities and wash stations
- Create and revise layouts for each event
- Order parking attendants
- Meet and strategize with Fulshear PD and Fulshear Fire Dept.
- Assist with managing on-site production
- Seek and execute all road closures permits
- Solicit and manage all vendors for the event
- Serve as liaison with vendors on event-related matters
- Conduct market research, gather information and negotiate contracts
- Provide feedback and periodic reports to sponsors
- Propose ideas to improve provided services and event quality
- Organize facilities and manage all event's details such as decor, catering, entertainment, transportation, location, invitee list, special guests, equipment, promotional material etc
- Ensure compliance with insurance, legal, health and safety obligations
- Specify staff requirements and coordinate their activities
- Cooperate with marketing and PR to promote and publicize event
- Proactively handle any issues and troubleshoot any emerging problems on the event day
- Conduct pre and post – event evaluations and report on outcomes
- Research market, identify event opportunities and generate interest
- Assist with preparing budgets and provide periodic progress reports. Keep track of event finances including check requests, invoicing, and reporting.
- Coordinate appointments and visits to see space, and scheduling of events on the calendar
- Manage and coordinate all volunteers
- Prepare and modify event contracts as requested
- Arrange clean up for events as necessary.

FULSHEAR AREA CHAMBER MAN-HOURS & VALUE FOR 3 EVENTS PER YEAR

Planning and Management:	Don McCoy	120 hours
	Amy Norvell	120 hours
Day of Event	Don McCoy	45 hours
	Amy Norvell	45 hours

TOTAL Hours & Value: **330 hours x $100 = $33,000**

Volunteer Hours & Value: **150 hours x $100 = $15,000**

2015

	St Patricks	July 4th	Christmas	Total
Gross Revenues (all sources)	$ 5,627	$ 15,766	$ 8,900	$ 30,293
Expenses	$ (2,250)	$ (3,545)	$ (856)	$ (6,651)
* Don & Amy Overhead	$ (6,600)	$ (6,600)	$ (6,600)	$ (19,800)
Net	$ (3,223)	$ 5,621	$ 1,444	$ 3,842

Total Net	$ 3,842
Avg per event	$ 1,281

* Don and Amy's combined hourly rate of $60 multiplied by the 330 hours of estimated time they devote to all three City events. This total is then allocated/divided evenly to all 3 events.

St Patricks Day 2015

1/16/2015	Golden Entertainment	$ 1,125.00
3/9/2015	Golden Entertainment	$ 1,125.00
	Total Expense	$ 2,250.00

July 4th 2015

		Expenses			
6/11/2015		Fulshear Graphics			$ 18.00
6/16/2015		Oriental Trading			$ 151.41
6/26/2015		Leonetti - Tshirts			$ 370.22
6/30/2015		Walmart supplies			$ 41.10
6/30/2015		Houston Press Ad			$ 175.00
7/2/2015		Fulshear Graphics/banners			$ 1,200.00
7/2/2015		Dollar General			$ 16.24
7/2/2015		Home Depot			$ 93.27
7/3/2015		Doziers			$ 53.23
7/6/2015		Home Depot			$ 18.23
7/6/2015		Dollar General			$ 64.95
7/6/2015		Kroger			$ 149.85
7/14/2015		Traffic cones/Parade signs			$ 220.54
7/14/2015		Hilton - rooms for Hwymen			$ 876.53
7/14/2015		Posters			$ 66.44
7/14/2015		Karen Osmaces/Kuya's Ice-refund			$ 50.00
		Total Expenses			$ 3,544.81

Christmas 2015

		EXPENSES		
10/26/2015		Curly & Daisy Clowns		$ 200.00
11/13/2015		Fulshear Graphics		$ 390.00
11/11/2015		Postermywall		$ 7.99
11/17/2015		Rhonda Kuykendall/Elf cost.		$ 73.59
11/25/2015		Hobby Lobby		$ 45.93
11/25/2015		Home Depot		$ 10.76
11/24/2015		Walmart		92.16
12/5/2015		Shell - generator gas		$ 2.78
12/6/2015		CVS - goody bags		$ 33.40
		TOTAL EXPENSES		$ 856.61

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	
DATE SUBMITTED:	September 15, 2016	**DEPARTMENT:**	Economic Development
PREPARED BY:	Angela Fritz Eco. Dev. Director	**PRESENTER:**	Same
SUBJECT:	**Hotel Occupancy Tax (HOT) Ordinances**		
ATTACHMENTS:	1. **Proposed Ordinance No. 2016-1223** 2. Ordinance No. 2016-1221 – July 19, 2016 3. Ordinance No. 2013-1099 – May 16, 2013		
EXPENDITURE REQUIRED:		N/A	
AMOUNT BUDGETED: **FUNDING ACCOUNT:**			
ADDITIONAL APPROPRIATION REQUIRED: **FUNDING ACCOUNT:**		N/A	

EXECUTIVE SUMMARY

City Council adopted Ordinance 2016 -1221 on July 19, 2016, establishing a municipal hotel occupancy tax rate of 7% in the City of Fulshear and its ETJ. City Council had previously adopted Ordinance 2013-1099 on May 16, 2013. The Ordinance for consideration repeals Ordinance 2013-1099 which was superseded by Ordinance 2016-1221.

RECOMMENDATION

Staff recommends City Council adopt Ordinance 2016 - 1223 repealing Ordinance No. 2013-1099, regarding the imposition of a hotel/motel occupancy tax, being superseded by Ordinance No. 2016-1221.

ORDINANCE NO. 2016-1223

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, REPEALING ORDINANCE NO. 2013-1099, REGARDING THE IMPOSITION OF A HOTEL/MOTEL OCCUPANCY TAX, BEING SUPERSEDED BY ORDINANCE NO. 2016-1221.

* * * * * * * * * * *

WHEREAS, on May 16, 2013, the City Council of the City of Fulshear, Texas, adopted Ordinance No. 2013-1099, regarding the imposition of a hotel/motel occupancy tax; and

WHEREAS, on July 19, 2016, the City Council adopted Ordinance No. 2016-1221, regarding the same subject matter; and

WHEREAS, the City Council finds and determines that Ordinance No. 2016-1221 supersedes Ordinance No. 2013-1099; and

WHEREAS, the City Council desires to explicitly repeal Ordinance No. 2013-1099 for purposes of clarity;

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

Section 1. That all of the facts recited in the preamble to this Ordinance are hereby found by the City Council to be true and correct and are incorporated herein by this reference and expressly made a part hereof, as if copied herein verbatim.

Section 2. That Ordinance No. 2013-1099 is hereby repealed.

Section 3. **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 4. **Effective date**. That this Ordinance shall be effective and in full immediately upon its adoption.

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

_____
Jeff W. Roberts, Mayor

ATTEST:

_____
D. Gordon Offord, City Secretary

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 12th day of July, 2016.

Jeff Roberts, Mayor

ATTEST:

D. Gordon Offord, City Secretary

ORDINANCE NO. 2013-1099

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:

Assessor/collector means the director of finance.

Consideration.

(1) The term "consideration" means the price of, or value received for, the right to use a sleeping room, bed, or dormitory space or other sleeping facility in a hotel, and includes the price of conveniences customarily provided in connection with sleeping accommodations, including:

a. Mattresses;
b. Sheets;
c. Bedspreads;
d. Pillows;
e. Pillow cases;
f. Bed frames;
g. Air conditioning

h. Electricity;
i. Lighting;
j. Water;
k. Soap;
l. Towels;
m. Wash cloths;
n. Toilet tissue;
o. Shower or bath facilities;
p. Lavatory chairs;
q. Trash receptacles; and
r. Any other goods or services which are not ordinarily subject to sales tax.

(2) The consideration paid for a sleeping room or facility shall not include the price of food served, nor the price of personal services rendered to the occupant which are unrelated to cleaning and readying a room for occupancy, nor any sales tax, nor occupancy tax assessed by other governmental agencies, provided that these charges are stated separately on the folio or invoice of the occupant. Charges not stated separately shall be presumed to be part of the consideration paid for occupancy of a sleeping room or sleeping facility, and shall be taxed under this Ordinance.

Hotel shall mean any building or complex of buildings in which members of the public obtain sleeping accommodations for consideration.

(1). The term shall include hotels, motels, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast.

(2) The term does not include:

a. Hospitals, sanitariums or nursing homes.

b. A dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by V.T.C.A., Education Code Sec. 61.003, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an education program or activity at the institution.

Occupancy means the use or possession, or the right to the use or possession, of any room in a hotel if the room is one ordinarily used for sleeping, and if such use, possession or right of use or possession at the time such room is provided under lease, concession, permit, right of access, license, contract or agreement is for a period of less than thirty (30) consecutive days.

Occupant means the use or possession or the right to the use or possession of any room in a hotel if the room is provided under lease, concession, permit, right of access, license, contract or agreement.

Permanent resident shall mean any occupant who has occupied or has paid for the exclusive right to occupy a particular sleeping room or rooms or sleeping facility in a hotel for at least thirty (30) consecutive days; however, one change of sleeping rooms or facility during the first thirty (30) days of occupancy in the hotel shall not terminate the status of the permanent resident. Any person who does not fully prepay for the first thirty (30) days is not a permanent resident during the first thirty (30) days of occupancy.

Person means any individual, company, corporation or association owning, operating, managing or controlling any hotel.

Quarterly period means the regular calendar quarters of the year, the first quarter being composed of the months of January, February and March, the second quarter being the months of April, May and June, the third quarter being the months of July, August and September, and the fourth quarter being the months of October, November and December.

Section 3. *Authorized tax; rate; exceptions.*

(a) *Authorization.* There is hereby levied a tax upon the cost of or consideration paid for a sleeping room or sleeping facility furnished by any hotel.

(b) *Tax rate.* The tax shall be equal to seven (7) percent of the total price of a sleeping room or sleeping facility, said price to include all goods and services provided by the hotel which are not ordinarily subject to sales tax.

(c) *Exceptions.*

(1) There shall be no tax on the cost of or consideration paid for occupancy of a hotel sleeping room or sleeping facility priced at less than two dollars ($2.00) per day.

(2) The cost of or consideration paid for a hotel room or facility not ordinarily used for sleeping, such as a meeting room, is not subject to this tax.

(3) The cost of or consideration paid for a sleeping room or facility occupied by a permanent resident is not subject to this tax.

(4) There can be no occupancy tax on the consideration paid directly by the United States Treasury if the constitutional exemption is invoked. This exception is not extended to employees of the federal government or any local government who pay the consideration for sleeping room or sleeping facilities without the federal government being a party to the contract.

(5) Diplomatic personnel who present a tax exemption card issued by the United States Department of State.

Section 4. *Refunds.* Except as otherwise provided, a tax imposed on the following persons or entities shall be paid, but each governmental entity herein described shall be entitled to a refund as prescribed below.

(a) *State or agency, etc.* The state or an agency, institution, board or commission of the state of Texas, other than an institution of higher education, as defined in V.T.C.A., Education Code Sec. 61.003.

(b) *Officers and Employees of a State Organization.* An officer or employee of a state governmental entity described in subsection (a) of this section who is entitled to reimbursement for the cost of lodging and for whom a special provision or exception to the general rate of reimbursement under the general appropriations act is not applicable when such person is traveling on or otherwise engaged in the course of official duties for the governmental entity.

(c) *Refund procedure.* The director of finance shall draft procedures prescribing the proper processes and the documentation required for refunds of hotel occupancy tax paid.

Section 5. *Collection, payment to city; fee for collection.*

(a) Required Collection and Reporting. Every person owning, operating, managing or controlling any hotel shall collect the tax imposed under this Ordinance and pay the same to the city tax collector with the report required hereinafter.

(b) Persons Required to File. The persons required to file a report under this Ordinance may deduct and withhold from the taxes otherwise due to the City on the quarterly tax report, as reimbursement for the cost of collecting the tax, one (1) percent of the amount of the timely remitted tax due, as shown in timely submitted reports, provided there are no delinquencies for any prior reporting period, and provided that the report is submitted and the tax remitted on or before the last day following the end of the collection/reporting period.

(c) Date of Delinquency. The report and the tax remittance shall become delinquent on the first day of the second calendar month following the collection/reporting month.

Section 6. *Reports.*

(a) Persons Required to File Reports. Every person required to collect the tax, as specified herein, shall file a report with the city finance director or his designated representative showing the consideration paid for all rooms or sleeping space occupancies in the preceding calendar quarter, the amount of tax collected on such occupancies, and any other useful and relevant information as the city finance director may require.

(b) Timeliness of Reports. Timely reports must be submitted so as to arrive at the office of the city tax collector by the last day of the month following the calendar month collection/reporting period.

(c) Information Required in Reports. Reports shall include gross sleeping room revenues, gross exempt sleeping room revenues, city occupancy tax collected, and net occupancy tax due the City. It shall also include the signature of the hotel's local manager or person in control of business operations at the reporting hotel, who shall sign a statement that the report is accurate to the best of his/her knowledge and belief.

(d) Additional Reporting. The finance director shall have the authority to impose a daily or weekly collection/reporting period, and shall provide for daily or weekly pick-up of reports and tax collections, whenever he has reason to believe that the tax revenues will not be remitted in the normal course of business, such as an impending bankruptcy or business closing, or the maintenance of unauditable records.

Section 7. *Availability of records.* Each person required to collect the tax must make all necessary books and records available for inspection by the city finance director or his designated representative at the hotel where the tax is collected.

Section 8. *Rules and regulations.* The city finance director is authorized to issue rules and regulations necessary to effectuate the full intent and purpose of this Ordinance concerning the information required on reports, the collection reporting periods, audits, the retention of records at the hotel, the forcible seizure of records for auditing purposes, the imposition of a daily or weekly collection/reporting period, the referral of delinquent reports and collections to the legal department for purpose of enjoining continued operation of a hotel, the filing of criminal complaints for violations of this Ordinance, and the acceptance of a surety bond in lieu of enjoining a hotel from doing business.

Section 9. *Violations.*

(a) *Forfeit collection fee.* If any person fails to timely file a full and complete report as required herein or fails to timely remit the tax required under this Ordinance when the report and payment is due, he shall forfeit his right to the one (1) percent reimbursement authorized herein.

(b) *Date of first penalty.* In addition, he shall pay five (5) percent of the unremitted delinquent tax as a late penalty if the report is not submitted or the tax is not remitted by the last day of the calendar month in which they are due.

(c) *Monthly penalty.* After the first calendar month of delinquency, he shall owe an additional five (5) percent of the unremitted tax as of the first day of each delinquent month.

(d) *Interest on delinquent balance.* Delinquent taxes and penalties shall accrue interest on the first day of each month at the annual rate of twelve (12) percent per annum.

Section 10. *Suit to enjoin hotel operations.* Subject to city council approval the finance director shall refer any hotel occupancy tax account that has a delinquent balance older than ninety (90) days to the city attorney for the purpose of

filing a suit to enjoin the hotel owner, operator, manager, and other persons in control from operating any hotel in the City of Fulshear until the tax is paid and the report filed. This remedy shall be in addition to the remedy of a collection suit and in addition to the municipal court criminal complaint that may be filed for each violation of this Ordinance. Such legal action is subject to city council approval.

Section 11. *Delinquency notice.* The auditor or the city tax collector shall mail a delinquency notice to the hotel manager, operator, or person in control and in such notice shall give a date certain for the filing of a criminal complaint for failure to report or remit collected tax revenues or for failure to do any other specified act required by this Ordinance.

Section 12. *Registration Requirements.* It shall be the obligation of each hotel owner or operator to, within thirty (30) days ownership or control of the property, advise the tax assessor/collector of any change of ownership, and to register with the assessor/collector as an owner or operator of the property by filing a City of Fulshear Hotel Occupancy Tax Questionnaire. It is the obligation of each owner or operator to properly and timely file a Hotel Occupancy Tax Questionnaire with the assessor/collector.

Section 13. *Tampering with governmental records.* The auditor of hotel tax records which are created and maintained at the hotel business shall report any evidence of false entry in or false alteration of said records to the finance director, who shall make the determination of whether or not to file a criminal charge against the person in control of said records pursuant to V.T.C.A., Penal Code Sec. 37.10, entitled "Tampering With Governmental Record," after consultation and advice of the city attorney and the city council.

Section 14. *Use of tax revenue.* The revenue derived from any hotel and motel occupancy tax collected hereunder shall be used to promote tourism and the convention and hotel industry, as permitted under V.T.C.A., Tax Code Sec. 351.101 as may be amended from time to time by the state legislature. Under no circumstances shall the revenue derived from the occupancy be used for the general revenue purposes or general governmental operations of the City.

Section 15. *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 16. *Penalties.* 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). 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. To the extent that any conduct in violation of this Ordinance also constitutes a violation of state law, then the conduct shall be punishable under the applicable state law.

Section 17. *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 18. *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 19. *Effective Date.* This Ordinance shall be effective and in full force when published as required by law.

PASSED, APPROVED, and ADOPTED on this 14th day of MAY, 2013.

Thomas C. Kuykendall, Jr., Mayor

ATTEST:

D. Gordon Offord, City Secretary

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	Michael Ross, Assistant City Manager	**PRESENTER:**	Michael Ross, Assistant City Manager
SUBJECT:	**Moratorium on Hotel/Motel Development in the City**		
ATTACHMENTS:	Moratorium Checklist Moratorium Timeline Residential Moratorium Checklist Moratorium Background Ordinance Calling Public Hearing		

EXPENDITURE REQUIRED:	$0
AMOUNT BUDGETED:	$0
ACCOUNT:	
ADDITIONAL APPROPRIATION REQUIRED:	$0
ACCOUNT NO:	

EXECUTIVE SUMMARY

The City has recently received inquiries regarding potential hotel/motel developments in the City. At this time the City does not have any specific regulations for this type of use therefore Staff recommends a temporary moratorium on this type of development while Staff prepares this criteria for consideration by the Planning & Zoning Commission and City Council.

A moratorium is a tool that permits a city to give itself some "breathing room" to review and update its land use regulations; however the Legislature has imposed fairly stringent notice and hearing requirements on cities that seek to impose moratoria on development.

Before the city can impose a moratorium on property development, it must conduct a public hearing that provides municipal residents and affected parties the opportunity to be heard. The city must publish notice of the hearing in a newspaper of general circulation on the fourth day before the date of the hearing. Beginning on the fifth day after the city publishes notice, a temporary moratorium will automatically take effect. During the period of the temporary moratorium, the city may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property to which the moratorium applies.

Further requirements for imposing a moratorium can be found in sections 212.131 – 212.139 of the Texas Local Government Code.

RECOMMENDATION

Staff recommends that City Council select an appropriate time and date and approve the ordinance calling for the public hearing.

MORATORIUM CHECKLIST / CALENDAR

ACTION	DEADLINE	OPTION 1 DATE	OPTION 2 DATE	STATUTORY REFERENCE	STATUTORY TEXT
Publish Notice	Calendar Day 1	04/10/14	04/24/14	LGC 212.134(b)	The municipality must publish notice of the time and place of a hearing in a newspaper of general circulation in the municipality on the **fourth day before** the date of the hearing
CC Public Hearing No. 1 (or Joint with P&Z)	Calendar Day 5	04/14/2014 (Reg. CC)	04/28/2014 (Reg. CC)	LGC 212.134(b)	A public hearing must provide municipal residents and affect partes an opportunity to be heard.
P&Z Public Hearing No. 2 (or Joint with CC)	Not Necessary if Joint w/CC			LGC 212.134(d)	One public hearing must be held before the governing body of the municipality. Another public hearing must be held before the municipal zoning commission, if the municipality has a zoning commission. ***NOTE: There is nothing that prohibits both entities from convening in a joint public hearing for the purpose of meeting this requirement.***
Temporary Moratorium Takes Effect	**Business** Day 5	04/17/14	05/01/14	LGC 212.134(c)	Beginning on the fifth **business day** after the date a notice is published under subsection 212.134(b), a temporary moratorium takes effect. During the period of the temporary moratorium, a municipality may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property.
First Reading	**By** Calendar Day 12	04/14/2014 (Reg. CC)	04/28/2014 (Reg. CC)	LGC 212.134(f)	Before an ordinance adopting a moratorium may imposed, the ordinance **must be given at least two (2) readings** by the governing body of the municipality. The readings must be separated by **at least four (4) days**. If the municipality fails to adopt an ordinance imposing a moratorium within the period prescribed by this subsection [LGC 212.134(f)], an ordinance imposing a moratorium **may not be adopted**, and the temporary moratorium imposed under [LGC 212.134(c)] expires.
Final Determination	**By** Calendar Day 17	04/15/14 thru 04/26/14	04/29/14 thru 05/10/14	LGC 212.134(f)	Within 12 [calendar] days after the date of the first public hearing (CALENDAR DAY 5), the municipality **shall** make a final determination on the imposition of a moratorium.
Second Reading (Moratorium Effective)	**By** Calendar Day 17	04/19/14 thru 04/26/14	05/03/14 thru 05/10/14	LGC 212.134(f)	Before an ordinance adopting a moratorium may be imposed, the ordinance **must be given at least two (2) readings** by the governing body of the municipality. The readings must be separated by **at least four (4) days**. If the municipality fails to adopt an ordinance imposing a moratorium within the period prescribed by this subsection [LGC 212.134(f)], an ordinance imposing a moratorium **may not be adopted**, and the temporary moratorium imposed under [LGC 212.134(c)] expires.
ADOPTION DEADLINE	Calendar Day 17	04/26/14	05/10/14		

V.1.
Created 04/02/14

TIMELINE / MANDATORY DATES FOR IMPOSITION OF MORATORIUM ON ISSUANCE OF PLATS FOR DEVELOPMENT OF PROPERTY WITHIN THE JURISDICTION OF THE CITY OF MONT BELVIEU

This table specifies the mandatory date(s) for the procedure to adopt a moratorium in accordance with subchapter E, Sections 212.131 et seq. of the Local Government Code. Pursuant to Section 212.135(a), issuance of written findings in support of said moratorium, e.g., demonstrating a need to prevent shortage of essential public facilities, will be required. **This table assumes that Council begins consideration of the ordinance calling for the public hearings on Monday, April 27, 2008.**

May/June 2008

1. **Monday, April 27, 2008:** Council considers **Ordinance** setting times for two (2) public hearings that are required under LGC § 212.134. *One public hearing (May 11, 2008) must held before the **governing body** of the municipality. If the city has a municipal zoning commission, the second public hearing must be held before the **municipal zoning** commission.*

2. **Wednesday, May 7, 2008: Publication of Notice for First Hearing.** City must publish notice of the time and place of hearing on adoption of moratorium in a newspaper of general circulation. The publication of notice must occur **on the fourth day before the date of hearing.** LGC § 212.134(b). Notice for each hearing must be posted on the internet at the City's website if applicable and must remain posted until the date of the hearing.

   a.) Beginning on the fifth business day (Wednesday, May 14, 2008) after the date a

notice is published under 212.134(b), a temporary moratorium takes effect. During the period of the temporary moratorium, a municipality *may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property.* LGC § 212.134(c).

3. **Monday, May 11, 2008: First Required Public Hearing** for Moratorium (Note: the hearing must be held 4 days after the date of its publication notice LGC § 212.134(b).

Council must be present at this hearing and will give **first reading of Moratorium Ordinance** at this time. The Ordinance will incorporate written findings in support of the moratorium. LGC § 212.135(a). Within 12 days of this hearing, **(Friday, May 23, 2008)**, Council must make a final determination on the imposition of a moratorium or the Moratorium Ordinance may not be adopted and the temporary moratorium imposed is expired. LGC § 212.134(f).

4. **Publication Notice for Second Hearing.** The City must publish notice of the time and place of hearing on adoption of moratorium in a newspaper of general circulation. The publication of notice must occur **on the fourth day before the date of hearing.** LGC § 212.134(b). Notice for each hearing must be posted on the internet at the City's website if applicable and must remain posted until the date of the hearing.

5. **Second Required Public Hearing** (Note: the hearing must be held 4 days after the date of its publication

notice). **Planning Commission must be present** at this hearing. LGC § 212.134(d).

6. **Second and Final Reading of Moratorium Ordinance.** (Note: the 2nd reading must be separated from the 1st reading by at least 4 days.) LGC § 212.134(f).

Platting / Residential Development Moratorium Checklist

	Date	Event	Timing	Section of LGC	Comments
A.		Notice of First Public Hearing	Four (4) days before **B.**	§ 212.134(b)	
B.		First Public Hearing (CC)	See **F.**	§ 212.134(a)	1
C.		Temporary Moratorium Takes Effect	Five (5) business days after **A.**	§ 212.134(c)	
D.		Notice of Second Public Hearing	Four (4) days before **E.**	§ 212.134(b)	
E.		Second Public Hearing (P&Z or CC if no P&Z)	See Comments.	§ 212.134(d),(e)	2
F.		Adoption of Ordinance Imposing Moratorium	Within twelve (12) days after **B.**	§ 212.134(f)	
G.		First Reading of Ordinance	TBD, see Comments.	§ 212.134(f)	3
H.		Second Reading of Ordinance	At least four (4) days after **G.**	§ 212.134(f)	
I.		Imposition of Moratorium	Not earlier than **H.**	§ 212.134(f)	
J.		Expiration of Moratorium	See Comments.	§ 212.136, .1362	4

1 The First Public Hearing must be before the governing body of the municipality. Loc. Gov't Code § 212.134(d).

2 The Second Public Hearing must be held before the municipal zoning commission, if the municipality has a zoning commission. Loc. Gov't Code § 212.134(d). The Code is silent as to when the hearing before the municipal zoning commission must be held; and, therefore, the hearing may be held on the same date as the First Public Hearing. If a general law municipality does not have a zoning commission, two public hearings separated by at least four days must be held before the governing body of the municipality. *Id.* § 212.134(e).

3 Before an ordinance adopting a moratorium may be imposed, the ordinance must be given two readings by the governing body of the municipality. *Id.* § 212.134(f).

4 A moratorium adopted under Section 212.135 or 212.1351 expires on the 120th day after the date the moratorium is adopted, unless the municipality extends the moratorium as provided by Section 212.136. *Id.* § 212.136. A moratorium on commercial property adopted under Section 212.1352 expires on the 90th day after the date the moratorium is adopted, unless the municipality extends the moratorium as provided by Section 212.1362. *Id.* § 212.1362.

Required Findings

A. Moratorium based on shortage of essential public facilities[1]

"If a municipality adopts a moratorium on property development, the moratorium is justified by demonstrating a need to prevent a shortage of essential public facilities. The municipality must issue written findings based on reasonably available information. The written findings must include a summary of [the information described by Section 212.135(b)]." Tex. Loc. Gov't Code § 212.135.

B. Residential moratorium not based on shortage of essential public facilities

"[A residential] moratorium that is not based on a shortage of essential public facilities is justified only by demonstrating a significant need for other public facilities, including police and fire facilities. . . . [A] significant need for public facilities is established if the failure to provide those public facilities would result in an overcapacity of public facilities or would be detrimental to the health, safety, and welfare of the residents of the municipality. The municipality must issue written findings based on reasonably available information. The written findings must include a summary of [the information described by Section 212.1351(b)]." Tex. Loc. Gov't Code § 212.1351.

C. Commercial moratorium not based on shortage of essential public facilities

"If a municipality adopts a moratorium on commercial property development that is not based on a demonstrated shortage of essential public facilities, the municipality must issue written findings based on reasonably available information that the moratorium is justified by demonstrating that applying existing commercial development ordinances or regulations and other applicable laws is inadequate to prevent the new development from being detrimental to the public health, safety, or welfare of the residents of the municipality. The written findings must include a summary of [the information described by Section 212.1352(b)]." Tex. Loc. Gov't Code § 212.1352.

[1] The term "'[e]ssential public facilities' means water, sewer, or storm drainage facilities or street improvements provided by a municipality or private utility.'" Tex. Loc. Gov't Code § 212.131(1).

----------APPENDIX----------

LOCAL GOVERNMENT CODE

Chapter 212

SUBCHAPTER E. MORATORIUM ON PROPERTY DEVELOPMENT IN CERTAIN CIRCUMSTANCES

§ 212.131. DEFINITIONS. In this subchapter:

(1) "Essential public facilities" means water, sewer, or storm drainage facilities or street improvements provided by a municipality or private utility.

(2) "Residential property" means property zoned for or otherwise authorized for single-family or multi-family use.

(3) "Property development" means the construction, reconstruction, or other alteration or improvement of residential or commercial buildings or the subdivision or replatting of a subdivision of residential or commercial property.

(4) "Commercial property" means property zoned for or otherwise authorized for use other than single-family use, multifamily use, heavy industrial use, or use as a quarry.

Added by Acts 2001, 77th Leg., ch. 441, § 1, eff. Sept. 1, 2001. Amended by Acts 2005, 79th Leg., ch. 1321, § 1, eff. Sept. 1, 2005.

§ 212.132. APPLICABILITY. This subchapter applies only to a moratorium imposed on property development affecting only residential property, commercial property, or both residential and commercial property.

Added by Acts 2001, 77th Leg., ch. 441, § 1, eff. Sept. 1, 2001. Amended by Acts 2005, 79th Leg., ch. 1321, § 2, eff. Sept. 1, 2005.

§ 212.133. PROCEDURE FOR ADOPTING MORATORIUM. A municipality may not adopt a moratorium on property development unless the municipality:

(1) complies with the notice and hearing procedures prescribed by Section 212.134; and

(2) makes written findings as provided by Section 212.135, 212.1351, or 212.1352, as applicable.

Added by Acts 2001, 77th Leg., ch. 441, § 1, eff. Sept. 1, 2001. Amended by Acts 2005, 79th Leg., ch. 1321, § 2, eff. Sept. 1, 2005.

§ 212.134. NOTICE AND PUBLIC HEARING REQUIREMENTS. (a) Before a moratorium on property development may be imposed, a

municipality must conduct public hearings as provided by this section.

(b) A public hearing must provide municipal residents and affected parties an opportunity to be heard. The municipality must publish notice of the time and place of a hearing in a newspaper of general circulation in the municipality on the fourth day before the date of the hearing.

(c) Beginning on the fifth business day after the date a notice is published under Subsection (b), a temporary moratorium takes effect. During the period of the temporary moratorium, a municipality may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property.

(d) One public hearing must be held before the governing body of the municipality. Another public hearing must be held before the municipal zoning commission, if the municipality has a zoning commission.

(e) If a general-law municipality does not have a zoning commission, two public hearings separated by at least four days must be held before the governing body of the municipality.

(f) Within 12 days after the date of the first public hearing, the municipality shall make a final determination on the imposition of a moratorium. Before an ordinance adopting a moratorium may be imposed, the ordinance must be given at least two readings by the governing body of the municipality. The readings must be separated by at least four days. If the municipality fails to adopt an ordinance imposing a moratorium within the period prescribed by this subsection, an ordinance imposing a moratorium may not be adopted, and the temporary moratorium imposed under Subsection (c) expires.

Added by Acts 2001, 77th Leg., ch. 441, § 1, eff. Sept. 1, 2001.

§ 212.135. JUSTIFICATION FOR MORATORIUM: SHORTAGE OF ESSENTIAL PUBLIC FACILITIES; WRITTEN FINDINGS REQUIRED. (a) If a municipality adopts a moratorium on property development, the moratorium is justified by demonstrating a need to prevent a shortage of essential public facilities. The municipality must issue written findings based on reasonably available information.

(b) The written findings must include a summary of:

(1) evidence demonstrating the extent of need beyond the estimated capacity of existing essential public facilities that is expected to result from new property development, including identifying:

(A) any essential public facilities currently operating near, at, or beyond capacity;

(B) the portion of that capacity committed to the development subject to the moratorium; and

(C) the impact fee revenue allocated to address the facility need; and

(2) evidence demonstrating that the moratorium is reasonably limited to:

(A) areas of the municipality where a shortage of essential public facilities would otherwise occur; and

(B) property that has not been approved for development because of the insufficiency of existing essential

public facilities.

Added by Acts 2001, 77th Leg., ch. 441, § 1, eff. Sept. 1, 2001. Amended by Acts 2005, 79th Leg., ch. 1321, § 2, eff. Sept. 1, 2005.

§ 212.1351. JUSTIFICATION FOR MORATORIUM: SIGNIFICANT NEED FOR PUBLIC FACILITIES; WRITTEN FINDINGS REQUIRED. (a) Except as provided by Section 212.1352, a moratorium that is not based on a shortage of essential public facilities is justified only by demonstrating a significant need for other public facilities, including police and fire facilities. For purposes of this subsection, a significant need for public facilities is established if the failure to provide those public facilities would result in an overcapacity of public facilities or would be detrimental to the health, safety, and welfare of the residents of the municipality. The municipality must issue written findings based on reasonably available information.

(b) The written findings must include a summary of:

(1) evidence demonstrating that applying existing development ordinances or regulations and other applicable laws is inadequate to prevent the new development from causing the overcapacity of municipal infrastructure or being detrimental to the public health, safety, and welfare in an affected geographical area;

(2) evidence demonstrating that alternative methods of achieving the objectives of the moratorium are unsatisfactory; and

(3) evidence demonstrating that the municipality has approved a working plan and time schedule for achieving the objectives of the moratorium.

Amended by Acts 2005, 79th Leg., ch. 1321, § 2, eff. Sept. 1, 2005.

Added by Acts 2001, 77th Leg., ch. 441, § 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Local Government Code § 212.135(b) and amended by Acts 2005, 79th Leg., ch. 1321, § 2, eff. Sept. 1, 2005.

§ 212.1352. JUSTIFICATION FOR COMMERCIAL MORATORIUM IN CERTAIN CIRCUMSTANCES; WRITTEN FINDINGS REQUIRED. (a) If a municipality adopts a moratorium on commercial property development that is not based on a demonstrated shortage of essential public facilities, the municipality must issue written findings based on reasonably available information that the moratorium is justified by demonstrating that applying existing commercial development ordinances or regulations and other applicable laws is inadequate to prevent the new development from being detrimental to the public health, safety, or welfare of the residents of the municipality.

(b) The written findings must include a summary of:

(1) evidence demonstrating the need to adopt new ordinances or regulations or to amend existing ordinances, including identification of the harm to the public health, safety,

or welfare that will occur if a moratorium is not adopted;

(2) the geographical boundaries in which the moratorium will apply;

(3) the specific types of commercial property to which the moratorium will apply; and

(4) the objectives or goals to be achieved by adopting new ordinances or regulations or amending existing ordinances or regulations during the period the moratorium is in effect.

Added by Acts 2005, 79th Leg., ch. 1321, § 2, eff. Sept. 1, 2005.

§ 212.136. EXPIRATION OF MORATORIUM; EXTENSION. A moratorium adopted under Section 212.135 or 212.1351 expires on the 120th day after the date the moratorium is adopted unless the municipality extends the moratorium by:

(1) holding a public hearing on the proposed extension of the moratorium; and

(2) adopting written findings that:

(A) identify the problem requiring the need for extending the moratorium;

(B) describe the reasonable progress made to alleviate the problem; and

(C) specify a definite duration for the renewal period of the moratorium.

Added by Acts 2001, 77th Leg., ch. 441, § 1, eff. Sept. 1, 2001. Amended by Acts 2005, 79th Leg., ch. 1321, § 2, eff. Sept. 1, 2005.

§ 212.1361. NOTICE FOR EXTENSION REQUIRED.. A municipality proposing an extension of a moratorium under this subchapter must publish notice in a newspaper of general circulation in the municipality not later than the 15th day before the date of the hearing required by this subchapter.

Added by Acts 2001, 77th Leg., ch. 441, § 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Local Government Code § 212.136(b) and amended by Acts 2005, 79th Leg., ch. 1321, § 2, eff. Sept. 1, 2005.

§ 212.1362. EXPIRATION OF MORATORIUM ON COMMERCIAL PROPERTY IN CERTAIN CIRCUMSTANCES; EXTENSION. (a) A moratorium on commercial property adopted under Section 212.1352 expires on the 90th day after the date the moratorium is adopted unless the municipality extends the moratorium by:

(1) holding a public hearing on the proposed extension of the moratorium; and

(2) adopting written findings that:

(A) identify the problem requiring the need for extending the moratorium;

(B) describe the reasonable progress made to alleviate the problem;

(C) specify a definite duration for the renewal period of the moratorium; and

(D) include a summary of evidence demonstrating that the problem will be resolved within the extended duration of the moratorium.

(b) A municipality may not adopt a moratorium on commercial property under Section 212.1352 that exceeds an aggregate of 180 days. A municipality may not adopt a moratorium on commercial property under Section 212.1352 before the second anniversary of the expiration date of a previous moratorium if the subsequent moratorium addresses the same harm, affects the same type of commercial property, or affects the same geographical area identified by the previous moratorium.

Added by Acts 2005, 79th Leg., ch. 1321, § 2, eff. Sept. 1, 2005.

§ 212.137. WAIVER PROCEDURES REQUIRED. (a) A moratorium adopted under this subchapter must allow a permit applicant to apply for a waiver from the moratorium relating to the property subject to the permit by:

(1) claiming a right obtained under a development agreement; or

(2) providing the public facilities that are the subject of the moratorium at the landowner's cost.

(b) The permit applicant must submit the reasons for the request to the governing body of the municipality in writing. The governing body of the municipality must vote on whether to grant the waiver request within 10 days after the date of receiving the written request.

Added by Acts 2001, 77th Leg., ch. 441, § 1, eff. Sept. 1, 2001. Amended by Acts 2005, 79th Leg., ch. 1321, § 2, eff. Sept. 1, 2005.

§ 212.138. EFFECT ON OTHER LAW. A moratorium adopted under this subchapter does not affect the rights acquired under Chapter 245 or common law.

Added by Acts 2001, 77th Leg., ch. 441, § 1, eff. Sept. 1, 2001.

§ 212.139. LIMITATION ON MORATORIUM. (a) A moratorium adopted under this subchapter does not affect an application for a project in progress under Chapter 245.

(b) A municipality may not adopt a moratorium under this subchapter that:

(1) prohibits a person from filing or processing an application for a project in progress under Chapter 245; or

(2) prohibits or delays the processing of an application for zoning filed before the effective date of the moratorium.

Added by Acts 2005, 79th Leg., ch. 1321, § 2, eff. Sept. 1, 2005.

Land Use Regulation for Texas Cities

E. Moratorium on Continued Development

A moratorium is a tool that permits a city to give itself some "breathing room" to review and update its land use regulations. The Texas Supreme Court has held that a moratorium does not constitute a taking *per se* under the Texas Constitution.13 Out of an apparent concern that cities were overreaching in their use of moratoria, however, the Texas Legislature has heavily regulated the use of moratoria under Chapter 212 of the Texas Local Government Code.

For example, the Legislature has imposed fairly stringent notice and hearing requirements on cities that seek to impose moratoria on development. Before the city can impose a moratorium on property development, it must conduct a public hearing that provides municipal residents and affected parties the opportunity to be heard. The city must publish notice of the hearing in a newspaper of general circulation on the fourth day before the date of the hearing. Beginning on the fifth day after the city publishes notice, a temporary moratorium will automatically take effect. During the period of the temporary moratorium, the city may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property to which the moratorium applies.14

If the city has a planning and zoning commission, the city must hold a second public hearing before the commission. If the city does not have a planning and zoning commission, then the city must hold two hearings before the city council. The city must make a final determination of whether to impose the moratorium within twelve days after the date of the public hearing. In addition, the council must give at least two readings of the ordinance adopting the moratorium, separated by at least four days, before the ordinance can take effect.15

Other requirements for imposing a moratorium can be found in sections 212.131 – 212.139 of the Texas Local Government Code.

CITY OF LORENA, TEXAS v. BMTP HOLDINGS, No. 11-0554 (Tex. August 30, 2013)

This is a development moratorium case on sewer lines where the City of Lorena passed a moratorium after having approved a subdivision plat for development. The Texas Supreme Court held the moratorium could not apply and remanded the case on the inverse condemnation and attorney fee claims.

The TCEQ initiated enforcement proceedings against the City regarding an overcapacity of its sewer system in 2004. In 2003 BMTP (a company which buys lots, gets subdivision plats, builds infrastructure, gets permits, then sells lots to builders) began working on a residential subdivision named South Meadows which was divided in to five phases. In January 2006 the City approved the phase five. However, in the spring of 2006 the engineers retained to evaluate the City's sewage system noted it was over capacity and recommended a temporary moratorium which the City enacted. The moratorium had an appeal process to protect vested rights as well as some of the written findings and summary of evidence required by Chapter 212, but did not contain such findings and evidence showing why the moratorium was not limited to property not already approved for development. The moratorium was extended seven times, none of which noted why it should not be limited to property not already approved. Due to the long extended moratorium, the value of BMTP's property fell 83% and it filed suit. The trial court granted summary judgment for the City, but the court of appeals reversed and the City appealed.

The Court first noted that the fact the BMTP did not follow the vested right recognition procedure in the moratorium is not dispositive since the enacted process is not mandatory as structured and would nonetheless be futile, so it's claims are ripe. Interestingly, the Court held the "administrative remedy" requirements are mandatory for jurisdictional purposes only when the Legislature grants an administrative body sole authority over a dispute. This can become a thorn in the side of many cities who previously asserted several of its own procedures must be exhausted. It only provides a minimum of guidance as to how to make such procedures mandatory.

The rest of the case is pure statutory construction. Chapter 212 notes that a moratorium must not affect approved development. A subdivision plat is an approved development and the use of the term "or" (as in subdivision *or* construction found in statute) means both are prohibited individually, not that the city can pick one while excluding the other. The Court noted the concerns briefed by Amici Texas Municipal League are addressed in Chapter 245 (vested rights) and therefore need not be of concern for Chapter 212. As a result, the moratorium cannot apply to BMTP's properties.

While the trial court granted the City's summary judgment on inverse condemnation, such a grant was error given it's holding on the moratorium application and the fact BMTP raised proper factual disputes. As a result, the inverse condemnation proceeding was remanded along with attorney's fees.

The dissent asserted that regardless of an individual's protected interests, public utilities must protect the whole and there will be sewage in the streets if the City is not permitted to place a hold on connections. The majority counter that the City was supposed to be proactive (so apparently they get what they deserve?) but more importantly, the City can still abate nuisances without violating Chapter 212 as long as it can show a health hazard currently exists.

If you would like to read this opinion click here.

ORDINANCE NO. 2016-_____

AN ORDINANCE CALLING A PUBLIC HEARING BEFORE THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS TO BE HELD ON THE _____ DAY OF AUGUST 2016, AT _____:00 O'CLOCK P.M. AT THE CITY OF FULSHEAR CITY HALL, 30603 FM 1093 West, FULSHEAR, TEXAS TO HEAR ANY AND ALL PERSONS DESIRING TO BE HEARD ON OR IN CONNECTION WITH ANY MATTER OR QUESTION INVOLVING THE PROPOSED IMPOSITION OF A MORATORIUM ON ISSUANCE OF PERMITS OR PLATS FOR THE DEVELOPMENT OF HOTELS OR MOTELS WITHIN THE JURISDICTION OF THE CITY OF FULSHEAR, TEXAS; AND DIRECTING THAT SAID NOTICE BE PUBLISHED IN THE OFFICIAL NEWSPAPER OF THE CITY OF FULSHEAR AND POSTING ON THE CITY'S WEB SITE, AND CALLING A SECOND PUBLIC HEARING BEFORE THE CITY COUNCIL AND PLANNING AND ZONING COMMISSION OF THE CITY OF FULSHEAR, TEXAS, TO BE HELD ON THE ____DAY OF _____ 2016, AT 6:00 O'CLOCK P.M. AT THE CITY OF FULSHEAR CITY HALL, 30603 FM 1093 West, FULSHEAR, TEXAS ON THE SUBJCT REFERENCED ABOVE AND NOTICES BE PUBLISHED AND POSTED AS REFERENCE ABOVE.

WHEREAS, the City desires to declare a moratorium and begin the proceedings as mandated by the Texas Local Government Code; NOW, **THEREFORE,**

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

1. That the City Council of the City of Fulshear, Texas does hereby call a public hearing to be held before the City Council of the City of Fulshear on the _____day of _____ 2016 at 6:00 o'clock p.m. at the City of Fulshear City Hall, 30603 FM 1093 West, Fulshear, Texas at which time and place all persons desiring to be heard will be heard on in connection with any matter or question involving the proposed imposition of a moratorium on issuance of plats or permits for the development of hotel or motels within the jurisdiction of the City of Fulshear, Texas.

2. That the City Council of the City of Fulshear, Texas, does hereby call a second public hearing to be held before the City Council and Planning and Zoning

Commission of the City of Fulshear on the _____ day of _____2016 at 6:00 o'clock p.m. at the City of Fulshear City Hall, 30603 FM 1093 West Fulshear, Texas, at which time and place all persons desiring to be heard will be heard on in connection with any matter or question involving the proposed imposition of a moratorium on issuance of plats or permits for the development of hotels or motels within the jurisdiction of the City of Fulshear, Texas.

3. The City Council directs the city secretary to publish and post the notice of hearings pursuant to the requirement of Chapter 212 of the Local Government Code.

PASSED and **APPROVED** on this, the 20th day September, 2016.

_____
Jeff Roberts, Mayor

ATTEST:

_____
D. Gordon Offord, City Secretary

ORDINANCE NO. 2016-1224

AN ORDINANCE AMENDING ORDINANCE NO. 2013-1127, SECTION 3.0, ADDING PARAGRAPH (D) PROVIDING FOR TEMPORARY STAYS TO SERVICE AND BILLING; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City adopted Ordinance No. 2013-1127 to providing Procedures for the billing, receipt of payment, handling of delinquencies, termination and reinstatement of service for water, sewer and solid waste services ; and

WHEREAS, the City has received feedback from the public and wishes to amend the Ordinance to clarify its regulations and make the financial impact more equitable.

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

SECTION 1.0

AMENDED: Section 3.0, is hereby amended to including the following:

"(d) *For Residential and Non-Commercial Customers:*

i. *The City shall allow a temporary stay to be placed on the services and billing associated with Residential Solid Waste Services for a period of not more than 90 days.*

ii. *The City shall not grant more than one temporary stay on service per Residential or Non-Commercial Account per Fiscal Year Calendar.*

iii. *Request for a temporary stay should be presented in writing to the Customer Service Supervisor not later than sixty (60) days prior to the start of said stay.*

iv. *All requests for temporary stays shall include a description of the need for such a stay, the duration of such stay and a certification that during the period of the stay the residence shall be unoccupied and shall not represent a threat to the health, safety or welfare of the community.*

v. *If during the temporary stay it is discovered that the Account service address is deemed a threat to the health, safety or welfare of the community said stay shall be immediately revoked and service and billing resumed immediately. The City shall provide notice of such finding within five (5) business days of the resumption of services and billing.*

vi. *Any appeal of any revocation of temporary stay shall be presented to the City Manager in writing within ten (10) business days. The City Manager in turn shall render an opinion on the appeal within fifteen (15) business days of the receipt of said appeal."*

SECTION 2.0

SEVERABILITY CLAUSE: That if any provision, word, sentence, paragraph, clause, phrase or section of this Ordinance or its application to any person or circumstances is adjudged or held

invalid, void or unconstitutional, the invalid, void or unconstitutional portion shall not affect the validity of the remaining portions of this ordinance which shall remain in full force and effect.

SECTION 3.0

REPEALING CLAUSE: All provisions in conflict with the provisions of this Ordinance shall be, and the same are hereby repealed, and all other provisions not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 4.0

EFFECTIVE DATE: This Ordinance shall be effective immediately on the date of adoption.

SECTION 5.0

PUBLICATION: The City Secretary is hereby authorized and directed to publish the caption of this ordinance in the manner and for the length of time prescribed by law.

DULY, PASSED, APPROVED AND ADOPTED THIS 20TH DAY OF SEPTEMBER, 2016.

_____

Jeff W. Roberts, Mayor

ATTEST:

_____

D. Gordon Offord, City Secretary

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	N
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	CJ Snipes, City Manager	**PRESENTER:**	CJ Snipes
SUBJECTS:	**FY 2017 Holiday Calendar**		
ATTACHMENTS:	Resolution No. 2016-323 Holidays		

EXPENDITURE REQUIRED:

AMOUNT BUDGETED:
FUNDING ACCOUNT:

ADDITIONAL APPROPRIATION REQUIRED:
FUNDING ACCOUNT:

EXECUTIVE SUMMARY

The City must adopt its Official Holidays on an annual basis. Per usual the City is following the calendar established by Fort Bend County.

RECOMMENDATION

Staff recommends that Council take action to approve the Resolution adopting the Official Holiday Calendar for the City.

RESOLUTION NO 2016-323

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS SETTING HOLIDAYS FOR THE FISCAL YEAR 2016-2017

WHEREAS, the City Council of the City of Fulshear, Texas is desirous of honoring those dates important to the cultural and historic development of our community; and

WHEREAS, the City has a history of marking Holidays corresponding to the calendar set forth by Fort Bend County;

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

The following dates are hereby amended and revised to declare official City Holidays for the Fiscal Year 2016-2017:

Veteran's Day – Friday, November 11, 2016

Thanksgiving Day – Thursday, November 24, 2016

Day after Thanksgiving – Friday, November 25, 2016

Christmas Eve – Friday, December 23, 2016

Christmas Day – Monday, December 26, 2016

New Year's - Monday, January 2, 2017

Dr. M. L. King Day – Monday, January 16, 2017

Good Friday – Friday, April 14, 2017

Memorial Day – Monday, May 29, 2017

Independence Day – Tuesday, July 4, 2017

Labor Day – Monday, September 4, 2017

Fair Day – Friday, September 22, 2017

Additionally, the City will provide each employee a Floating Holiday for use on or near their Birthday.

This Resolution duly passed this 20th day of September, 2016.

_____

Jeff W. Roberts, Mayor

ATTEST:

_____

D. Gordon Offord, City Secretary

RESOLUTION NO. 2016-322

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS DESIGNATING *THE* _____ AS THE OFFICIAL NEWSPAPER OF THE CITY OF FULSHEAR, TEXAS FOR THE FISCAL YEAR 2016-2017 AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 52.004 of the Local Government Code provides that the City Council shall, as soon as practical after the beginning of each municipal year, designate a public newspaper of record to be the official newspaper until another is selected through Resolution or Ordinance; and

WHEREAS, the City Council of the City of Fulshear desires to officially designate the official public newspaper of the City.

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

Section 1: The City Council of the City of Fulshear hereby designates the _____, a public newspaper serving the City of Fulshear, Ft. Bend County, Texas as the official newspaper of said City, the same to continue as such until another is selected and shall cause to be published therein all ordinances, notices and other matters required by law or by ordinance to be published.

Section 2: This Resolution shall become effective October 1, 2016.

This Resolution duly passed this 20th day of September, 2016.

_____

Jeff W. Roberts, Mayor

ATTEST:

_____

D. Gordon Offord, City Secretary

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	O
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	CJ Snipes, City Manager	**PRESENTER:**	CJ Snipes
SUBJECTS:	**HGAC Representative and Alternate**		
ATTACHMENTS:	Resolution No. 2016-324 HGAC Representative and Alternate		

EXPENDITURE REQUIRED:

AMOUNT BUDGETED:
FUNDING ACCOUNT:

ADDITIONAL APPROPRIATION REQUIRED:
FUNDING ACCOUNT:

EXECUTIVE SUMMARY

The City needs to appoint one Elected Official as its Representative, and another to serve as an Alternate to the Houston Galveston Area Council General Assembly.

RECOMMENDATION

Staff recommends that Council take action to nominate and approve the City's Representative and Alternate to the HGAC General Assembly.

RESOLUTION NO. 2016-324

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS, DESIGNATING A REPRESENTATIVE AND AN ALTERNATE TO THE HOUSTON-GALVESTON AREA COUNCIL GENERAL ASSEMBLY.

BE IT RESOLVED, by the Mayor and City Council of Fulshear, Texas, that _____be, and is hereby designated as its Representative to the **General Assembly** of the Houston-Galveston Area Council for the fiscal year 2016-2017.

Further, that the Official Alternate authorized to serve as the voting representative should the hereinabove named representative become ineligible, or should he/she resign, is_____ _____.

THAT, the Executive Director of the Houston-Galveston Area Council be notified of the designation of the hereinabove named representative and alternate.

PASSED AND ADOPTED, this 20th day of September, 2016.

APPROVED:

_____

Jeff W. Roberts, Mayor

ATTEST:

_____

D. Gordon Offord, City Secretary

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	P
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	CJ Snipes, City Manager	**PRESENTER:**	CJ Snipes
SUBJECTS:	**TML-IRP Board of Trustees**		
ATTACHMENTS:	TML-IRP Ballot		

EXPENDITURE REQUIRED:

AMOUNT BUDGETED:
FUNDING ACCOUNT:

ADDITIONAL APPROPRIATION REQUIRED:
FUNDING ACCOUNT:

EXECUTIVE SUMMARY

TML-IRP the City's Property and Liability Insurance provider has requested that the City vote on the nominees to the Board of Trustees. This person serves not only as a liaison to the Board on behalf of participating member City's but also serves to guide the management of the City's Insurance program.

RECOMMENDATION

Staff recommends that Council take action to approve the ballot as provided.

OFFICIAL BALLOT

Texas Municipal League Intergovernmental Risk Pool
Board of Trustees Election

This is the official ballot for the election of Places 6 – 9 of the Board of Trustees for the Texas Municipal League Intergovernmental Risk Pool. Each Member of the Pool is entitled to vote for Board of Trustee members. Please record your organization's choices by placing an "X" in the square beside the candidate's name or writing in the name of an eligible person in the space provided. You can only vote for one candidate for each place.

The officials listed on this ballot have been nominated to serve a six-year term on the TML Intergovernmental Risk Pool (Workers' Compensation, Property and Liability) Board of Trustees.

Ballots must reach the office of David Reagan, Secretary of the Board, no later than September 30, 2016. Ballots received after September 30, 2016, cannot be counted. **The ballot must be properly signed and all pages of the ballot must be mailed to: Trustee Election, David Reagan, Secretary of the Board, P.O. Box 149194, Austin, Texas 78714-9194. If the ballot is not signed, it will not be counted.**

PLACE 6

☐ **Mary Gauer** (Incumbent). Ms. Gauer has served on the TML Risk Pool Board of Trustees since 1998 and as Chair from 2010 to 2012. She served on the Harker Heights City Council from 1991 to 1998, and as Mayor from 1998 to 2004. Ms. Gauer serves as an elected citizen member of the Executive Committee of the Central Texas COG. She has served as President of the TML Association of Mayors, Councilmembers and Commissioners and the TML Region 9. She has also served as chair or member of several TML legislative committees.

☒ **Kyle J. Jung**. City Manager for Manvel (Region 14) since January 17, 2012. Mr. Jung has more than 20 years of local government experience working for the cities of Flatonia and Sour Lake as City Manager, cities of Lubbock and Big Spring in various administrative roles, and with the Texas Municipal League. At the Texas Municipal League, he was chiefly responsible for the governance of the Texas City Management Association. Mr. Jung has a Master's degree in public administration with an emphasis in budgeting and personnel management from Texas Tech University.

WRITE IN CANDIDATE:

_____

PLACE 7

☐ **Richard Jorgensen**. City Manager of Giddings (Region 10). Previously, he served as City Manager for Vidor, Silsbee, and Sour Lake. Mr. Jorgensen has 20 years' experience in city government preparing, coordinating and monitoring the annual fiscal budget. He has also been involved in 4A and 4B economic development corporations for 13 years as either chairman or as a director. He has a Bachelor's degree in business administration and a Master's degree in public administration. He is involved with the Texas City Managers Association, serving on the Board for two years.

☐ **C.J. Wax** (Incumbent). Mayor of Rockport since 2010. Mr. Wax is the current President of TML and served as the TML Region 11 Board Representative to the TML Board from 2011-15. He has served on the TML Risk Pool Board since 2013. He also has served on the Care Regional Board of Trustees since 2014 (currently as Chairman), on the Texas Windstorm Task Force under Chairman Todd Hunter, and on the Rockport Planning and Zoning Commission from 2009-10. He currently represents Rockport on the Coastal Bend COG, Aransas County Pathways, and Storm Water Advisory Committees.

WRITE IN CANDIDATE:

_____

PLACE 8

☐ **Jim Cox**. City Administrator for the City of Leonard (Region 13) since October 1, 2015. He previously served as City Administrator in Lindale, Texas, and Groesbeck, Texas. He also served for two terms on the City Council and on the Home Rule Charter Commission for Bay City, Texas. Mr. Cox is active in TCMA serving on the Membership Committee and Small Cities Advisory Board. He is a graduate of the Certified Public Manager Program at Stephen F. Austin University and attended the University of Texas at Arlington majoring in Business Administration.

☐ **Andrea M. Gardner**. City Manager for the City of Copperas Cove (Region 9) since 2007. Previously, she was the Assistant City Manager/Director of Finance for Copperas Cove, Director of Finance for Pearland, and the Senior Budget Coordinator for Pasadena. She holds a Bachelor's degree in Accounting from the University of Houston and is a Certified Public Manager. Ms. Gardner also serves on the Metropolitan Planning Organization Technical Committee as the City's representative and the Central Texas COG's Executive Committee as a Citizen Liaison.

☐ **Larry Melton** (Incumbent). Mayor for Odessa (Region 4) from 2001 to 2012. Mr. Melton also served three years as a councilmember. He has served on the TML Risk Pool Board of Trustees since 2009 and as Chair since 2014. He is the Chief Executive Officer of a regional public accounting firm, Johnson, Miller and Company, where he is responsible for all administrative and human resources areas of the firm. Previously, Mr. Melton was in the banking business for approximately 30 years. He is active in the United Way of Odessa and Odessa Chamber of Commerce. In 1993, he was honored as Odessa's outstanding citizen.

WRITE IN CANDIDATE:

_____

PLACE 9

☐ **Richard L. Davis**. City Manager for Baytown (Region 14) since 2015. Mr. Davis also served as City Manager for West Jordan, Utah; Town Manager for Fountain Hills, Arizona; and City Manager for West Point City, Utah. He has a Bachelor's degree in Public Relations from BYU and a Master's degree in Public Administration from BYU. He is a graduate of the Romney Institute of Public Management (Marriott School of Management) and the recipient of the Lennis M. Knighton Award for high academic achievement. He is a credentialed Municipal Manager by the International City and County Management Association.

☐ **Andres Garza** (Incumbent). City Manager for the City of Wharton (Region 14) since 1994. Mr. Garza has served on the TML Risk Pool Board of Trustees since 1984, serving as Chair from 1994-1996. He served as the Pearsall City Manager from 1980 to 1994. Mr. Garza has been in public service for over 39 years of which 36 have been as a City Manager. He serves on the TML Small City's Advisory Council, has a BBA degree from Southwest Texas State University, and is a member of TCMA and ICMA.

☐ **Rick A. Schroder**. City Administrator for the City of Helotes (Region 7) since September 2008. Mr. Schroder also served Helotes as the Economic Development Corporation's Specialist from November 2006 to September 2008. He graduated Magna Cum Laude from Trinity University in 2004 and earned a Master of Public Service and Administration in 2006 from the George H.W. Bush School of Government and Public Service at Texas A&M University. He interned for Congressman Henry Bonilla and for Ron Kaufman, former White House Political Director for President George H.W. Bush.

WRITE IN CANDIDATE:

_____

Certificate

I certify that the vote cast above has been cast in accordance with the will of the majority of the governing body of the public entity named below.

Witness by hand, this _____ day of _____, 2016.

_____ _____

Signature of Authorized Official Title

_____

Printed Name of Authorized Official

_____

Printed Name of Political Entity

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	Q
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	CJ Snipes, City Manager	**PRESENTER:**	CJ Snipes/David Leyendecker
SUBJECTS:	**City of Fulshear Waste Water Treatment Plant Expansion**		
ATTACHMENTS:	Bid Tabulation and Letter of Recommendation for the Project		
EXPENDITURE REQUIRED:		$1,278,300	
AMOUNT BUDGETED:		$1,278,300	
FUNDING ACCOUNT:			
ADDITIONAL APPROPRIATION REQUIRED:			
FUNDING ACCOUNT:		COF Enterprise 500-	

EXECUTIVE SUMMARY

As detailed in the FY 2016-2017 Budget this project represents the "interim" solution to the City's Waste Water Treatment capacity needs. The City recently received a renewed permit from TCEQ increasing the average daily capacity in association with this expansion. The City previously let the project in July of this year and received three bids for the construction and improvements related to the installation of the rented package units. C4 Construction was the low bid and UAC was the sole bid on rental of the units.

It should be noted that the figures included in Mr. Leyendecker's letter include costs for the rental of the plant units, construction and engineering costs totaling more than $1.35 Million, while the COF Enterprise Capital Project and above listed number totals $1,278,300. The differential is the result of the rental costs of slightly more than $172,000 were allocated as an Operational costs in the Budget and approximately $96,500 have been paid already in engineering costs associated with the project.

RECOMMENDATION

Staff recommends that Council take action to approve the bid submitted by C4 as recommended by the City Engineer.

Clay & Leyendecker, Inc.
Texas Engineer Registration Number - F-2309

Consulting Engineers
and Surveyors

August 25, 2016

Mr. C. J. Snipes, City Manager
City of Fulshear
P.O. Box 279
Fulshear, TX 77441

Re: Wastewater Treatment Plant Expansion – 2016
City of Fulshear, Texas

Dear CJ:

The City received seven (7) bids on June 29, 2016 for the expansion of the City's Wastewater Treatment Plant. The expansion was designed as steel packaged plants so it could be relocated to another site in the future. The bid was set up as an outright purchase of the steel package plant components and/or a 5-6 year rental of these components. I understand consistent with the City finances, the City wishes to rent the steel plants. The City does have the option to purchase this plant at the end of 5 or 6 years. Enclosed with this letter you will find the Bid Tabulation.

I recommend that the City of Fulshear award the contract to the low bidder for the rental/installation option to C4 Partners. Their bid will be for an installation cost of $1,091,369.00 and a rental cost of $14,345.00 per month or $172,140.00 per year. The City has the option of extending the lease past the initial 60 month lease for $13,725.00 per month. The City also has the option at the end of the 5-year rental to purchase the wastewater plant for $671,504.00; if the City extends the lease to 6-years, the plant may be purchased for $555,000.00.

1350 Avenue D Katy, Texas 77493 (281) 391-0173

Listed below are the costs associated with this project.

Bid Amount for installation	$1,091,369.00
Contingencies (10%)	109,137.00
Rental for First Year	172,140.00
Engineering Services	126,000.00 *
TCEQ Wastewater Permit Amendment	8,500.00 *
Construction Inspection	36,000.00 *
Total Cost Installation and First Year rental	**$1,543,146.00**

If you need additional information or if you have any questions please feel free to contact me.

Very truly yours,

David Leyendecker, P.E., R.P.L.S.

Note: The City of Fulshear has already paid Clay & Leyendecker, Inc. $96,700.00 of the total $170,500.00 fee for Engineering, Permit Amendment and Inspection.

DL/pe

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	R
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	CJ Snipes, City Manager	**PRESENTER:**	CJ Snipes/David Leyendecker
SUBJECTS:	**Water and Waste Water Line Extension**		
ATTACHMENTS:	Bid Tabulation and Letter of Recommendation for the Project		

EXPENDITURE REQUIRED:	$576,208
AMOUNT BUDGETED:	$576,208
FUNDING ACCOUNT:	
ADDITIONAL APPROPRIATION REQUIRED:	
FUNDING ACCOUNT:	COF Enterprise 500-

EXECUTIVE SUMMARY

As detailed in the FY 2016-2017 Budget this project will extend Water and Waste Water Main Lines westerly to provide service to both Fulshear Polo Ranch and Fulshear Lakes. Although Fulshear Lakes is located within the ETJ and could be allowed to operate as an independent MUD, the Developer and the City agreed to participate in the Regional system operated by the City. As such, the MUD will pay the City a 125% premium on Water as well as paying the standard per lot Pro Rata Fee.

The low bid for the project was submitted by Hurtado Construction and was well below the initially estimated costs, at the City's request, Mr. Leyendecker included an option to "loop" the system at James Lane; however given this year's Fiscal constraints, we have asked him to excise that option via immediate Change Order, reducing the costs by approximately $114,000.

RECOMMENDATION

Staff recommends that Council take action to approve the bid submitted by Hurtado Construction with the Change Order as recommended by the City Engineer.

Clay & Leyendecker, Inc.
Texas Engineer Registration Number - F-2309

Consulting Engineers
and Surveyors

September 14, 2016

Mr. C. J. Snipes, City Manager
City of Fulshear
P.O. Box 279
Fulshear, TX 77441

Re: 2016 Water and Wastewater Main Extension
City of Fulshear, Texas

Dear CJ:

The City of Fulshear received eight (8) bids on July 20, 2016 for the Utility Extension along F.M. 1093 to the West. The low bid was submitted by Hurtado Construction Company in the amount of $588,000.00. A copy of the complete Bid Tabulation is included with this letter. Of this total $114,800.00 is for the water main along James Lane tying in the water system from Fulbrook at Fulshear Creek into this system. This will also serve as a second feed into the water system South of F.M. 1093. This portion of the water system could be built at a future date. Since this amount is less than 25 percent of the total bid the City could elect to do a simultaneous Change Order at the time of bid award. This would bring the new total to $473,200.00.

I recommend that the City of Fulshear award the contract for the 2016 for the Utility Extension to the low bidder, Hurtado Construction Company, in the amount of $588,000.00 less $114,800.00 for a change order to not build the James Lane water line at this time. Listed below are the costs associated with this project:

Construction Cost	$473,200.00
Contingencies (10%)	47,320.00
Engineering (7%)	33,124.00
Surveying including Easements	12,200.00
Inspection (2%)	9,464.00
Public Bid Notice	900.00
Total Project Cost	**$576,208.00**

If you need additional information or if you have any questions please feel free to contact me.

Very truly yours,

David Leyendecker, P.E., R.P.L.S.

DL/pe

1350 Avenue D Katy, Texas 77493 (281) 391-0173

2016 WATER AND WASTEWATER MAIN EXTENSION
CITY OF FULSHEAR, TEXAS

BID TABULATION
JULY 20, 2016

		COMPANY NAME ---->	#1 - Hurtado Construction		#2 - R Construction		#3 - AR Turnkee		#4 - B-5 Construction	
ITEM NO.	QUANTITY	DESCRIPTION	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
SANITARY SEWER SYSTEM										
1)	8,800 L.F.	Furnish all labor and materials to install a 8-inch PVC (Class 160 psi) force main with tracer wire, bank sand bedding and backfill (90% Standard Proctor); complete and in place for	$18.00	$158,400.00	$20.50	$180,400.00	$19.00	$167,200.00	$19.00	$167,200.00
2)	1 each	Furnish all labor and material to install a APCO Air Relief valve and vacuum breaker assembly (see Construction Plan Detail) on 8-inch PVC (Class 160 psi) pipe including valves, piping, concrete enclosure and ring and cover for	$8,000.00	$8,000.00	$8,500.00	$8,500.00	$7,500.00	$7,500.00	$6,500.00	$6,500.00
		SUBTOTAL SANITARY SEWER SYSTEM ITEMS NO. 1-2		**$166,400.00**		**$188,900.00**		**$174,700.00**		**$173,700.00**
WATER SYSTEM										
3)	8,800 L.F.	Furnish all labor and material to install 16-inch PVC (C-905) water main including water pipe, tracer wire and bank sand bedding & backfill (90% Standard Proctor); complete and in place for	$38.00	$258,400.00	$40.50	$275,400.00	$43.50	$295,800.00	$49.00	$333,200.00
4)	2,800 L.F.	Furnish all labor and material to install 12-inch PVC (C 900) water main including water pipe, tracer wire and bank sand bedding & backfill (90% Standard Proctor); complete and in place for	$28.00	$78,400.00	$26.50	$74,200.00	$31.00	$86,800.00	$31.00	$86,800.00
5)	100 L.F.	Furnish all labor and materials to install 12-inch PVC (C 900) water main encased in 20-inch Steel Casing (wall thickness 0.25-inches) by bore, complete and in place for	$168.00	$16,800.00	$225.00	$22,500.00	$201.00	$20,100.00	$240.00	$24,000.00
6)	2 each	Furnish all labor and material to install a 16-inch Mueller Gate valve and adjustable valve box, complete and in place for	$5,200.00	$10,400.00	$6,000.00	$12,000.00	$8,000.00	$16,000.00	$6,300.00	$12,600.00

2016 WATER AND WASTEWATER MAIN EXTENSION
CITY OF FULSHEAR, TEXAS

BID TABULATION
JULY 20, 2016

		COMPANY NAME ---->	#1 - Hurtado Construction		#2 - R Construction		#3 - AR Turnkee		#4 - B-5 Construction	
ITEM NO.	QUANTITY	DESCRIPTION	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
7)	2 each	Furnish all labor and material to install a 12-inch Mueller Gate valve and adjustable valve box, complete and in place for	$1,608.00	$3,216.00	$1,825.00	$3,650.00	$2,250.00	$4,500.00	$2,000.00	$4,000.00
8)	1 each	Furnish all labor material to install a 8-inch full circle stainless steel Mueller tapping sleeve and valve with an adjustable valve box; complete and in place for	$4,000.00	$4,000.00	$3,800.00	$3,800.00	$6,000.00	$6,000.00	$6,900.00	$6,900.00
9)	12 each	Furnish all labor and materials to install a Mueller Firehydrant assembly (4-foot bury); including Firehydrant, 6-inch gate valve with adjustable box and 6-inch lead pipe; complete and in place for	$3,100.00	$37,200.00	$3,400.00	$40,800.00	$3,600.00	$43,200.00	$3,000.00	$36,000.00
10)	200 L.F.	Furnish all labor and material to implement Trench Safety System for	$4.00	$800.00	$1.50	$300.00	$1.00	$200.00	$12.00	$2,400.00
11)	1 L.S.	Furnish all labor and material to develop a Storm Water Pollution Prevention plan, file a NOI and install all Pollution Prevention measures shown on the plans; complete and in place for	$12,384.00	$12,384.00	$11,000.00	$11,000.00	$7,000.00	$7,000.00	$20,000.00	$20,000.00
		Subtotal -- Water System Items 3-11 ———		$421,600.00		$443,650.00		$479,600.00		$525,900.00
		GRAND TOTAL ALL BID ITEMS ———		$588,000.00		$632,550.00		$654,300.00		$699,600.00

2016 WATER AND WASTEWATER MAIN EXTENSION
CITY OF FULSHEAR, TEXAS

BID TABULATION
JULY 20, 2016

		COMPANY NAME ---->	#5 - Cooley Construction		#6 - Harris Construction		#7 Trans Tex		#8 - Supak Construction	
ITEM NO.	QUANTITY	DESCRIPTION	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
SANITARY SEWER SYSTEM										
1)	8,800 L.F.	Furnish all labor and materials to install a 8-inch PVC (Class 160 psi) force main with tracer wire, bank sand bedding and backfill (90% Standard Proctor); complete and in place for	$22.00	$193,600.00	$22.75	$200,200.00	$23.00	$202,400.00	$32.75	$288,200.00
2)	1 each	Furnish all labor and material to install a APCO Air Relief valve and vacuum breaker assembly (see Construction Plan Detail) on 8-inch PVC (Class 160 psi) pipe including valves, piping, concrete enclosure and ring and cover for	$8,100.00	$8,100.00	$7,500.00	$7,500.00	$5,000.00	$5,000.00	$5,400.00	$5,400.00
		SUBTOTAL SANITARY SEWER SYSTEM ITEMS NO. 1-2		**$201,700.00**		**$207,700.00**		**$207,400.00**		**$293,600.00**
WATER SYSTEM										
3)	6,800 L.F.	Furnish all labor and material to install 16-inch PVC (C-905) water main including water pipe, tracer wire and bank sand bedding & backfill (90% Standard Proctor); complete and in place for	$46.00	$312,800.00	$48.25	$328,100.00	$65.00	$442,000.00	$56.75	$385,900.00
4)	2,800 L.F.	Furnish all labor and material to install 12-inch PVC (C 900) water main including water pipe, tracer wire and bank sand bedding & backfill (90% Standard Proctor); complete and in place for	$30.00	$84,000.00	$37.00	$103,600.00	$36.00	$100,800.00	$47.50	$133,000.00
5)	100 L.F.	Furnish all labor and materials to install 12-inch PVC (C 900) water main encased in 20-inch Steel Casing (wall thickness 0.25-inches) by bore, complete and in place for	$250.00	$25,000.00	$195.00	$19,500.00	$165.00	$16,500.00	$147.50	$14,750.00
6)	2 each	Furnish all labor and material to install a 16-inch Mueller Gate valve and adjustable valve box, complete and in place for	$5,600.00	$11,200.00	$8,925.00	$17,850.00	$8,000.00	$16,000.00	$7,450.00	$14,900.00

2016 WATER AND WASTEWATER MAIN EXTENSION
CITY OF FULSHEAR, TEXAS

BID TABULATION
JULY 20, 2016

		COMPANY NAME ---->	#5 - Cooley Construction		#6 - Harris Construction		#7 Trans Tex		#8 - Supak Construction	
ITEM NO.	QUANTITY	DESCRIPTION	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
7)	2 each	Furnish all labor and material to install a 12-inch Mueller Gate valve and adjustable valve box, complete and in place for	$1,850.00	$3,700.00	$1,975.00	$3,950.00	$2,500.00	$5,000.00	$2,750.00	$5,500.00
8)	1 each	Furnish all labor material to install a 8-inch full circle stainless steel Mueller tapping sleeve and valve with an adjustable valve box; complete and in place for	$6,500.00	$6,500.00	$7,500.00	$7,500.00	$3,500.00	$3,500.00	$3,250.00	$3,250.00
9)	12 each	Furnish all labor and materials to install a Mueller Firehydrant assembly (4-foot bury); including Firehydrant, 6-inch gate valve with adjustable box and 6-inch lead pipe; complete and in place for	$3,100.00	$37,200.00	$3,475.00	$41,700.00	$3,500.00	$42,000.00	$3,750.00	$45,000.00
10)	200 L.F.	Furnish all labor and material to implement Trench Safety System for	$1.00	$200.00	$5.00	$1,000.00	$10.00	$2,000.00	$1.00	$200.00
11)	.1 L.S.	Furnish all labor and material to develop a Storm Water Pollution Prevention plan, file a NOI and install all Pollution Prevention measures shown on the plans; complete and in place for	$25,000.00	$25,000.00	$13,395.00	$13,395.00	$13,000.00	$13,000.00	$3,750.00	$3,750.00
		Subtotal -- Water System Items 3-11 ----------		$505,600.00		$536,595.00		$640,800.00		$606,250.00
		GRAND TOTAL ALL BID ITEMS ----------		**$707,300.00**		**$744,295.00**		**$848,200.00**		**$899,850.00**

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	Michael Ross, Assistant City Manager	**PRESENTER:**	Michael Ross, Assistant City Manager
SUBJECT:	**Engagement of Colliers International for Real Estate Brokerage Services**		
ATTACHMENTS:			

EXPENDITURE REQUIRED: $0

AMOUNT BUDGETED: $0
ACCOUNT: Development Services

ADDITIONAL APPROPRIATION REQUIRED: $0
ACCOUNT NO:

EXECUTIVE SUMMARY

Given all of the recent real estate discussions in the City it has become evident that the City needs professional real estate brokerage assistance. Colliers International Group Inc. is an industry leading real estate services company that provides a full range of services to clients. Services include strategic advice and execution for property sales, leasing and finance as well as appraisal of properties.

The City will pay any typical real estate fees associated with the transactions at closing. The usual fee is 6% paid by the seller with 50% to each broker. In the case of a very large transaction, say a $5,000,000 or higher deal, the fees are usually less, but again, the Seller typically pays the fee.

RECOMMENDATION

Staff recommends the City Council authorize the City Manager to engage Colliers International Group Inc. to act as the "on-call" real estate broker for the City.

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	Michael Ross, Assistant City Manager	**PRESENTER:**	Michael Ross, Assistant City Manager
SUBJECT:	**Interlocal Agreement for Cooperative Purchasing with the City of Sugar Land**		
ATTACHMENTS:	**Proposed Interlocal Agreement**		

EXPENDITURE REQUIRED:	$0
AMOUNT BUDGETED:	$0
ACCOUNT: Development Services	
ADDITIONAL APPROPRIATION REQUIRED:	$0
ACCOUNT NO:	

EXECUTIVE SUMMARY

Chapter 791, Tex. Gov't Code and Chapter 271, Subchapter F, Tex. Local Gov't Code, allows cities to enter into Interlocal purchasing agreements to take advantage of potential cost savings resulting from cooperative purchasing efforts. In accordance with this statute the City Council must approve all Interlocal Agreements prior to the City Manager signing any related contracts.

Staff researched Sugar Land's latest competitive bids on concrete streets and sidewalks and determined that they met all of the requirements of the City of Fulshear. Subsequently Staff contacted the City of Sugar Land and asked if they would be interested in entering into an Interlocal Agreement with the City in order to take advantage of competitively bid contracts for goods and services like these and others as they become available. Sugar Land staff agreed.

As noted, an Interlocal Agreement will allow both cities to share and take advantage of various contracts for goods and services competitively bid currently and for as long as the agreement remains in place. This is an opportunity for cities, counties, and other entities to work together to provide time and cost savings to the public upon approval by the governing bodies. The agreement will be for a one year term, with automatic one-year renewals each year thereafter. Any party, upon thirty days written notice to the other entity, may terminate participation in this agreement.

RECOMMENDATION

Staff recommends the City Council approve the City of Sugar Land Interlocal Agreement authorizing participation in the cooperative purchasing program.

INTERLOCAL COOPERATION AGREEMENT FOR JOINT PURCHASING
BETWEEN
THE CITY OF SUGAR LAND
AND
THE CITY OF FULSHEAR

This Interlocal Agreement ("Agreement") is made and entered into under the authority and pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, as amended, by and between the City of Sugar Land, Texas ("Sugar Land"), acting by and through its City Council, and the City of Fulshear, Texas ("Fulshear"), acting by and through its City Council. The City of Sugar Land and the City of Fulshear hereinafter collectively referred to as "parties".

WHEREAS, Section 791.011 of the Texas Government Code authorizes a local government to enter into an interlocal agreement with another local government to perform governmental functions and services in accordance with Chapter 791 of the Texas Government Code; and

WHEREAS, Section 271.102 of the Texas Local Government Code authorizes a local government to participate in a cooperative purchasing program and sign an agreement with another local government; and

WHEREAS, a local government that purchases goods and services pursuant to a Cooperative Purchasing Program under Subchapter F, Chapter 271 of the Texas Local Government Code, satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods and services; and

WHEREAS, the parties have the legal authority to perform and to provide the governmental function and service which is the subject matter of this Agreement; and

WHEREAS, the parties' governing bodies find that the subject of this Agreement is necessary for the benefit of the public; and

WHEREAS, the governing bodies find that the performance of this Agreement is in the common interest of both parties and that the division of cost fairly compensates the performing party for the services under this Agreement; and

WHEREAS, the parties, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from their current revenues legally available to them.

NOW THEREFORE, the parties, for mutual consideration hereinafter stated, agree as follows:

ARTICLE I
PURPOSE

The purpose of this Agreement is to establish a cooperative purchasing program between parties, which will allow each party to purchase goods and services under the each other's competitively bid contracts pursuant to Subchapter F, Chapter 271, Texas Local Government Code and Chapter 791, Texas Government Code.

ARTICLE II
TERM

The term of this Agreement is for one (1) year commencing on the last date of execution of this Agreement ("Effective Date"). Thereafter, this Agreement will automatically renew for successive terms of one (1) year each under the terms and conditions stated herein, unless terminated sooner as provided below.

ARTICLE III
TERMINATION

Either party may terminate this Agreement by providing a thirty (30) days prior written notice to the other party. Termination of this Agreement does not terminate a party's obligation to pay any outstanding balance not paid to vendor(s) on order(s) placed on behalf of the party under this Agreement. If this Agreement extends beyond the City's fiscal year in which it becomes effective or provides for the City to make any payment during any of the City's fiscal years following the City's fiscal year in which this Agreement becomes effective and the City fails to appropriate funds to make any required Agreement payment for that successive fiscal year and there are no funds from the City's sale of debt instruments to make the required payment, then this Agreement automatically terminates at the beginning of the first day of the City's successive fiscal year of the Agreement for which the City has not appropriated funds or otherwise provided for funds to make a required payment under the contract. (Section 5, Article XI, Texas Constitution)

ARTICLE IV
PURCHASING

1. Sugar Land hereby makes, authorizes and appoints Fulshear, through its City Manager or designee, as its true and lawful purchasing agent for the purchase of various goods and services. Sugar Land agrees that Fulshear will serve as the purchasing agent for the selected items, and agrees that bidding will be conducted by Fulshear in accordance to its usual bidding procedures and the applicable state law. Sugar Land agrees that all specifications for the selected items will be determined by Fulshear unless specifically requested by Sugar Land prior to the bid. Fulshear will maintain a list of all contracts and provide the list to Sugar Land for its use. Fulshear will forward a copy of the contract and any related bidding information to Sugar Land upon its request. Sugar Land agrees to pay the vendor for all goods and services purchased pursuant to this Agreement. The successful bidder(s) will bill Sugar Land directly for all items purchased, and Sugar Land will be responsible for vendor's compliance with all terms and conditions of delivery and the quality of the purchased items.

2. Fulshear hereby makes, authorizes and appoints Sugar Land, through its City Manager or designee, as its true and lawful purchasing agent for the purchase of various goods and services. Fulshear agrees that Sugar Land will serve as the purchasing agent for the selected items, and agrees that bidding will be conducted by Sugar Land in accordance to its usual bidding procedures and the applicable state law. Fulshear agrees that all specifications for the selected items will be determined by Sugar Land unless specifically requested by Fulshear prior to the bid. Sugar Land will maintain a list of all contracts and provide the list to Fulshear for its use. Sugar Land will forward a copy of the contract and any related bidding information to Fulshear upon its request. Fulshear agrees to pay the vendor for all goods and services purchased pursuant to this Agreement. The successful bidder(s) will bill Fulshear directly for all items purchased, and Fulshear will be responsible for vendor's compliance with all terms and conditions of delivery and the quality of the purchased items.

ARTICLE V
LIABILITY AND IMMUNITY

Each party to this Agreement agrees that it will have no liability whatsoever for the actions or omissions of the other party or the vendor under the contract. Each party is solely responsible for the actions or omissions of its employees and officers. Both parties expressly retain all immunities to which they are entitled under the law and do not waive any immunity. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement does not create any rights in parties who are not signatories to this Agreement.

ARTICLE VI
MISCELLANEOUS

1. This Agreement is not intended to create, nor should it be construed as creating, a partnership, association, joint venture, or trust between the parties.

2. All notices required under this Agreement are to be in writing and delivered in person or sent by certified mail, return receipt requested, to the following addresses:

City of Sugar Land:	City of Sugar Land P.O. Box 110 Sugar Land, Texas 77479 Attn: City Manager
City of Fulshear:	City of Fulshear 30603 FM 1093 Road West Fulshear, Texas 77441 Attn: City Manager

3. This Agreement may be amended by the mutual written agreement of both parties.

4. If any provision of this Agreement is deemed to be illegal, invalid, or unenforceable under present or future laws, such illegality, invalidity and enforceability will not affect the remaining provisions of the Agreement, and this Agreement will be construed as if the invalid provision had never been contained in this Agreement.

5. This Agreement is governed by the laws of the state of Texas. The parties agree that this Agreement will be enforceable in Fort Bend County, Texas, and if legal and necessary, exclusive venue will lie in Fort Bend County, Texas.

6. This Agreement represents the entire agreement between the parties.

7. The recitals to this Agreement are incorporated herein.

8. This Agreement may be executed in any number of counterparts, each of whom shall be deemed an original and constitute one and the same instrument.

CITY OF SUGAR LAND

_____
Joe R. Zimmerman
Mayor

Executed this _____ day of _____, 2016.

Attest:

_____
Glenda Gundermann
City Secretary

APPROVED AS TO FORM:

CITY OF FULSHEAR

_____
Jeff Roberts
Mayor

Executed this _____ day of _____, 2016.

Attest:

_____
Diana Gordon Offord
City Secretary

APPROVED AS TO FORM:

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	U
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	CJ Snipes, City Manager	**PRESENTER:**	CJ Snipes/ Grady Randle
SUBJECTS:	**Building Permits and Inspections in the ETJ**		
ATTACHMENTS:	Email from Grady and Draft Ordinance 2016-1225		

EXPENDITURE REQUIRED:

AMOUNT BUDGETED:
FUNDING ACCOUNT:

ADDITIONAL APPROPRIATION REQUIRED:
FUNDING ACCOUNT:

EXECUTIVE SUMMARY

This measure may be considered controversial to some, but staff believes it to be of highest value to the City and its future residents. The City has already "leaned forward" as a General Law City by incorporating mandatory inspections on private structures in its Development Agreements with Tamarron, Jordan Ranch and Fulshear Lakes However, those fees are only a portion of the revenue and provide only limited regulation for structures constructed in the ETJ. Our advancement into Home Rule seemingly allows us to extend this authority to ensure that all structures constructed in the ETJ are provide the same life, health and safety protections as those constructed within the City Limits. While it appears that this measure would not impact those Developments listed above as we have a contract in place, it will impact those ETJ developments where we do not have such provisions and future projects as well.

RECOMMENDATION

Staff recommends that Council take action to approve this Ordinance so that we can extend life, health, safety and welfare protections to our constituents by ensuring safe and quality construction within the ETJ on the same basis as those residing inside the City Limits.

ORDINANCE NO. 2016-1225

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, ADDING A GENERAL PROVISION EXTENDING ALL CITY ORDINANCES RELATING TO BUILDING PERMITS INTO THE CITY'S EXTRATERRITORIAL JURISDICTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; AND PROVIDING FOR AN EFFECTIVE DATE.

* * * * * * * * * * *

WHEREAS, the City Council of the City of Fulshear, Texas ("City"), seeks to provide for the health, safety, and welfare of its citizens; and

WHEREAS, the City Council seeks to add a general provision extending all City ordinances relating to building permits into the City's extraterritorial jurisdiction;

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

Section 1. All of the facts recited in the preamble to this Ordinance are hereby found by the City Council to be true and correct and are incorporated by reference herein and expressly made a part hereof, as if copied herein verbatim.

Section 2. Any current or future City ordinance providing for or relating to building permits, or adopting or including the terms and provisions of any building codes relating to building permits, including, without limitation, Ordinance 2013-1105 amending the schedule of fees for building permits, is hereby extended and made applicable in the extraterritorial jurisdiction ("ETJ") of the City.

Section 3. Any person seeking to do any building or structural work in the ETJ must obey all current or future City codes, ordinances, and resolutions relating to building permits within the City limits.

Section 4. *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 5. *Repeal.* All 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 6. *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 and No/100 Dollars ($500.00). 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 7. *Effective Date.* This Ordinance shall be effective and in full force when published as required by law.

Section 8. *Proper Notice and Meeting.* It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

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

_____
Jeff Roberts, Mayor

ATTEST:

_____
D. Gordon Offord, City Secretary

CJ Snipes

From: Grady Randle <grady@jgradyrandlepc.com>
Sent: Thursday, September 15, 2016 2:10 PM
To: CJ Snipes; Michael Ross
Cc: City Council
Subject: ETJ Permits
Attachments: Ordinance Extending Building Permits Into ETJ.DOCX

CJ

We spoke after I had heard a lecture on extending a home rule city's permitting authority to the ETJ. You requested an ordinance doing such and please find it attached.

This concept was brought to the forefront by the case of Bizos V. Town of Lakewood Village. TML interprets that case for the proposition that general law cities may not extend building permitting to the ETJ; dicta seems to suggest that home rule cities may do so.

The Collin County Auditor requested an attorney general opinion on this question in April 2015; I cannot find a response to that request nor is it listed as a "pending" opinion on the AG's website. I have left messages with AG and Collin County Auditor. It now shows "withdrawn litigation."

The Texas Builders Association is very actively opposing these efforts. There is an organized effort among builders suing cities over this issue.

My conclusion was, and is, that home rule cities can extend building permits into the ETJ absent a specific statute that forbids them.

There are hyperlinks to documents in dropbox. I have copied Council.

J. Grady Randle | Randle Law Office Ltd., L.L.P | ☎ (281) 657 2000

820 Gessner, Suite 1570 | Memorial City Plaza II | Houston, TX 77024

Email | **Bio** | **Website** |**V-Card**

"Exceeding client expectations through exceptional results."

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	Michael Ross, Assistant City Manager	**PRESENTER:**	Michael Ross, Assistant City Manager
SUBJECT:	**Donation of City property to Fort Bend County for Right-of-Way for the Phase II Westpark Project**		
ATTACHMENTS:	**Donation Deed**		

EXPENDITURE REQUIRED:	$0
AMOUNT BUDGETED: **ACCOUNT:** Development Services	$0
ADDITIONAL APPROPRIATION REQUIRED: **ACCOUNT NO:**	$0

EXECUTIVE SUMMARY

Fort Bend County has requested the donation of a sliver of property owned by the City that is part of the existing wastewater treatment facility property for right-of-way for their Westpark Phase II extension. The attached exhibit depicts the requested property.

RECOMMENDATION

Staff recommends the City Council approve the donation of the right-of-way to Fort Bend County and authorize the City Manager execute the donation deed.

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DONATION DEED

STATE OF TEXAS	§	
	§	KNOW ALL MEN BY THESE PRESENTS
COUNTY OF FORT BEND	§	

THAT THE, **CITY OF FULSHEAR, TEXAS** ("Grantor"), for and in consideration of the sum of ONE DOLLAR ($1.00) and other valuable consideration to the undersigned in hand paid by the Grantee herein named, the receipt and sufficiency of which are hereby acknowledged, has DONATED, and by these presents does GRANT, GIVE AND CONVEY unto **FORT BEND COUNTY, TEXAS** ("Grantee"), a body corporate and politic under the laws of the State of Texas and unto its successors, and assigns, forever, a certain tract of land, containing 0.427 acre, as more particularly described in Exhibit "A", attached hereto and incorporated herein and made a part hereof for all purposes, together with all rights, titles, and interests appurtenant thereto and improvements situated thereon (collectively, the "Property").

This Donation Deed and the conveyance hereinabove set forth are executed by Grantor and accepted by Grantee subject to the terms, conditions and provisions hereof and further subject to all easements, conditions, restrictions, covenants, mineral or royalty interests, mineral reservations, surface waivers, utility conveyances, liens, encumbrances, regulations or orders of municipal and/or other governmental authorities, if any, or other matters of record in Fort Bend County, Texas, to the extent the same are validly existing and applicable to the Property (collectively, the "Permitted Encumbrances").

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereunto in anywise belonging, unto Grantee, its successors and assigns, forever, and Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND, all singular the title to the Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, subject only to the Permitted Encumbrances.

If current ad valorem taxes on said Property have not been prorated at the time of closing, Grantor and Grantee shall be responsible for payment of its respective share thereof based on period of ownership.

Grantee's address is 301 Jackson Street, Richmond, Texas 77469.

EXECUTED on this the _____day of _____, 2016.

GRANTOR:

City of Fulshear, Texas

By: _____
C. J. Snipes, City Manager

THE STATE OF TEXAS §
§
COUNTY OF FORT BEND §

This instrument was acknowledged before me on the _____ day of _____, 2016 by C.J. Snipes, City Manager, on behalf of the City of Fulshear, Texas.

(SEAL) _____

Notary Public in and for the State of Texas

AGREED to and ACCEPTED on this the _____day of _____, 2016.

GRANTEE:

FORT BEND COUNTY, TEXAS, a body corporate and politic under the laws of the State of Texas.

By: _____

Robert E. Hebert, County Judge

THE STATE OF TEXAS §
§
COUNTY OF FORT BEND §

This instrument was acknowledged before me on the _____ day of _____, 2016 by Robert E. Hebert, County Judge of Fort Bend County, Texas, a body corporate and politic under the laws of the State of Texas, on behalf of said body corporate and politic.

(SEAL)

_____
Notary Public in and for the State of Texas

Attachments:
Exhibit A – Legal Description of the Property

After Recording Return to:
Fort Bend County Engineering
Attn: Bryan Norton
301 Jackson Street
Richmond, Texas 77469

EXHIBIT A

EXHIBIT A

County: Fort Bend
Highway: F.M. 1093
Project Limits: West of Fulshear to FM 1463 / FM 359
RCSJ: 1258-02-038

Property Description for Parcel 301

Being a 0.427 acre (1,858 square feet) parcel of land, out of the C. Fulshear Survey A-29, Fort Bend County, Texas, and being part of and out of that certain called 1.247 acre tract of land, described in a Deed dated October 27, 1987 from the Estate of Lula Louise Field Lloyd, Deceased Et Al to the City of Fulshear, Texas, filed in the Official Public Records of Fort Bend County, Texas (O.P.R.F.B.C.), under Clerk's File No. 8768377 and being part of and out of that certain called 0.413 acre tract of land, described in a Deed dated May 1, 2003 from Metropolitan Transit Authority of Harris County, Texas to the City of Fulshear, Texas, filed in the O.P.R.F.B.C., under Clerk's File No. 2003059725, said 0.0427 of an acre parcel being more particularly described as follows:

COMMENCING at a 5/8-inch iron rod found for a northeast corner of said called 0.413 acre tract and in the west right-of-way line of the Fort Bend County Tollroad Authority Corridor as described in the O.P.R.F.B.C. under Clerk's File No(s). 2015058468, 2015058447, and 2015058441, thence as follows:

South 07°00'42" East, a distance of 127.63 feet, along the east line of said 0.413 acre tract and along the west line of said Fort Bend County Tollroad Authority Corridor, to a 5/8 inch iron rod with TxDOT aluminum cap set in the proposed north right-of-way line of FM 1093 (width varies) for the northeast corner and POINT OF BEGINNING of the herein described parcel, said point having Coordinates of N=13,812,867.13 and E=2,952,448.26;**

1) THENCE, South 07°00'42" East, a distance of 23.57 feet, along the existing west right-of-way line of said Fort Bend County Tollroad Authority Corridor, and along the east line of said 0.413 acre tract to the existing north right-of-way line of F.M. 1093 (width varies) as described in Volume 285, Page 305, filed in the Deed Records of Fort Bend County, (F.B.C.D.R.), Fort Bend County, Texas, to a point found for the southeast corner of the herein described parcel;

2) THENCE, South 74°43'19" West, a distance of 17.35 feet, along the existing north right-of-way line of said F.M. 1093 (width varies) and along the south line of said 0.413 acre tract, to a point for the beginning of a curve to the right;

EXHIBIT A

3) THENCE, in a westerly direction along the south line of said called 0.413 acres, said called 1.247 acre, and with said curve to the right having a radius of 1,390.10 feet, a central angle of 06°25'15" and chord which bears South 77°55'57" West, 155.70 feet, for an arc length of 155.78 feet, to a 5/8-inch iron rod with TxDOT aluminum cap set for the west corner in the herein described parcel and the beginning of a curve to the left;**

4) THENCE, in a easterly direction over and across said called 1.247 acres, said called 0.413 acre, and with said curve to the left having a radius of 971.50 feet, a central angle of 10°13'12" and chord which bears North 70°05'29" East, 173.06 feet, for an arc length of 173.29 feet, to a 5/8-inch iron rod with TxDOT aluminum cap set for a point in the herein described parcel;**

5) THENCE, North 69°29'39" East, a distance of 12.41 feet, along the proposed north right-of-way line of said F.M. 1093, to the POINT OF BEGINNING and containing 0.0427 acre (1,858 square feet) parcel of land.

NOTE: All bearings are based on the Texas coordinate system, NAD 83 (1993 Adj.), South Central Zone. All coordinates shown are surface and may be converted to grid by Dividing by TxDOT conversion factor of 1.00013.

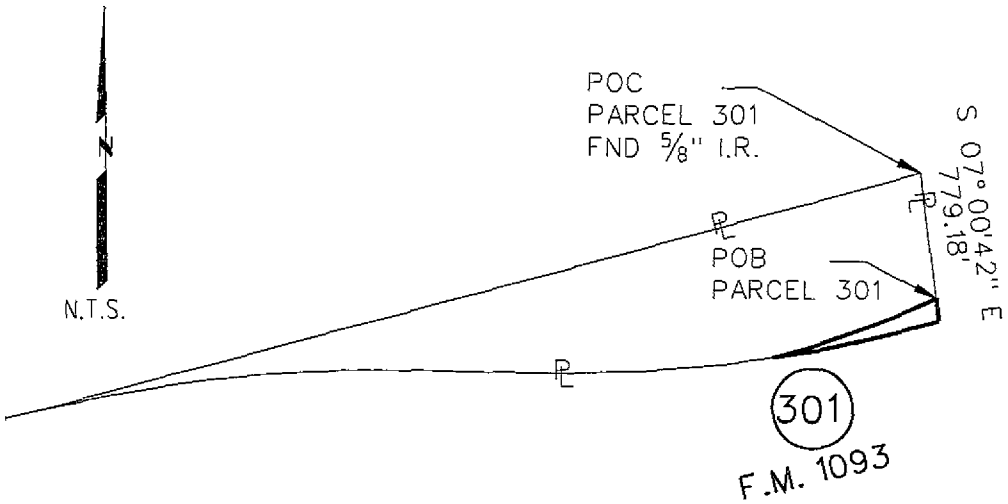
All coordinates shown hereon are established from TxDOT Control Monuments, H-3, H-4, H-5, and H-13 prepared by Costello, Inc. dated Febuary 23, 2000 and TxDOT Control Monuments H-5A and H-5B prepared by Weisser Engineering Company dated October 2006.

** The monument described and set in this call may be replaced with a TxDOT Type II Right of Way marker upon completion of the highway construction project under the supervision of a Registered Professional Land Surveyor, either employed or retained by TxDOT.

Access will be permitted to the remainder property abutting the highway facility.

NOTE: A parcel plat of even date was prepared in conjunction with this property description.

Compiled by:
Weisser Engineering Company
TBPLS Firm Reg. No. 100518-00
19500 Park Row, Suite 100
Houston, Texas 77084
(281) 579-7300
July, 2015



PARENT TRACT INSET

CONVENTIONAL SIGNS:

EXISTING RIGHT-OF-WAY LINE
ACCESS DENIAL LINE
PROPOSED RIGHT-OF-WAY LINE
PROPERTY LINE
SURVEY LINE
DENOTES PARCEL No. (401)
DENOTES BEARING AND DISTANCE NOTE No. (3)
SET 5/8"I.R. W/TxDOT ALUM. CAP (SEE NOTE 2) ■ **
SET 5/8"I.R. W/TxDOT ALUM. CAP (STAMPED "ADL") ■ ADL
FOUND 5/8"I.R. W/TxDOT ALUM. CAP □
SET (AS INDICATED) ●
FOUND (AS INDICATED) ○

LEGEND:

C.F. NO. =CLERK'S FILE NUMBER
F.C. NO. =FILM CODE NUMBER
O.P.R.F.B.C =OFFICIAL PUBLIC RECORDS OF FORT BEND COUNTY
F.B.C.P.R. =FORT BEND COUNTY PLAT RECORDS
F.B.C.D.R. =FORT BEND COUNTY DEED RECORDS
F.B.C.C.R. =FORT BEND COUNTY COURT RECORDS
F.B.C.D.C.R. =FORT BEND COUNTY DISTRICT COURT RECORDS

NOTES:

1. A PROPERTY DESCRIPTION OF EVEN DATE WAS PREPARED IN CONJUNCTION WITH THIS PARCEL PLAT.
2. ** THE MONUMENT DESCRIBED AND SET MAY BE REPLACED WITH A TxDOT TYPE II RIGHT-OF-WAY MARKER UPON COMPLETION OF THE HIGHWAY CONSTRUCTION PROJECT UNDER THE SUPERVISION OF A REGISTERED PROFESSIONAL LAND SURVEYOR, EITHER EMPLOYED OR RETAINED BY TxDOT.
3. ALL BEARINGS AND COORDINATES ARE BASED ON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD 83 (1993 ADJ.). ALL DISTANCES AND COORDINATES SHOWN ARE SURFACE AND MAY BE CONVERTED TO GRID BY DIVIDING BY A COMBINED ADJUSTMENT FACTOR OF 1.00013.
4. ALL COORDINATES AND ELEVATIONS SHOWN HEREON ARE ESTABLISHED FROM TXDOT CONTROL MONUMENTS H-3, H-4, H-5, AND H-13 PREPARED BY COSTELLO, INC. DATED FEBRUARY 23, 2000 AND TXDOT CONTROL MONUMENTS H-5A AND H-5B PREPARED BY WEISSER ENGINEERING COMPANY DATED OCTOBER 2006.
5. ABSTRACTING PERFORMED BY: POSTLE PROPERTY SERVICES 12/2013 TO 01/2014 AND UPDATED ON 07/2015.
6. GROUND SURVEY PERFORMED 03/2012, 09/2014 & 07/2015.

STATE OF TEXAS
REGISTERED
WALTER P. SASS
4410
PROFESSIONAL
LAND SURVEYOR

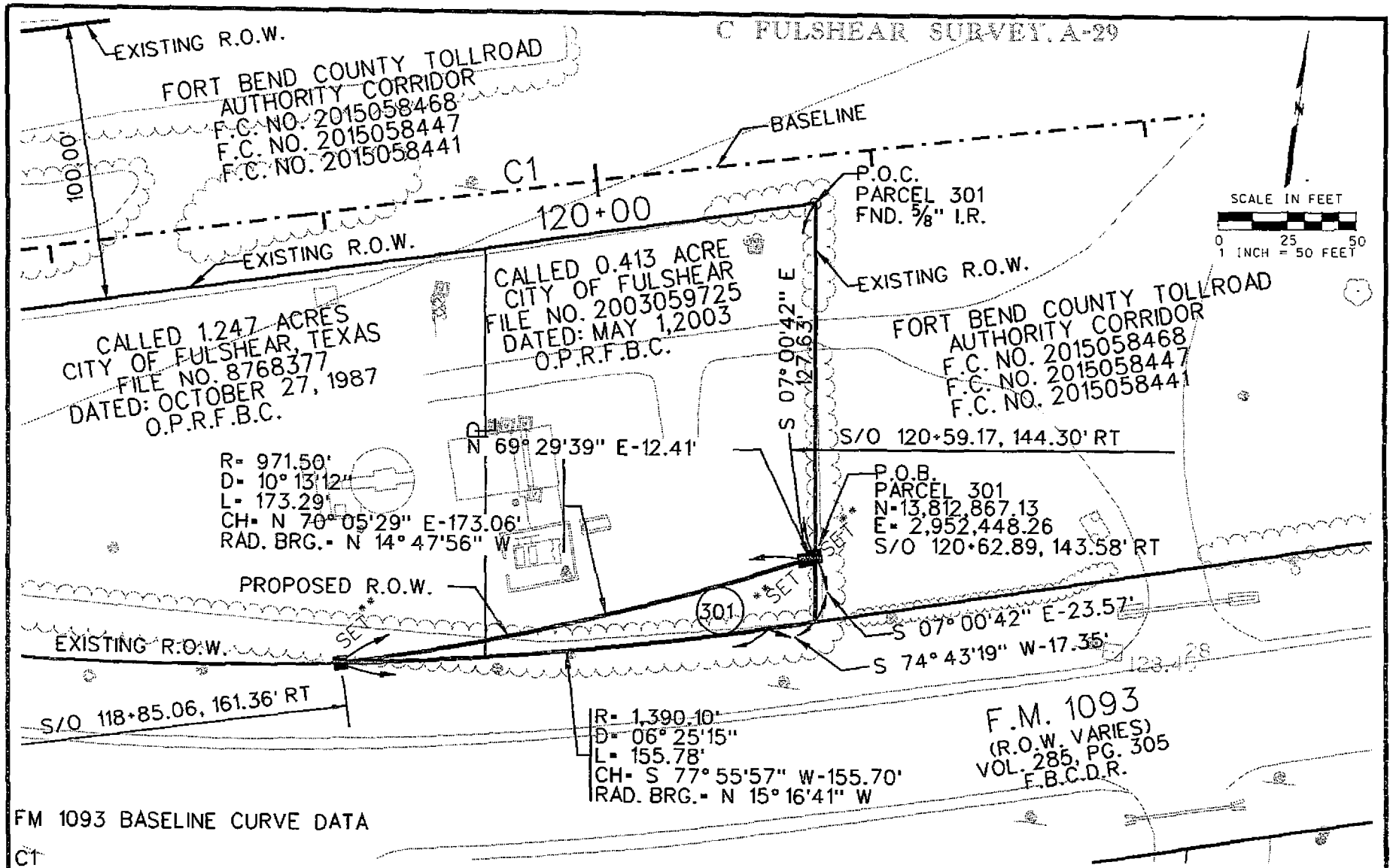
SHEET 3 OF 4

EXISTING	TAKING AC/SF	REMAINING
1.6604	0.0427 AC 1,858 SF	1.6177 LT.

WEISSER Engineering Co.
19500 Park Row, Suite 100
Houston, Texas 77084
(281) 579 - 7300
TBPLS Firm Reg No. 100518-00

PARCEL PLAT SHOWING
PARCEL 300
FM 1093, FORT BEND COUNTY, TEXAS

DATE: 07/2015	SCALE: N.T.S.	JOB No.: EG676
RCSJ No.: 1258-02-038		DWG. No.: P-301-01



FM 1093 BASELINE CURVE DATA

C1

RADIUS	= 14,100.00'
CENTRAL ANGLE	= 02° 17' 00" (RT)
ARC LENGTH	= 561.88'
TAN LENGTH	= 280.98'
CHORD BEARING	= N 75° 50' 49" E
CHORD DISTANCE	= 561.84'
PI STATION	= 119+96.88
PI N	= 13,812,993.22
PI E	= 2,952,349.05

SHEET 4 OF 4

WEISSER Engineering Co.
19500 Park Row, Suite 100
Houston, Texas 77084
(281) 579 - 7300
TBPLS Firm Reg No. 10051B-00

PARCEL PLAT SHOWING
PARCEL 301
FM 1093, FORT BEND COUNTY, TEXAS

DATE: 07/2015	SCALE: 1"= 50'	JOB No.: EG676
RCSJ No.: 1258-02-038		DWG. No.: P-301-02

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

AGENDA OF:	September 20, 2016	**AGENDA ITEM:**	W
DATE SUBMITTED:	September 16, 2016	**DEPARTMENT:**	Administration
PREPARED BY:	CJ Snipes, City Manager	**PRESENTER:**	CJ Snipes
SUBJECTS:	**Ad Valorem Taxes for FY 2016-2017**		
ATTACHMENTS:	Ordinance No. 2016-1226 Levying Taxes		

EXPENDITURE REQUIRED:

AMOUNT BUDGETED:
FUNDING ACCOUNT:

ADDITIONAL APPROPRIATION REQUIRED:
FUNDING ACCOUNT:

EXECUTIVE SUMMARY

The City has previously proposed a Tax Rate of $.156901 which is equivalent to the Rollback Rate for the collection of Ad Valorem Taxes in Fiscal Year 2016-2017. This revenue will support the ongoing growth in operational services costs and infrastructure improvements needed for our rapidly growing community. The City has held two Public Hearings on the issue and received only one response questioning the use of Ad Valorem Taxes for Park land purchases, which was not germane to the topic and the respondent never questioned the actual rate.

The proposed rate is essential as it is the basis on which the City's revenues are modeled to support the expenditures listed within the City's budget. As a reminder, the vote on this issue needs to be accomplished by Roll Call.

RECOMMENDATION

Staff recommends that Council take action to approve Ordinance No. 2016-1226 adopting an Ad Valorem Tax Rate of $.156901 per $100 valuation for the Fiscal Year 2016-2017.

ORDINANCE NO. 2016-1226

AN ORDINANCE PROVIDING FOR THE ASSESSMENT, LEVY, AND COLLECTION OF AD VALOREM TAXES OF THE CITY OF FULSHEAR, TEXAS, FOR THE YEAR 2017 AND FOR EACH YEAR THEREAFTER UNTIL OTHERWISE PROVIDED; PROVIDING THE DATE ON WHICH SUCH TAXES SHALL BE DUE AND PAYABLE; PROVIDING FOR PENALTY AND INTEREST ON ALL TAXES NOT TIMELY PAID; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, the City Council is desirous of continuing the City's ability to provide necessary and auxiliary services; and

WHEREAS, the appraisal roll of the City of Fulshear, Texas has been prepared and certified by the Central Appraisal District and submitted to the City's tax assessor/collector; and

WHEREAS, the tax assessor/collector has submitted the appraisal roll for the City showing $1,177,935,768 in total appraised, assessed and taxable value of all property and the total taxable value of new property to the City; and

WHEREAS, following notices and hearings in accordance with applicable legal requirements and based upon said appraisal roll, the City Council has determined a tax rate to be levied for Fiscal Year 2016-2017 sufficient to provide the tax revenues required by the City; and

WHEREAS, this tax rate will raise more tax revenue for maintenance and operations than the previous year;

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

Section 1. The facts and recitations set forth in the preamble of this Ordinance are found to be true and correct and are hereby adopted, ratified, and confirmed.

Section 2. All property subject to ad valorem taxation by the City of Fulshear, Texas, shall be equally and uniformly assessed for such purposes at One Hundred Percent (100 %) of the fair market value of such property.

Section 3. There is hereby levied for general purposes and use by the City of Fulshear, Texas, for the year 2017, and for each year thereafter until otherwise provided, an ad valorem tax at the rate of Sixteen and .156901 Cents ($.156901) on each One Hundred Dollars ($100) of assessed valuation on all property, real, personal, and mixed, within the corporate limits upon which an ad valorem tax is authorized by law to be levied by the City of Fulshear, Texas. The proceeds from such tax shall be applied to the payment of the general and current expenses of the government of the City. All such taxes shall be assessed and collected in current money of the United States of America. **THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE.** Because the rate set exceeds the

Effective Rate **THE TAX RATE WILL EFFECTIVELY BE RAISED BY 1.8 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A $100,000 HOME BY APPROXIMATELY $11.62.**

Section 4. All ad valorem taxes levied hereby, as reflected by Section 3 hereof, shall be due and payable on or before January 31, 2017. All ad valorem taxes due the City of Fulshear, Texas, and not paid on or before January 31 following the year for which they were levied shall bear penalty and interest as prescribed in the Property Tax Code of the State of Texas.

Section 5. All ordinances and parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 6. 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 declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 20th day of September, 2016.

_____
Jeff W. Roberts
Mayor

ATTEST:

_____
D. (Diana) Gordon Offord
City Secretary

ORDINANCE NO. 2016-1227

AN ORDINANCE AMENDING ORDINANCE NO. 2013-1127, SECTION 3.0, ADDING PARAGRAPH (D) PROVIDING FOR TEMPORARY STAYS TO SERVICE AND BILLING; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City adopted Ordinance No. 2013-1127 to providing Procedures for the billing, receipt of payment, handling of delinquencies, termination and reinstatement of service for water, sewer and solid waste services ; and

WHEREAS, the City has received feedback from the public and wishes to amend the Ordinance to clarify its regulations and make the financial impact more equitable.

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

SECTION 1.0

AMENDED: Section 3.0, is hereby amended to including the following:

"(d) *For Residential and Non-Commercial Customers:*

i. *The City shall allow a temporary stay to be placed on the services and billing associated with Residential Solid Waste Services for a period of not more than 90 days.*

ii. *The City shall not grant more than one temporary stay on service per Residential or Non-Commercial Account per Fiscal Year Calendar.*

iii. *Request for a temporary stay should be presented in writing to the Customer Service Supervisor not later than sixty (60) days prior to the start of said stay.*

iv. *All requests for temporary stays shall include a description of the need for such a stay, the duration of such stay and a certification that during the period of the stay the residence shall be unoccupied and shall not represent a threat to the health, safety or welfare of the community.*

v. *If during the temporary stay it is discovered that the Account service address is deemed a threat to the health, safety or welfare of the community said stay shall be immediately revoked and service and billing resumed immediately. The City shall provide notice of such finding within five (5) business days of the resumption of services and billing.*

vi. *Any appeal of any revocation of temporary stay shall be presented to the City Manager in writing within ten (10) business days. The City Manager in turn shall render an opinion on the appeal within fifteen (15) business days of the receipt of said appeal."*

SECTION 2.0

SEVERABILITY CLAUSE: That if any provision, word, sentence, paragraph, clause, phrase or section of this Ordinance or its application to any person or circumstances is adjudged or held

invalid, void or unconstitutional, the invalid, void or unconstitutional portion shall not affect the validity of the remaining portions of this ordinance which shall remain in full force and effect.

SECTION 3.0

REPEALING CLAUSE: All provisions in conflict with the provisions of this Ordinance shall be, and the same are hereby repealed, and all other provisions not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 4.0

EFFECTIVE DATE: This Ordinance shall be effective immediately on the date of adoption.

SECTION 5.0

PUBLICATION: The City Secretary is hereby authorized and directed to publish the caption of this ordinance in the manner and for the length of time prescribed by law.

DULY, PASSED, APPROVED AND ADOPTED THIS 20TH DAY OF SEPTEMBER, 2016.

_____

Jeff W. Roberts, Mayor

ATTEST:

_____

D. Gordon Offord, City Secretary