A broken water pipe caused a sinkhole in a roadway, which led to the discovery of a 200-foot-long cave that extended under two homes in the Brushy Creek subdivision in Williamson County, Texas. The county was concerned for the safety of its residents. The roadway needed repair to ensure community safety, and the cave needed to be preserved.

An ACEC Texas member firm performed an incident-free 3-D survey to capture the cave’s dimensions using a GPS virtual reference station – 3-D mapping and imagery from thousands of LiDAR data points – which provided the county with information to repair the roadway.
Official Publication of the Texas Municipal League.

This publication assumes no responsibility for statements made by contributors in signed articles. It is not operated for pecuniary gain.

Editor Christina Corrigan
Creative Manager Jennifer Stamps
Designer Will Bowling
Advertising Sales Gray Bulman
Printing Publication Printers Corp.

Texas Town & City (ISSN 1084-5356) is published monthly except October for $30 per year ($3.00 per single copy) by the Texas Municipal League, 1821 Rutherford Lane, Suite 400, Austin, Texas 78754-5101. Periodicals Postage Paid at Austin, Texas and additional mailing offices.

POSTMASTER:
Send address changes to Texas Town & City, 1821 Rutherford Lane, Suite 400, Austin, Texas 78754-5101.

Section 305.027, Government Code, requires legislative advertising to disclose certain information.

A person who knowingly enters into a contract or other agreement to print, publish, or broadcast legislative advertising that does not contain the required information commits a Class A misdemeanor offense. Texas Town & City contains material which is legislative advertising as defined by law in the state of Texas.

Mr. Bennett Sandlin has entered into an agreement with Publication Printers Corp. for the printing of Texas Town & City magazine. Mr. Sandlin represents the member cities of the Texas Municipal League.

CONTENTS

| FEATURES |
|-----------------|-----------------|
| 20               | 30               |
| Texas Outlook: Economic Expansion Continues | Preserving Fredericksburg: Historic District Expansion |
| 22               | 32               |
| Fiscal Conditions Survey Reflects Steady Growth | Grand Prairie’s Economic Development Momentum |
| 24               | 34               |
| The Hotel Tax “Two-Step” | Protect your City Revenues by Watching Out for Electricity Contract Gotchas |
| 26               | 36               |
| Texas Flood Planning: Cities Can Tap New Resources to Protect Against Storms | Helping Residents Get the Best Price for Electricity Boosts Cities’ Economies |
| 28               | 38               |
| What Makes Your Community Unique | The 2020 Census and Redistricting: What You Need To Know Now |

CONTENTS IN EACH ISSUE

| 5 | 12 |
| Message from the President | Small Cities’ Corner |
| 6 | 14 |
| TML News | Legal Q&A |
| 8 | 40 |
| Risk Pool News | Career Builder |
| 10 | 42 |
| City Lights | Instagram Highlights |

ABOUT THE COVER

Epic Waters Indoor Waterpark is one of three City-owned destinations opened in Grand Prairie in the last two years.
The Texas Municipal League exists solely to provide services to Texas cities. Since its formation in 1913, the League’s mission has remained the same: to serve the needs and advocate the interests of its members. Membership in the League is voluntary and is open to any city in Texas. From the original 14 members, TML’s membership has grown to more than 1,150 cities. Over 16,000 mayors, councilmembers, city managers, city attorneys, and department heads are member officials of the League by virtue of their cities’ participation.

The League provides a variety of services to its member cities. One of the principal purposes of the League is to advocate municipal interests at the state and federal levels. Among the thousands of bills introduced during each session of the Texas Legislature are hundreds of bills that would affect cities. The League, working through its Legislative Services Department, attempts to defeat detrimental city-related bills and to facilitate the passage of legislation designed to improve the ability of municipal governments to operate effectively.

The League employs full-time attorneys who are available to provide member cities with information on municipal legal matters. On a daily basis, the legal staff responds to member cities’ written and oral questions on a wide variety of legal matters. The League annually conducts a variety of conferences and training seminars to enhance the knowledge and skills of municipal officials in the state. In addition, the League also publishes a variety of printed materials to assist member cities in performing their duties. The best known of these is the League’s monthly magazine, Texas Town & City. Each issue focuses on a variety of contemporary municipal issues, including survey results to respond to member inquiries.

For additional information on any of these services, contact the Texas Municipal League at 512-231-7400 or visit our website, www.tml.org.

TEXAS MUNICIPAL LEAGUE BOARD OF DIRECTORS

PRESIDENT
Eddie Daifian, CMO, Mayor, Staples

PRESIDENT-ELECT
Karen Hunt, Mayor, Coppell

PAST PRESIDENTS
Holly Gray-Moore, CMO, Mayor Pro Tem, City of Roanoke
Mary M. Dennis, CMO, Mayor, Live Oak
Jungus Jordan, Mayor Pro Tem, Fort Worth
Leonard Reed, CMO, Mayor, Willis
Henry Wilson, Mayor, Hurst
Dock Jackson, Councilmember, Bastrop
Terry Henley, Board of Adjustment Member, Meadows Place

DIRECTORS-AT-LARGE
Jeff Williams, Mayor, Arlington
Steve Adler, Mayor, Austin
Joe McComb, Mayor, Corpus Christi
Eric Johnson, Mayor, Dallas
Dee Margo, Mayor, El Paso
Betsy Price, Mayor, Fort Worth
Martha Castex-Tatum, Councilmember, Houston
Ron Nirenberg, Mayor, San Antonio

REGIONAL DIRECTORS
2-Doyle Robinson, Mayor, Panhandle
3-Latrelle Joy, Councilmember, Lubbock
4-Raul J. Marquez, Councilmember, Big Spring
5-Bill Lindenborn, Commissioner, Burk Burnett
6-Robert Brown, Alderman, Menard
7-Suzanne de Leon, CMO, Mayor, Balcones Heights
8-Tito Rodriguez, Councilmember, North Richland Hills
9-Ray O’Docharty, Mayor, Groesbeck
10-Connie Schroeder, CMO, Mayor, Bastrop
11-Patrick R. Rios, CMO, Mayor, Rockport
12-Ramiro J. Rodriguez Jr., Mayor, Palmhurst
13-Jim Pruitt, Mayor, Rockwall
14-Andy Brauninger, Mayor, Huntsville
15-Shelley Brophy, Mayor, Nacogdoches
16-W.L. Pate Jr., CMO, Mayor Pro Tem, Beaumont

AFFILIATE DIRECTORS
Lee Battle, Director of Community Enhancement, Allen
Marissa Ximenez, Councilmember, Floresville
Kurt Kasson, Assistant Building Official, Arlington
Clifford Blackwell, CMO, Assistant City Manager, Bedford
Robin Mouton, CMO, Councilmember, Beaumont
Beth Ann Unger, Information Services Manager, Frisco
David Rutledge, CMO, Mayor, Bridge City
Steve Killen, Director of Development Services, City of Stephenville
Will Hampton, Communications and Marketing Director, Round Rock
R. Alan Shubert, Deputy City Attorney, Amarillo
Marcus Norris, Deputy City Attorney, Amarillo
Kelly Kuenstler, City Manager, Leon Valley
April Christiansen, Court Administrator, Cedar Park
Dear Texas City Official,

Economic development means different things to different Texas cities. For big cities, it might mean attracting a new semiconductor plant or an e-commerce warehouse facility. For the smallest of towns it could mean that community’s first retail establishment or a mom-and-pop restaurant opening in an abandoned downtown storefront. Every town has different economic ambitions and needs, and they’re all equally important to their residents.

This issue will take a broad look at economic development and trends. Texas Comptroller Glenn Hegar gives us an overview of the Texas economy; you’ll read about how historic districts can help towns grow; and we’ll learn how different retail strategies make cities unique. And there’s much, much more.

I was privileged to recently witness our President sign the important North American trade deal, the USMCA. That bipartisan legislation will be vitally important to the economic development of Texas cities. From distribution centers in Laredo to corporate headquarters in Irving, sensible trade policies will grow every city’s prospects. The USMCA was endorsed by your League’s executive committee, an example of how TML is at the forefront of helping make Texas prosper.

Eddie Daffern, CMO
Mayor
City of Staples
TML President
United States-Mexico-Canada Agreement Big Win for Texas

TML President Eddie Daffern, Mayor of the City of Staples, was present for the historic signing of the United States-Mexico-Canada Agreement (USMCA) at the White House in late January.

TML endorsed the passage of the new trade agreement, which was approved by both chambers of Congress with unprecedented bipartisan support, 89-10 in the Senate and 385-41 in the House. The agreement will replace the 25-year-old North American Free Trade Agreement (NAFTA) fulfilling a core promise President Trump made to the American people. USMCA, which the President successfully negotiated over a year ago, rebalances trade between the three countries and will support mutually beneficial trade leading to freer markets, fairer trade, and robust economic growth in North America.

“Whether it is computer and electronic products, transportation equipment, chemicals, or oil and gas, every city in Texas has a stake in promoting foreign trade,” Daffern continued. “The USMCA will ensure higher standards, allow our companies to be more competitive, and create more jobs for Texans.”

TML Salary Survey

The TML Salary survey collects salary information for 27 common city positions. To access the data, go to salarysurvey.tml.org. The site allows you to search by region, population, job title, age of data, and more. If your city hasn’t filled out the survey for this year, please contact Rachael Pitts at rpitts@tml.org.

Fredericksburg Hosts TML Small Town Conference

Make plans to attend the 2020 TML Small Town Conference on May 7-8 at the Hangar Hotel in Fredericksburg. Designed for elected officials and staff serving towns and cities with a population of 15,000 or less, the conference will inspire ideas that can lead to better planning and a stronger community.
Our experts will discuss branding, economic development, technology, succession planning, legal issues, and funding for water projects. Most importantly, you will connect with other leaders from across Texas who, like you, are working to build and support vibrant small cities. Learn more and register at https://tmlsmalltownconference.org.

**TML Risk Pool Offers Cyber Security Training**

The TML Intergovernmental Risk Pool (TMLIRP) now offers a state-certified cyber security training program for member organizations. This program was created in the spirit of partnership to assist cities in meeting the cyber security training requirements of H. B. 3834. The format is a training package for a local government to assign a course administrator to provide training to the entity’s personnel. Access the training materials at info.tmlirp.org/cyber-security-training-program.

**MUNICIPAL EXCELLENCE AWARDS**

Apply Now for a Municipal Excellence Award

The TML Municipal Excellence Awards have been celebrating and inspiring municipal excellence and innovation for more than 25 years. Each year, awards are given in two population categories (cities under 25,000 and cities over 25,000) and in five subject categories (city spirit, communication programs, management innovations, public safety, and public works). Applying is easy and free. Discover how at www.tml.org/210/Municipal-Excellence-Awards.

**TML TRAINING CALENDAR MARCH-APRIL**

<table>
<thead>
<tr>
<th>March 4-6</th>
<th>TML-TAMCC Elected Officials’ Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frisco</td>
<td></td>
</tr>
<tr>
<td>March 5-6</td>
<td>TML Public Funds Investment Act Training</td>
</tr>
<tr>
<td>Austin</td>
<td></td>
</tr>
<tr>
<td>March 26-27</td>
<td>Texas City Management Association William</td>
</tr>
<tr>
<td>“King” Cole Session 2</td>
<td></td>
</tr>
<tr>
<td>Bryan</td>
<td></td>
</tr>
<tr>
<td>April 1-3</td>
<td>TML Leadership Academy – Course One</td>
</tr>
<tr>
<td>Round Rock</td>
<td></td>
</tr>
<tr>
<td>April 5-7</td>
<td>Government Finance Officers Association of</td>
</tr>
<tr>
<td></td>
<td>Texas Spring Institute</td>
</tr>
<tr>
<td>San Antonio</td>
<td></td>
</tr>
<tr>
<td>April 23</td>
<td>TML Budget and Tax Rate Workshop</td>
</tr>
<tr>
<td>Austin</td>
<td></td>
</tr>
</tbody>
</table>
Contractual Liability: Protect Yourself

When municipalities contract with outside entities, negotiating the written contract can feel like a hurdle at the finish line. City officials have labored to guide the project down the track and select the right contractor. Officials now are looking to reach the end goal for their taxpayers: a new city hall or swimming pool. When the point arrives to sign the agreement, serving the citizens means slowing down to review the terms with caution. The initial draft may contain language that exposes the city to unforeseen costs in the future.

Be Prepared to Keep Promises

For one, carefully consider terms that require some action from the city. Contracts are meant to be legally binding, so the city should reject any obligations in the draft that appear too onerous. The Texas legislature has waived governmental immunity as to certain contract claims against political subdivisions. As a result, if the city fails to satisfy a material term, the contractor may be able sue the city for breach of contract and obtain an award for damages and attorney’s fees. The city likely will not have insurance to cover that cost, as liability policies usually exclude coverage for lawsuits arising from a breach of contract.

Avoid Indemnifying the Contractor

Cities also should stand firm in refusing to indemnify the contractor. An indemnification clause is a provision that transfers risk by contractually binding one party to assume the liabilities of the other. Scrutinize these clauses to see which direction the indemnification runs.

Ideally and customarily, a construction contractor that has been hired to build a new city hall, for example, will agree to indemnify the city as the property owner, thereby shielding the city from liabilities that arise from the contractor’s operations, like a worksite injury. Cities should ask contractors for language that indemnifies the city against lawsuits arising from the project, making sure the clause is clear and conspicuous enough (capital letters, bold font, etc.) to be enforceable under Texas courts’ fair notice requirements.

Municipalities sometimes face draft terms that instead transfer risk in the opposite direction by requiring the city to shield and indemnify the contractor, such that the city assumes the liabilities arising from the operations. Or sometimes the indemnification clause is mutual or unclear. These types of provisions raise red flags and should be carefully reviewed by an attorney and possibly removed.

Notably, city officials should keep in mind that the Texas Constitution places restrictions on the use of public funds, such as Article III, § 52(a), which prohibits the use of public funds to make gifts and lend credit. These restrictions may prohibit cities from endorsing certain provisions under which the city indemnifies a third party.

Furthermore, indemnifying a third party creates a financial risk for the city. For instance, if a contractor creates a dangerous condition at a construction site that injures someone, the city may find itself responsible for compensating that injured person if the city agreed to indemnify the contractor. Such a financial burden on the city may be unintended and unfair because the contractor controls the operations and better understands the dangers. Even a mutual indemnification clause should be carefully worded or avoided. If each party indemnifies the other, the contract fails to provide clarity and predictability, leading to litigation over the meaning of the contract.
Lastly, the city might not have insurance coverage to fund its obligation as an indemnitor. For example, if a city promises to indemnify and hold harmless an architect who is later sued, the city may have to tap its own coffers to defend the architect in court. Liability policies commonly exclude coverage for claims arising from contractual assumption of liability, unless the liability is assumed in a “covered contract” or an “insured contract” as defined by the policy. For example, many contracts qualify as a “covered contract” because they pertain to the city’s “business” and include assumption of the tort liability of a third party for bodily injury or property damage. Other contracts by governmental entities qualify as “covered contracts” because they are interlocal contracts and mutual aid contracts with other governmental entities. Municipalities should investigate their coverage before agreeing to indemnify a third party and seek an endorsement from the insurance underwriter if necessary. Even where the contract is “covered,” if the city has coverage through a risk pool, the city is in a partnership with other members and can help control risk pool costs by declining to indemnify the other party during contract negotiations.

**Require Insurance**

Cities also should insist upon terms that require the contractor to maintain insurance, particularly for liability and worker’s compensation, and produce proof of such insurance to the municipality. In fact, the Texas Labor Code instructs governmental entities to require contractors to certify workers’ compensation coverage for employees on a building or construction contract. A city can further bolster insurance clauses by requiring the contractor’s liability policies to name the city as an additional insured.

**Seek Legal Advice from Counsel**

Finally, seek legal advice from the city’s attorney before signing a contract. The attorney can review the draft terms and analyze how they could affect the city in the future, as well as address the application of Texas statutes, like those related to contracts for roads and liability for construction defects.

Hiring outside contractors can be vital for municipalities to carry out their work for the public. Taking precautions at the drafting stage can help cities benefit from outside skills without exposing the city to unforeseen risks down the line.
City of Borger Receives Downtown Revitalization Program Grant

The City of Borger was recently awarded a downtown revitalization grant in the amount of $350,000. The grant, provided through the Downtown Revitalization and Main Street Programs by the Texas Department of Agriculture, addresses the objective of redeveloping run-down conditions in downtown areas of a community.

The City partnered with Panhandle Regional Planning Commission to apply for the grant in 2019. The grant is part of ongoing comprehensive planning efforts that started in 2019, based on community feedback on the need to increase efforts to redevelop Borger’s downtown area.

Plans for the grant funds will help improve the appearance of the downtown area while creating better parking opportunities. These plans include entirely revamping a downtown parking lot with new pavement, sidewalks, curbs, lighting, and landscaping to provide improved access to downtown shopping and entertainment venues. Initial design work will begin once all grant documents have been completed, and full project completion is expected by the end of the year. The City’s required matching funds were budgeted in the 2019-2020 fiscal year budget and paid for from reserves, with no new taxes supporting this project.

More information on the City of Borger’s Comprehensive Plan can be found at www.borgertx.gov.

Mesquite Launches Customer Service Platform

The City of Mesquite now offers myMesquite, a new customer service platform. The public can submit service requests from the palm of their hand using the mobile app — or through a link on the City of Mesquite website. It’s an opportunity for the public and the city to work together to address street repair, code issues, crime concerns, and more. While no registration is required, users who create an account will be kept up to date on the status of their request.

City Manager Cliff Keheley said, “Being a responsive organization is critical to maintaining our exceptional customer service standards. The myMesquite platform empowers the public with new and better access to city departments. And, it will allow our employees to be more accountable to the public with updates and information.”

Learn more at https://www.cityofmesquite.com/3281/myMesquite.

New City Hall Opens in Grand Prairie

The first phase of the new city hall building in downtown Grand Prairie is now open. The 30,500-square-foot two-story building connects the existing City Hall with the city’s Development Center. It was constructed to improve building security; consolidate city offices to increase work efficiency among departments; make visitor access easier; and address structural challenges in nearly century-old city buildings.

Safety features in the hall’s central building include bullet-resistant glass, Kevlar walls, and a secure front desk for visitor check-in. A sound masking system in the ceiling of both floors creates white noise enabling employees to work more effectively in an open environment. Multiple meeting rooms feature state-of-the-art audio and video conferencing systems to accommodate the many meetings required to develop and operate the growing city. An outdoor rain garden captures stormwater using three large pipes that drain into the garden, benefiting the landscape and water table. The official new address for the Grand Prairie City Hall is 300 West Main Street.
In a world where the constant threat of a data breach gets worse each day, server migration headaches plague IT staff, and a policy exists for everything, where do you turn for help? Just like you, local government Information Technology professionals across Texas are facing these same issues in their operations. Become a TAGITM member today and get access to your peers in the industry.

Join us April 14-17 at the Hyatt Regency San Antonio for TAGITM's 2020 annual conference. Experience outstanding keynote speakers and strategic, tactical, general education tracks, networking, member collaboration and vendors showcasing latest technology trends.

Multiple regional events are held each year across the state, bringing these one-day educational seminars within driving distance for your technical staff. Hear from industry professionals, meet with vendors, and network with your peers.

TAGITM offers two listservs for our agency members: the general TAGITM listserv and a CIO/Director listserv. The listservs are considered TAGITM's most valuable member benefit. Get access to those who have "been there and done that."

**Annual Conference**

**Regional Summits**

**Member Listservs**

**Enjoy the benefits of TAGITM membership.**

- ✓ Regional Member Groups
- ✓ Invitation to annual conference
- ✓ Path to CGCIO certification
- ✓ Online discussion forums
- ✓ Listservs for Agency Members and Directors
- ✓ Digital Library for sample policies, RFPs, etc.
- ✓ Career Center
- ✓ Monthly Newsletters
- ✓ Member Directory

**JOIN TODAY**

Agency Membership ONLY: $175 per year

Affiliate (non-government) Membership ONLY $200 per year

Find your Regional Membership Group Chair at tagitm.org and ask about a first year membership discount!
The small east Texas town of Jasper is similar to other communities that are outside the economic reach of a larger metropolitan area. Industries that drove small town economies years ago provide just a fraction of the jobs today. It’s now extremely important for these towns, like Jasper, to continually seek opportunities and solutions that provide sustainable economic growth.

For Jasper, that opportunity came knocking in August 2018 when City Manager Denise Kelley received a call from Provalus, an impact outsourcing brand of Optomi, looking to expand its operations into Texas. Along with a couple of hundred other Texas cities, Jasper was on the radar of Provalus as a possible fit for their new technology innovation center, designed to bring a multi-million dollar economic boost to the selected city.

Once Kelley received that important call, she reached out to Jasper Economic Development Corporation (JEDCO) Executive Director Eddie Hopkins for further action. Hopkins and the JEDCO staff quickly got to work researching Provalus. They discovered that the company’s goal is to elevate under-employed communities by providing technology, business, and support positions to untapped talent in rural America. They also uncovered that Provalus started their inaugural operation in Brewton, Alabama – a town like Jasper with a similar population, somewhat close to the Gulf of Mexico, and a former big timber town. Studying the company and its Brewton operation more, Jasper officials knew a huge commitment would be required to win the new Provalus location.

For Brewton to be competitive, funds from the State, a five-county economic development alliance, and the City were all needed to offer incentives. Additionally,
Alabama Governor Kay Ives supported the effort helping Brewton land on top. With this knowledge, Hopkins and the JEDCO staff, with support of the JEDCO Board of Directors, started to gather representatives from the state, local government, and the community to help win this new business. Representatives from the state including State Representative James White, the City of Jasper, Jasper Independent School District (ISD), and JEDCO met to strategize ways to bring Provalus to the community. It became clear that the only incentives that could give the City an edge had to come from the local level since state assistance would also be available to other competing Texas cities.

In November 2018, Provalus President Chuck Ruggiero and other company officials made their first visit to Jasper. Members from all segments of the community came out to show support at a reception including the Jasper City Council, JEDCO Board of Directors, State Representative James White, the Jasper County Commissioners Court, representatives from United States and Texas senators’ offices, Jasper ISD superintendent, local pastors, and community-minded citizens. Following the reception, JEDCO Board President Dan Walker led a meeting with Ruggiero, the mayor, city manager, and JEDCO staff to discuss an approach to land Provalus’ new location.

Following this initial meeting, the Jasper City Council and JEDCO Board of Directors held its first-ever simultaneous meeting which resulted in a historic partnership, Jasper United. Both entities were committed to a shared goal – to bring this much needed business to Jasper. With this partnership established, Jasper United got to work in December 2018 crafting a strong Letter of Intent (LOI) to present to Provalus. Ruggerio requested that the LOI outline every incentive Jasper could offer their company as well as reasons why Jasper should home their next operation. The LOI guaranteed a building made-to-suit, temporary space, executive housing, and housing for designated employees. The LOI was modeled after Brewton’s offer, except for the fact that funding would only come from the Jasper United partnership. The estimated fulfillment to date of the LOI is just over $3 million.

Hard work paid off for everyone involved. Provalus announced in late January 2019 that it would expand its operations officially in Texas with its new technology center in Jasper. The company chose to restore a building located on the courthouse square where there is an exciting plan for downtown revitalization. The restoration project ended up being perfect to help put the city’s revitalization plan in motion. Restaurants, coffee shops, housing developers, shopping centers, and more have since shown interest in Jasper. By May 2019, the company had close to 70 people already employed and housed in temporary space. In October 2019, Provalus and Jasper officially celebrated the groundbreaking of the new technology center, which will eventually have up to 200 employees.

Bringing a nationwide technology company to Jasper required commitment, dedication, and collaboration from various members of the community. With this type of teamwork, the City was able to help secure jobs for its citizens, provide a large impact to its economy for years to come, and bring enthusiasm back to the community.
Editor’s note: This is an abridged version of a more comprehensive Q&A on Senate Bill 2. The unabridged version can be accessed here: https://www.tml.org/DocumentCenter/View/1485/sb-2-qa_update_jan-2020.

Senate Bill 2, also known as the Texas Property Tax Reform and Transparency Act of 2019, was passed by the Texas Legislature in 2019. At its most fundamental level, S.B. 2 reforms the system of property taxation in three primary ways: (1) lowering the tax rate a taxing unit can adopt without voter approval and requiring a mandatory election to go above the lowered rate; (2) making numerous changes to the procedure by which a city adopts a tax rate; and (3) making several changes to the property tax appraisal process.

Q: What tax terminology was changed by S.B. 2?

A: Prior to S.B. 2, the term “effective tax rate” referred to the benchmark tax rate needed to raise the same amount of maintenance and operations property taxes on existing property as the previous year, after taking into account changes in appraised values. S.B. 2 changed the terms “effective tax rate” and “effective maintenance and operations tax rate” to “no-new-revenue tax rate” and “no-new-revenue maintenance and operations tax rate,” respectively.

Additionally, the term “rollback tax rate” was changed to “voter-approval tax rate.” More significant than the change in terminology is the modification to both the voter-approval rate formula (discussed in the next question), and the requirement that cities hold automatic elections to approve tax rates exceeding the voter-approval tax rate.

Q: How does S.B. 2 modify the calculation of a city’s rollback tax rate?

A: Under pre-S.B. 2 law, a city’s rollback rate was the rate necessary to raise precisely eight percent more maintenance and operations tax revenue as the year before after taking into account appraisal fluctuations. The debt service component of the tax rate was then added to the product of the effective maintenance and operations rate and 1.08.

In addition to changing the terminology from “rollback rate” to “voter-approval rate,” S.B. 2 lowers the multiplier used in the rate calculation from 8 percent to 3.5 percent for cities that aren’t considered to be “special taxing units,” which is nearly every Texas city. To illustrate, the old calculation of a city’s rollback rate was as follows:

\[
\text{Rollback Rate} = (\text{Effective Maintenance and Operations Rate} \times 1.08) + \text{current debt service tax rate}
\]

Under S.B. 2, that calculation now looks like this:

\[
\text{Voter-Approval Rate} = (\text{No-New-Revenue Maintenance and Operations Rate} \times 1.035) + \text{current debt service tax rate}
\]

There are some other adjustments as well. Most notably, under the new formula a city adds its “unused increment rate” to the 3.5 percent limit on maintenance and operations increases. Unused increment is discussed in greater detail below.

Q: Does S.B. 2 modify the procedure for approval of a tax rate that exceeds the voter-approval rate?

A: Yes. Previously, any rate adopted that exceeded the eight percent rollback rate triggered the ability of citizens to petition to hold an election to “roll back” the tax rate to the rollback rate. Generally speaking, S.B. 2 requires a city to hold an automatic election (i.e., the bill eliminates the petition requirement) on the November uniform election date if it adopts a rate exceeding the 3.5 percent voter-approval rate. See Tex. Tax Code § 26.07. That said, some cities under 30,000 population are not subject to the automatic election requirement associated with adopting a rate exceeding the new voter-approval rate.

Q: What is the unused increment rate?

A: Included within the voter-approval rate calculation in S.B. 2 is a new term called the “unused increment rate.” The unused increment rate can be used to increase the voter-approval rate, depending upon the tax rates adopted by the city in the previous three years.
Inventory Available. Give Us A Call And Schedule Your FREE Demo Today!

Statewide Delivery On Trailer Mounted Hydro Excavators. Sales And Rentals!

Serving The Entire State Of Texas With New & Used Refuse And Environmental Sales, Service & Parts.

FEATURING:

- Body / Chassis Quotes
- Installation & Maintenance
- Frame Shorten / Lengthen
- Fleet Service
- Factory Certified Techs
- Equipment Refurbishing
- Body Changeovers
- Frame Modifications
- Accessories
- Pusher / Tag Axles
- Truck Tarping Systems
- Rental Equipment

7200 S. WW White Road, San Antonio, TX 78222
Phone: 210-648-3337  Toll Free: 866-648-3337  Fax: 210-648-1870
See our used equipment at www.RelianceTruckAndEquipment.com
In essence, the “unused increment rate” is the three-year rolling sum of the difference between the adopted tax rate and voter-approval rate. Put differently, the city has the ability to “bank” any unused amounts below the voter-approval rate to use for up to three years. Conversely, if the city adopts the voter-approval rate all years between 2020 and 2022, the unused increment rate would be zero. Under no circumstance can the unused increment rate be less than zero. See Tex. Tax Code § 26.013(b)(1).

The legislature’s stated goal in relation to the unused increment rate is to discourage taxing units from adopting a rate equal to the 3.5 percent voter-approval rate every year. Under the new framework, a city that experiences exceptional growth in sales tax revenues in a year, for instance, may be able to adopt a rate less than the 3.5 percent voter-approval rate and bank the difference for a future year when sales taxes perform worse than expected. On the other hand, many cities will be forced to go up to the 3.5 voter-approval rate every year just to keep up with rising costs. For those cities, the unused increment rate will be a non-factor.

S.B. 2 provides that, for each tax year before the 2020 tax year, the difference between the taxing unit’s voter-approval tax rate and actual tax rate is considered to be zero. Id. § 26.013(c). This means that any difference between the 2019 rollback rate and adopted rate cannot be used to increase the unused increment rate in the three subsequent tax years.

Q What is the de minimis rate?
A The de minimis rate is a new tax rate calculation added by S.B. 2 that is designed to give smaller taxing units, including cities, some relief from the 3.5 percent voter-approval tax rate.

The de minimis rate is defined as the sum of:
1. a taxing unit’s no-new-revenue maintenance and operations rate;
2. the rate that, when applied to a taxing unit’s current total value, will impose an amount of taxes equal to $500,000; and
3. a taxing unit’s current debt rate.


In a nutshell, the de minimis rate was added to S.B. 2 to allow smaller cities some flexibility to adopt a tax rate that generates $500,000 more in property tax revenue than the previous year. The thinking was that applying a 3.5 percent voter-approval rate in some very small communities would unnecessarily restrict revenue growth to sometimes just a nominal amount, and the application of the lowered voter-approval rate created an unfair result for small towns.

Q Are all cities required to calculate and use the de minimis rate?
A No. The provisions of S.B. 2 relating to the de minimis rate apply only to a city with a population of less than 30,000. See Tex. Tax Code §§ 26.063 and 26.075. A city with a population of less than 30,000 must calculate a de minimis rate. Cities with populations of 30,000 or more do not calculate the de minimis rate or receive any of the fiscal flexibility associated with the de minimis rate.

Q How does the de minimis rate work?
A If the city with a population of less than 30,000 adopts a tax rate that exceeds the greater of the city’s voter-approval tax rate or the de minimis tax rate, the city council must order an election to approve the adopted tax rate for the November uniform election date. Tex. Tax Code § 26.07(b).

But what if a city with a population of less than 30,000 adopts a tax rate that exceeds the voter-approval rate but not the de minimis rate? It is possible, depending on the facts, that the voters would be required to petition for a tax approval election instead of the city being required to hold an automatic election.

A city’s voters are required to submit a petition to hold a tax approval election if:

1. the city’s de minimis rate exceeds the voter-approval rate; and
2. the city’s adopted rate is: (a) equal to or lower than the de minimis rate; and (b) greater than the greater of the city’s voter-approval tax rate (a 3.5 percent rate plus the unused increment rate) or the voter-approval tax rate calculated as if the city were a special taxing unit (an 8 percent rate).

Id. § 26.075.

If the adopted rate is less than either the voter-approval tax rate or voter-approval tax rate for a special taxing unit
Lodging Tax

Our Services

Sales, Use, and Transactions Tax Services include:
- Analysis and Reporting
- Revenue Forecasting
- Revenue Recovery
- Management Support
- Tax Studies

Provides

Delivering revenue, insight and efficiency to local governments since 1983. Trusted by over 500 municipalities to recover more than $2 billion in lost revenue. Partner with Hdl and experience the high-quality service you deserve.

Avoid lost revenue opportunities. Contact us today to learn more!

713.481.6975 | hdlcompanies.com

Q Does a city get any relief from the lowered voter-approval rate during a disaster?

A Yes, in two different ways. First, a city council may direct the designated officer or employee to calculate the voter-approval tax rate in the manner provided for a special taxing unit (eight percent) if any part of the city is located in an area declared a disaster area during the current tax year by the governor or by the president of the United States. Tex. Tax Code § 26.04(c-1). The designated officer or employee shall continue calculating the voter-approval tax rate using eight percent instead of 3.5 percent until the earlier of:

1. the second tax year in which the total taxable value of property in the city exceeds the total taxable value of property taxable by the city on January 1 of the tax year in which the disaster occurred; or
2. the third tax year after the tax year in which the disaster occurred.

Id.

The other S.B. 2 provision pertaining to disasters gives cities the ability to avoid an automatic tax rate approval election following certain disasters. When an increased expenditure of money by a city is necessary to respond to a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, that impacted the city and the governor has declared any part of the city as a disaster area, an election (petitioned or automatic) is not required to approve the tax rate adopted by the governing body for the year following the year in which the disaster occurs. Id. § 26.07(b).
When must the tax rate be adopted?

While the Tax Code still requires a city to adopt its tax rate before the later of September 30th or the 60th day after the certified appraisal roll is received by the city, S.B. 2 moves up the date on which a city must adopt a tax rate that exceeds the voter-approval tax rate. Tex. Tax Code § 26.05(a). If a city adopts a rate exceeding the voter-approval tax rate, it must do so not later than the 71st day before the November uniform election date, which is the first Tuesday following the first Monday in November. Id.; See also Tex. Elec. Code § 41.011(a)(3).

Because S.B. 2 is designed to have cities’ automatic tax rate approval elections held on the November uniform election date, the legislature deemed it necessary to require cities to adopt their tax rates earlier to provide ample time to order the election. Indeed, S.B. 2 requires the city council to order the tax rate approval election not later than the 71st day before the date of the election. Tex. Tax Code § 26.07(c). The 71st day will change every year depending upon when the November election date occurs, but generally it will occur in mid-to-late August.

Using the 71st day before election day as the deadline to order the election in S.B. 2 appears to be a drafting mistake by the legislature. The Election Code provides that, for an election held on a uniform election date, the election shall be ordered not later than the 78th day before election day. Tex. Elec. Code § 3.005(c). Further, the Election Code provides that the 78-day deadline supersedes any law outside the Election Code to the extent of any conflict. Id. § 3.005(b). Because the 78th day deadline for ordering the election expressly prevails over the 71st day deadline in S.B. 2, a city must order its election by no later than the 78th day before the November uniform election date. Even though the election must be ordered by the 78th day before the election, theoretically a city could push off the adoption of a tax rate exceeding the voter-approval tax rate until the 71st day before the election as provided by S.B. 2.

Interestingly, this expedited tax rate adoption calendar applies to a city under 30,000 that adopts a tax rate that exceeds the voter-approval rate, even if the city’s adopted rate does not exceed the de minimis tax rate. See Tex. Tax Code § 26.05(a). If any city adopts a tax rate that exceeds the voter-approval rate, it must do so by the 71st day before the November uniform election date.

Because state law provides that a city may levy taxes only in accordance with the budget, a city must adopt its budget before it adopts its tax rate, regardless of the deadline to do so. See Tex. Loc. Gov’t Code § 102.009(a). If a city adopts a tax rate in August that exceeds the voter-approval tax rate, it must adopt its budget before doing so.

What is the property tax database?

S.B. 2 requires the chief appraiser of each appraisal district to create and maintain a property tax database that: (1) contains information that is provided by taxing units located in the appraisal district; (2) is continuously updated as preliminary and revised data becomes available and is provided by the designated officers or employees of taxing units; (3) is accessible to the public; and (4) is searchable by property address and owner. Tex. Tax Code § 26.17(a).

The property tax database is required to include various types of information with respect to each property listed on the appraisal roll for the appraisal district. A city’s designated officer or employee is required to electronically incorporate the following information into the database as the information becomes available:

1. the no-new-revenue tax rate and the voter-approval tax rate;
2. the proposed tax rate;
3. the date, time, and location of the public hearing, if applicable, on the proposed tax rate;
4. the date, time, and location of the public meeting, if applicable, at which the tax rate will be adopted; and
5. the tax rate calculation forms.

Id. § 26.17(e).

Does S.B. 2 require a city to create a website?

Not quite. S.B. 2 requires every taxing unit to either maintain an internet website or have access to a generally accessible Internet website that may be used for the purposes of posting tax rate and budget information. Tex. Tax Code § 26.18. A “taxing unit” means any city “that is authorized to impose and is imposing ad valorem taxes on property... ” Tex. Tax Code § 1.04(12). Thus, any city that has adopted a property tax rate must comply with the website requirements in S.B. 2.

The term “generally accessible Internet website” is not defined in the bill, but presumably refers to Facebook or some other website that is widely accessible and on which the city can post its information.
TML Well was created with you and your staff in mind. TML Well programs are evidence-based and cost-efficient. It’s designed to engage members to take care of their health before they get sick. It also offers a $150 cash or reward incentive to get people motivated.

For information on how to implement a TML Well program, contact us at TMLWell@tmlhb.org.
As a new year and a new decade begin, Texas can look back on many years of economic growth. In looking ahead, I’m happy to report Texas’ fundamental advantages remain strong — an attractive business climate and an increasingly diverse economy that has grown away from its traditional dependence on energy production and that benefits from its central location in the nation.

Here’s a closer look at what these trends mean for the economy of our state and its towns and cities.

**Property Tax Legislation**

The recent legislative session included laws that will significantly affect local governments. Perhaps the most notable example of this was Senate Bill 2 (S.B. 2) and its changes to the property tax system.

Since the 1980s, cities have been able to increase their maintenance and operations (M&O) taxes up to 8 percent annually without triggering a provision allowing voters to petition for an election. Beginning in 2020, S.B. 2’s requirements will prevent many cities from increasing their M&O revenue by more than 3.5 percent in a single year without triggering an automatic election.

The new legislation includes some exceptions, however. Most taxing units subject to the 3.5 percent voter-approval tax rate, as well as municipalities with fewer than 30,000 people, can raise an additional $500,000 annually in M&O revenue by more than 3.5 percent in a single year without triggering an automatic election.

The strength of the economy is also reflected in record-low unemployment rates. As of December 2019, the Texas unemployment rate was 3.5 percent, a slight increase from the 3.4 percent rate that held from June to November. That was the lowest rate recorded since tracking began in 1976. We expect it to go even lower in 2020, averaging 3.3 percent versus a United States rate of 3.5 percent.

Our job count continues its years-long rise. As of December 2019, Texas had seen 116 consecutive months – nearly 10 years – of annual (year-over-year) growth in employment. Our total nonfarm employment rose by an estimated 2.7 percent in 2019 and should grow similarly in 2020.

From December 2018 to December 2019, the Texas economy added 342,800 nonfarm jobs – more than any other state. In that year, our job growth rate was the highest among the 10 most populous states and fourth-highest among all states.

**Goods and Services**

Texas’ employment growth benefits producers of both goods and service providers. Employment in goods-producing industries rose by 3.4 percent in the year ending in December 2019, while the job count for service-producing industries grew by 2.6 percent.

Employment increased in two of the three major goods-producing industries and in seven of the eight service-providing industries. Construction led the field, picking up 55,900 jobs, and saw the highest employment growth rate, at 7.4 percent, of all Texas industries. Other services and financial activities led employment growth in the service-providing industries.

We obviously welcome this growth, but we have to plan to accommodate all the people who live here and prepare for more to come. A growing population needs the infrastructure to support it, from housing to transportation to water.
My office has pointed out that an efficient transportation infrastructure and a reliable supply of water are essential to our large, fast-growing state. Housing affordability is another big issue that is not only looming, but is already affecting people in some parts of Texas.

**Construction Activity and Home Inventory**

Texas’ relatively low living costs help make our state an attractive place to call home, but our growing population is affecting the available inventory of homes. Our construction industry is scrambling to meet the need, particularly for apartments and other multi-family housing. In the year ending in November 2019, single-family building permits rose only slightly (0.4 percent), but the volume of building permits for multi-family units rose by 28.5 percent.

Home prices reflect rising demand for additional housing. According to the Texas A&M Real Estate Center, the median sales price for an existing Texas single-family home rose by 4.3 percent between November 2018 and November 2019, from $230,000 to $240,000. The inventory of existing homes for sale in November 2019 was 3.5 months, a substantial reduction from the post-recession high of 8.5 months in mid-2011. The Real Estate Center considers inventory levels of about 6.5 months “balanced,” with stable prices influenced more by inflation than demand. Our relatively low inventories will continue to place upward pressure on housing prices.

While Texas’ overall cost of living remains competitive and Texas is still an attractive destination for both families and businesses, my office will continue to monitor the impacts that rising housing costs may have on those weighing a move to the Lone Star State.

**Manufacturing, Foreign Trade Boost Economy**

Texas has been the nation’s leading export state for many years. Exports provide a substantial boost to our manufacturers, notably for companies producing chemicals, computers and electronics, petroleum products, industrial machinery and transportation equipment — our most in-demand products. In addition, the 2015 removal of the 40-year United States ban on the export of crude oil created a major new export opportunity for the state. Between 2015 and 2018, Texas’ combined exports of oil and gas rose by nearly 324 percent.

According to the United States Department of Commerce, in 2018 Texas’ leading exports were oil and gas ($57.1 billion), petroleum and coal products ($56.4 billion), computers and electronic products ($47.9 billion) and chemicals ($46.2 billion).

The total value of Texas exports rose from $231.5 billion in 2016 to $315.9 billion in 2018 — nearly 19 percent of all United States exports. California, the second-ranked state, saw exports of $178.2 billion.

Texas also has 29 ports of entry, more than any other state. These ports facilitated nearly $740 billion in international trade (imports and exports) in 2018.

Two landmark trade deals show promise for Texas exports, and thus for our economy. The United States-Mexico-Canada Agreement (USMCA), and the United States trade deal with China should lessen uncertainty and may benefit key Texas exporters.

**Oil Production Still Rising**

From a peak of nearly 13 billion barrels in 1972, Texas oil production fell steadily, reaching a low of 343 million barrels in 2007. Since then, however, oil production has increased, largely due to the development and widespread use of enhanced fracturing (“fracking”) techniques. Calendar 2019 production is expected to be more than 10 percent higher than 2018’s, reaching an all-time Texas record of 16 billion barrels. Production is expected to rise further in 2020, despite infrastructure bottlenecks and price volatility. A December 2018 report from the American Enterprise Institute indicated that Texas was producing more oil at that time than any nation on earth other than Russia, Saudi Arabia, and Iraq.

While this growth is a key component of our overall fiscal health, the Texas economy is less reliant on oil and gas today than in previous decades. Texas towns and cities have diversified their economies, fostering growth in areas ranging from technology to health care to space exploration. This diversification will be key as the economy evolves. Texans must continue to innovate and position our state to remain an economic leader as new opportunities emerge.

**Tracking Trends**

While Texas’ economic outlook is generally favorable, warning signs include ongoing uncertainty about trade and national economic policy, slowing global economic growth, and volatility in energy prices resulting from instability in the Middle East. My office will continue to monitor these and other factors and keep the state’s leadership, its local governments, and its citizens informed of any changes in our outlook.*
FISCAL CONDITIONS SURVEY REFLECTS STEADY GROWTH

By JJ Rocha, Grassroots and Legislative Services Manager, TML

Each year, TML conducts a fiscal conditions survey of its member cities. This year, with 509 cities responding, the survey demonstrates that – while cities have dealt with rapid population growth – they have maintained city services and strengthened financial stability.

It is no surprise that in recent years, Texas has experienced incredible growth. Many cities have seen their populations grow by more than 10 percent since 2010, with some experiencing an upwards of 30 percent growth. According to the United States Census, Texas has led the nation in annual population growth for each year between 2010 through 2019. Texas cities have felt that impact. For much of the past decade, seven of the fifteen fastest growing cities are located here. Texas surpassed 28 million people in 2017 and is soon approaching 29 million.

The state demographer projects the state’s population to double by 2050. This would mean 25 million more people living in Texas in 30 years. Recent trends have shown populations

<table>
<thead>
<tr>
<th>Municipal Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>-------------------</td>
</tr>
<tr>
<td>Current year revenue lower than last year’s revenue</td>
</tr>
<tr>
<td>Current year revenue remained constant to last year’s revenue</td>
</tr>
<tr>
<td>Expect lower revenue next year</td>
</tr>
<tr>
<td>Expect revenue to remain constant next year</td>
</tr>
</tbody>
</table>

Cities that Increased Utility or User Fees

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Solid Waste</td>
<td>22.8%</td>
<td>24.8%</td>
<td>22.2%</td>
<td>23.1%</td>
<td>20.7%</td>
<td>19.1%</td>
<td>15.8%</td>
<td>16.7%</td>
<td>19.2%</td>
<td>20.6%</td>
</tr>
<tr>
<td>Water</td>
<td>32.1%</td>
<td>35.5%</td>
<td>30.2%</td>
<td>27.3%</td>
<td>32.3%</td>
<td>33.1%</td>
<td>34.2%</td>
<td>34.5%</td>
<td>30.5%</td>
<td>24.4%</td>
</tr>
<tr>
<td>Wastewater</td>
<td>26.0%</td>
<td>32.3%</td>
<td>26.3%</td>
<td>25.1%</td>
<td>24.7%</td>
<td>24.5%</td>
<td>27.3%</td>
<td>25.3%</td>
<td>25.2%</td>
<td>20.6%</td>
</tr>
<tr>
<td>One or more fee</td>
<td>43.7%</td>
<td>47.2%</td>
<td>44.0%</td>
<td>41.2%</td>
<td>59.2%</td>
<td>57.9%</td>
<td>64.6%</td>
<td>68.4%</td>
<td>42.5%</td>
<td>49.7%</td>
</tr>
<tr>
<td>Raised User Fees</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Impose New User Fees</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Cost-Saving Measures

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Hiring freeze</td>
<td>17.4%</td>
<td>17.9%</td>
<td>16.0%</td>
<td>7.6%</td>
<td>4.4%</td>
<td>3.8%</td>
<td>2.9%</td>
<td>3.2%</td>
<td>4.9%</td>
<td>2.9%</td>
</tr>
<tr>
<td>Wage freeze</td>
<td>19.1%</td>
<td>23.8%</td>
<td>16.0%</td>
<td>5.9%</td>
<td>4.2%</td>
<td>3.4%</td>
<td>3.5%</td>
<td>4.5%</td>
<td>2.9%</td>
<td>2.6%</td>
</tr>
<tr>
<td>Reduced services</td>
<td>8.5%</td>
<td>6.7%</td>
<td>8.0%</td>
<td>3.2%</td>
<td>2.6%</td>
<td>1.3%</td>
<td>2.5%</td>
<td>2.1%</td>
<td>2.0%</td>
<td>1.3%</td>
</tr>
<tr>
<td>Eliminated services</td>
<td>4.3%</td>
<td>2.9%</td>
<td>3.0%</td>
<td>1.7%</td>
<td>1.5%</td>
<td>1.3%</td>
<td>0.6%</td>
<td>0.8%</td>
<td>1.3%</td>
<td>2.0%</td>
</tr>
<tr>
<td>Reduced salaries</td>
<td>0.9%</td>
<td>1.7%</td>
<td>2.0%</td>
<td>1.3%</td>
<td>0.9%</td>
<td>0.4%</td>
<td>0.4%</td>
<td>0.4%</td>
<td>0.2%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Laid off employees</td>
<td>10.2%</td>
<td>10.7%</td>
<td>10.0%</td>
<td>4.5%</td>
<td>3.8%</td>
<td>3.0%</td>
<td>1.4%</td>
<td>3.2%</td>
<td>3.1%</td>
<td>1.9%</td>
</tr>
<tr>
<td>Postponed capital spending</td>
<td>49.2%</td>
<td>52.4%</td>
<td>43.0%</td>
<td>36.9%</td>
<td>29.7%</td>
<td>36.0%</td>
<td>28.7%</td>
<td>26.4%</td>
<td>24.4%</td>
<td>22.0%</td>
</tr>
</tbody>
</table>
shifting from rural to urban areas, indicating that cities will experience the majority of the future population growth. Currently, 74 percent of the Texas population (21.2 million people) lives in incorporated areas. Further, 89 percent of Texans (25.6 million people) live in metropolitan statistical areas (MSAs). In other words, the vast majority of Texans live, work, and play in or around cities. While most Texans live in or close to cities, not all pay their fair share of property taxes that go to fund city services, yet they enjoy nearby services including parks and streets.

Cities, more than any other level of government, are the government closest to the people and play a significant role in the quality of life for communities. Citizens benefit from the core services that cities provide, such as public safety (EMS, fire, and police), streets, parks, public transportation, libraries, utilities, and other vital services. Those services are funded by property taxes and other sources of revenue.

With little financial assistance from the state, cities are tasked to manage growth or decline and rely on their own capacity to generate revenue. The state provides almost no funding for the provision of city services. In fact, Texas ranks 47 out of the 50 states in the amount of state-generated revenue as a percentage of their budgets. When city councils set the city’s budget in 2020, most will be subject to the financial constraints that Senate Bill 2 brings. The bill lowers the property tax rollback rate from 8 to 3.5 percent (with some potential adjustments for smaller cities). Even with these constraints, cities are expected to maintain city services. This past year, only 3.6 percent of cities either reduced or eliminated services. Just 22 percent of cities postponed capital spending, a growing trend since 2011.

A majority (62.7 percent) of cities either did not change or reduced their property tax rate. Over fifty percent of cities reported their revenue increased or was unchanged from the previous year. Thirty-seven percent of cities adopted an effective rate lower or unchanged from the previous year. Sixty-two percent of cities adopted a higher effective tax rate. It is likely cities did this in anticipation of legislation that would lower the rollback rate. For those cities that adopted a property tax rate higher than the effective rate, the median increase was 5.38 percent.

As cities grow, utility fees (water, wastewater, and solid waste) have steadily increased in recent years. Fourteen percent of cities increased user fees and ten percent imposed new user fees. The survey reinforces the notion that no two Texas cities are identical. Cities may respond differently to economic conditions, and that is why the legislature should not impose one-size-fits-all mandates or revenue restrictions on cities. City officials engage with residents every day and are the most familiar with local issues. They must have the flexibility to respond to fluctuations in revenue sources and to the different levels of services that city taxpayers demand.

The full survey results are on TML’s website at www.tml.org, click on “Resources” and then “Surveys”.

### Change in Property Tax Rates

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No change</td>
<td>49.7%</td>
<td>42.3%</td>
<td>47.1%</td>
<td>52.6%</td>
<td>49.4%</td>
<td>49.1%</td>
<td>47.2%</td>
<td>41.7%</td>
<td>42.8%</td>
<td>46.5%</td>
<td>41.1%</td>
</tr>
<tr>
<td>Raised Rate</td>
<td>34.8%</td>
<td>43.0%</td>
<td>36.3%</td>
<td>30.4%</td>
<td>33.2%</td>
<td>27.1%</td>
<td>27.9%</td>
<td>31.1%</td>
<td>28.4%</td>
<td>24.3%</td>
<td>27.9%</td>
</tr>
<tr>
<td>Reduced Rate</td>
<td>15.5%</td>
<td>14.7%</td>
<td>16.6%</td>
<td>17.0%</td>
<td>17.4%</td>
<td>23.8%</td>
<td>16.1%</td>
<td>18.7%</td>
<td>18.8%</td>
<td>19.4%</td>
<td>21.6%</td>
</tr>
<tr>
<td>City does not levy property tax rate</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>8.8%</td>
<td>8.6%</td>
<td>10.0%</td>
<td>10.1%</td>
<td>9.4%</td>
</tr>
</tbody>
</table>

### Adopted Tax Rate Relative to Effective Rate

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Higher than effective rate</td>
<td>45.4%</td>
<td>35.9%</td>
<td>38.1%</td>
<td>40.1%</td>
<td>49.2%</td>
<td>59.2%</td>
<td>56.7%</td>
<td>55.2%</td>
<td>60.1%</td>
<td>56.6%</td>
<td>62.2%</td>
</tr>
<tr>
<td>Same as effective rate</td>
<td>31.3%</td>
<td>37.9%</td>
<td>35.3%</td>
<td>24.3%</td>
<td>20.2%</td>
<td>14.9%</td>
<td>33.3%</td>
<td>32.5%</td>
<td>29.9%</td>
<td>31.8%</td>
<td>29.1%</td>
</tr>
<tr>
<td>Lower than effective rate</td>
<td>23.3%</td>
<td>26.2%</td>
<td>26.6%</td>
<td>35.6%</td>
<td>30.6%</td>
<td>25.8%</td>
<td>10.0%</td>
<td>12.3%</td>
<td>10.0%</td>
<td>11.6%</td>
<td>8.7%</td>
</tr>
</tbody>
</table>
THE HOTEL TAX “TWO-STEP”

By Bill Longley, TML Legislative Counsel

In the grand scheme of things, city hotel occupancy taxes account for just a small amount of city revenue. Property taxes and sales taxes are far more important to most cities. Why does it seem, then, that hotel taxes generate so much confusion and controversy?

The answer is this: hotel taxes, unlike most other taxes, are levied on a specific category of businesses – hotels. As a result, these businesses tend to pay close attention to how cities expend these funds. Spend city sales taxes in a controversial way, and no particular category of business feels singled out enough to raise a fuss. Perceived misuses of hotel taxes, on the other hand, are a different story.

Fortunately, it’s very easy for a city official to remember how to legally spend hotel taxes. A city simply needs to remind itself to always follow the “two-part test.” The key element of a two-part test is – surprise – that it has two parts! Cities frequently remember to meet one element of the test, but then entirely forget the other part. This article will succinctly describe the two-part test, and then describe some common situations to which we can apply the test.

Part One: Heads in Beds

The first element of the two-part test is this: every expenditure of hotel taxes must generally put “heads in beds.” State law requires local hotel tax expenditures to “promote tourism and the convention and hotel industry.” What this means is that every funded project must attract overnight tourists to the city’s hotels and motels or have some other direct economic impact at an area hotel, thus promoting the city’s hotel industry.

For example, how about a weekend-long arts and crafts show? There’s a very good chance that out-of-town guests might come to visit such an event, so expenditure of hotel tax money on that event would likely qualify.

On the other hand, what about a quilting bee at a local retirement home? While a worthy cause, the quilting bee is unlikely to attract overnight tourists and, therefore, probably wouldn’t qualify to receive hotel tax funds.

Part Two: The Nine Categories

Once a project has cleared the first part of the test, it’s time for – you guessed it – the second part of the test. Here it is: every expenditure of local hotel taxes must also fit into one of nine statutorily authorized categories. These are the nine categories: (1) convention and visitor centers; (2) convention delegate registration; (3) advertising and promotional programs to attract tourists and visitors to the city; (4) promotion of the arts; (5) historical restoration and preservation; (6) sporting events in a county under one million in population; (7) enhancing or upgrading existing sports facilities or sports fields (only in certain cities); (8) tourist transportation systems; and (9) signage directing the public to sights and attractions that are frequently visited by hotel guests in the city.

Thus, even if an event puts heads in beds or otherwise economically benefits area hotels, it cannot receive hotel tax money unless it also fits into one of the nine categories. For instance, what about a livestock auction that will attract attendees from surrounding counties? While that event is likely to attract overnight tourists, it doesn’t fit neatly into one of the nine categories. Therefore, it’s likely not a valid recipient of hotel tax money.

It’s not enough to meet one of the two prongs of the two-part test. A city must meet both! The following are some real-life examples that have been the focus of inquiries received by the Texas Municipal League (TML) legal department.

Fireworks, Anyone?

The prototype hotel tax controversy is an event like a fireworks show or a parade. Cities frequently ask if they can fund a fireworks show with hotel tax money.

Let’s subject a fireworks show to the two-part test. Does a fireworks show put heads in beds? The answer is “probably not,” unless it is a truly spectacular event. But let’s give it the benefit of the doubt. Suppose the Town of Pyrotechnic, Texas, truly does put on a fireworks extravaganza that attracts tourists from around the state. So far, so good.
But what about the second part of the test – the nine categories? Do fireworks shows fit neatly into any of the nine? Not really. Some may argue that such shows “advertise” the city, but this is likely not what that category means. Advertising the city literally means some sort of print or other media that explicitly promotes the city. Otherwise, a city could simply say that any popular event “advertises” the city that holds it. Direct funding of fireworks displays and the like are usually not a very good fit.

Signs of the Times?

Another frequent question concerns highway signs promoting the city. May a city fund a billboard touting the city’s attractions, restaurants, and hotels? Let’s put it to the two-part test. Heads in beds? Well, why not? If a billboard encourages motorists to stop in town, those motorists might stay the night, whereas without the sign they would have driven on to the next city. This is exactly what the statute intends. The nine categories? How about advertising? Prior to 2009, a convincing argument could be made that because a billboard literally advertises the city it refers to, that it would fit within the advertising category. All doubt was erased in 2009, when the Texas legislature added the ninth category – signage directing the public to sights and attractions. Wayfinding signs for tourist attractions are a perfect fit for hotel occupancy tax expenditures.

Chambers of Commerce?

Cities frequently wonder if they can fund the local chamber of commerce using hotel tax money. Do chambers put heads in beds? Maybe, but maybe not. Chambers of commerce are typically charged with promoting economic development, not tourism. Even assuming a chamber does promote tourism though, how about the nine categories? Funding a chamber doesn’t, in itself, fall into any of the nine categories.

Fortunately, there is an easy solution. The laws governing hotel tax expenditures permit the city to delegate expenditure of hotel tax money to another entity, typically a chamber or convention and visitor bureau. As long as the chamber spends the money on projects that otherwise meet the two-part test mentioned above, it’s fine to delegate some funds to them. There must be a written contract laying out the duties of the chamber, though. Also, the chamber must keep the hotel funds in an account separate from its general operating fund.

Arts Organizations

City arts organization proposals are a common source of questions on hotel tax expenditures. Arts councils throughout the state know that promotion of the arts is one of the nine categories on which city hotel taxes may be expended. Cities know this because these arts groups frequently seek local hotel tax funding.

Cities should encourage arts groups to seek funding for their festivals and shows that attract overnight tourists to the city or otherwise have a financial impact on area hotels. By limiting arts expenditures to such costs, a city can ensure its expenditure meets both parts of the test.

Don’t Forget to Report

Legislation passed in 2017 requires cities to annually report hotel occupancy tax information to the comptroller, including information on how the funds are spent. Not later than February 20 of each year, a city that imposes a hotel occupancy tax must submit to the comptroller information that includes the city’s hotel occupancy tax rate, the amount of revenue generated by the tax, and the amount and percentage of the revenue spent for each of the following purposes:

• Convention or information centers
• Convention delegates registration
• Advertising to attract tourists
• Arts promotion and improvement
• Historical restoration and preservation projects
• Signage directing the public to sights and attractions

Cities must comply with the annual reporting requirements by either submitting the report to the comptroller on a form prescribed by the comptroller, or alternatively providing the comptroller a direct link to, or a clear statement describing the location of, the information required to be reported that is posted on the city’s website. City reporting data can be accessed at https://comptroller.texas.gov/transparency/local/hotel-receipts.

What Else?

There are numerous other technical details about how to legally expend hotel tax funds. In truth, by simply learning and remembering the two-part test, city officials are 99 percent of the way toward full compliance with hotel tax laws. City officials with questions about the hotel occupancy tax should call the TML legal department at 512-231-7400.
Texas lawmakers and voters have given cities an unprecedented opportunity this year to tap new state resources for repairing damages caused by devastating floods and protect against future storms. With new financing resources available, city leaders need to understand how to make sure their communities can benefit.

The Texas Water Development Board (TWDB) is overseeing two key expansions to flood-related programs:

**The Flood Infrastructure Fund (FIF)** will provide grants and low-cost loans for projects by cities, counties, and other public entities to improve drainage, flood control, and flood mitigation.

**The Texas Infrastructure Resiliency Fund (TIRF)** will fund projects related to Hurricane Harvey and support development of a comprehensive, long-range State Flood Plan.

The board also plans to expand other flood-related programs, including floodplain mapping and an online dashboard of flood- and water-related information. This will be made available through a clearinghouse of data about state and federal flood planning, mitigation, and control programs.

The City of Denton is the kind of rapidly growing community that can benefit from these new resources. With a population now at about 138,000, Denton is one of the 25 fastest-growing cities in the United States.

Because of this, the City needs to investigate the impacts of this growth on flood hazards and manage the impacts. The FIF, which can be used for planning efforts, can make this kind of essential planning affordable for Denton and other cities like it.

**Here’s what decision makers in your city need to know:**

**The Flood Infrastructure Fund**

The FIF is being funded initially with $793 million from the state’s Economic Stabilization Fund, otherwise known as the Rainy Day Fund. The idea is to help with cost-effective solutions, particularly for communities that otherwise could not afford repairs or mitigation infrastructure.

The TWDB planned to finalize the FIF eligibility rules in February, and applications for the first round of funding will be due in April. The board will ask for more-detailed applications for the higher-ranked proposals, with funding allocated later in 2020.

Financial assistance will be available for projects that are structural (levees, floodwalls, retention basins) and nonstructural (wetlands restoration, warning systems, hydraulic/hydrologic studies). To be eligible, projects must involve collaboration among neighboring cities, counties, river authorities, and other related districts to make sure that improvements are coordinated and don’t harm others.

In Denton, the City plans to coordinate with other regional partners on even larger, more beneficial solutions. Situated on the north part of the Dallas-Fort Worth metroplex, Denton understands that our neighbors experience the same flooding challenges we do, and many of these challenges extend across jurisdictional boundaries.
Once the State Flood Plan takes effect in 2024, the FIF will only fund projects included in the plan. If your city is interested in FIF grants or loans, you should be involved in your region’s flood planning and get your projects incorporated into the regional plans.

**The State Flood Plan**

For most communities, the Texas Infrastructure Resiliency Fund’s most important element is the flood-planning process, which will be modeled after the State Water Plan and its approach to state and regional water-supply planning.

The TWDB is dividing the state into regions based on river basin watersheds, and the process will develop technical tools that local decisionmakers can use to determine the best solutions for their areas. The regional flood-planning groups will develop and submit their flood plans to the TWDB for incorporation into the State Flood Plan. Details about the flood-planning regions and rules are at twdb.texas.gov.

The first State Flood Plan is due in 2024 and will be updated every five years. It will include these components:

- An evaluation of existing flood infrastructure across Texas
- A statewide ranked list of ongoing and proposed flood-control projects and strategies
- An analysis of development in the 100-year floodplain, as defined by the Federal Emergency Management Agency
- Recommended legislative policy changes to improve planning and fund project completion

Texas has long needed a comprehensive way of helping cities and counties recover from floods and protect against future risks. Hurricane Harvey convinced lawmakers to fortify communities against another flood-related disaster.

Now is the time for local officials and their partners to take this opportunity to improve their regional infrastructure.

**What to Do Now on Flood Planning**

- Identify flood-control projects that could qualify for funding
- Work with a consultant to study needs, develop cost estimates, and assist staff in navigating the application process
- Team with nearby communities, water districts, and other partners
- Prepare for the regional flood-planning process
- Track the TWDB for announcements, updated deadlines, and calls for public comment at twdb.texas.gov

**Dam Safety Supplemental Funding**

A related aspect of flood mitigation strategies is new funding to repair and upgrade flood-control dams. Along with the TWDB, the Texas State Soil and Water Conservation Board (TSSWCB) has been tasked by the Texas legislature with developing a 10-year plan to bring all high-hazard dams up to safety standards.

More than 2,000 earthen dams in Texas were built by the Natural Resources Conservation Service and are operated and maintained by local entities. The Texas Commission on Environmental Quality considers approximately 600 of these dams “high hazard,” but only 123 meet current dam safety criteria. More than $1.5 billion in needs have been identified to rehabilitate/upgrade the remaining high-hazard dams.

In 2019, the legislature appropriated an additional $150 million that the TSSWCB will administer through grants to local sponsors of flood-control dams. In some cases, the TSSWCB may fund up to 95 percent of project costs, with local sponsors covering the remaining five percent.

The TSSWCB has designated projects for 2020 that are in the planning, design or construction phases using the supplemental funding. View a list at https://www.tsswcb.texas.gov/flood-control-repair-projects.

**What to Do Now on Dam Safety Funding**

- Identify partnerships with Soil and Water Control Districts and other partners.
- Determine needs, such as repairs or upgrades, with high-hazard dams the highest priority.
- Work with partners to apply for funding assistance.
- Budget for the local sponsor’s cost share to participate in the program.

You can access application information at https://www.tsswcb.texas.gov/programs/flood-control-program. Direct any questions to Steve Bednarz, program administrator and engineer, TSSWCB, at sbednarz@tsswcb.texas.gov.
WHAT MAKES YOUR COMMUNITY UNIQUE

By Aaron Farmer, President, and Kelly Murphy-Redd
Marketing Coordinator, The Retail Coach
Having worked with more than 500 clients in 39 states, The Retail Coach has had the opportunity to get to know, up close and personal, the unique attributes and interesting stories of many towns and cities.

It is vital to identify what makes you unique and to shout it to the world, so to speak. While we all can’t be Las Vegas or have the Grand Canyon, many communities are embracing or creating their own story.

There are the obvious and wonderful stories of the original American colonies in places like Williamsburg, Virginia, the White House in Washington, D.C., and the Empire State Building in New York City. San Antonio has the Alamo. Nashville, Tennessee has the country music scene and the Grand Ole Opry. But did you know it also has a full-scale replica of the Parthenon of Athens?

One of our client communities in Texas, Kingsville, is often referred to as the “Texas Riviera.” It is home to the world-famous King Ranch, Texas A&M Kingsville campus, Naval Air Station Kingsville, and home to Caesar Kleberg Wildlife Research Institute. Kingsville boasts 450 bird species and is a destination for bird-watchers.

Do you have a historic downtown area like Fredericksburg? Many communities have the potential for a vibrant downtown that serves to attract visitors and offer quality of life for residents. More now than ever, we are seeing resurgence and renewed focus on the revitalization of downtowns throughout Texas. Have you thought about the revitalization opportunities in your city’s downtown area? Now is the time to start capitalizing on those opportunities.

It may be your cultural amenities that make you unique. It may be your beaches or rivers, great schools, technology clusters offering high-wage jobs, or a prime location between several major cities. The City of Bastrop, for example, is only 25 miles from Austin, located on the Colorado River, and has a thriving downtown.

From a retail perspective, the strongest communities are those with a healthy mix of local, regional, and national retailers. Determine what type of retail your community is deficient in and develop a recruitment strategy focused on bringing those types of businesses to your community. New retail development can be the catalyst needed to help revitalize an area in your city. We continually see new retail investments signal to other investors, as well as to existing business or property owners, the need to enhance the façade of their facility, improve landscaping, and upgrade signage.

Look at your city with new eyes. Are you making the most of your attributes? Is there an opportunity to create new stories, as well as cherishing and promoting what you already have? Every community has potential to be unique, tell its story, and flourish given the motivation and the right strategy.

What makes your community unique? ★
One of the first things that come to mind when thinking about Fredericksburg is history. It is our history, and the way we preserve it that makes us unique. People who come to Fredericksburg, whether to visit or become a resident, enjoy the charm of the architecture and built environment that preserve our German immigrant history. The fact that we have retained many of our early houses and businesses is what makes Fredericksburg so special today.

Like other historic communities, many years ago the leaders of Fredericksburg realized the importance of historic preservation. In 1970, downtown Fredericksburg was designated as a National Register Historic District. In 1983, a survey was conducted that led to the creation of the first local historic district in 1985 that provided protection from demolition and inappropriate changes. The Historic District is defined in the City’s code of ordinances as "an area of the City designated by the city council as having definable geographic boundaries, a significant concentration, linkage, or continuity of sites, buildings, or structures united historically or aesthetically by plan, appearance, or physical development. The designation ‘historic district’ recognizes that the component resources, being historic buildings, structures, accessory buildings, fences, or other appurtenances of the district are of basic and of vital importance for the preservation of culture and neighborhoods and economic development and promotion of tourism.” A Historic Review Board (HRB) was established consisting of seven members and three alternates appointed by the city council. This board’s responsibilities include review of all applications proposing additions, alterations, changes, construction, demolition, or relocation within the Historic District and Historic Landmarks.

In 2003, a second survey was performed and identified the need for expansion of the district. In 2005, the local Historic District was expanded. In recent years, as development in the area continued to boom, the need for a historic preservation officer to help preserve the aspects of the City which have historical, cultural, or architectural merit became evident. In 2017, the city council amended the Historic Preservation Ordinance, and a historic preservation officer position was created. The historic preservation officer is able to use the Historic District and rating system as tools to review projects individually and to issue Administrative Certificates of Appropriateness on some types of projects located in the Historic District. This includes fence construction, exterior painting, porch repairs, and other projects on non-historic aged properties. Other projects proposed on properties in the Historic District such as additions, demolition, re-ratings,
and door and window changes must be brought before the HRB for approval. “The purpose of the Historic District is to manage change without freezing the property in time,” states Anna Hudson, historic preservation officer.

Hudson had previously worked for the City of San Antonio’s Office of Historic Preservation. When hired, one of her first assignments was to have another historic resource survey completed. In 2018, the City hired Cox McLain Environmental Consulting to complete a survey of areas beyond the existing historic district. This survey identified an additional 49 vacant parcels, 61 existing local landmarks, 377 historic-age parcels, and 112 non-historic-age parcels in the study area. A historic-age parcel is defined as a parcel with one or more historic-age resource (built in 1968 or earlier) visible from the right-of-way. The age and variety of house styles were documented in the 2018 survey.

So, why 1968? Many people have a hard time comprehending that something from 1968 could be considered historic. But consider that in 1968, HemisFair was taking place in San Antonio and architecture from the mid-century was really coming into its own. So while Fredericksburg is not known for mid-century architecture, many of the original town lots were still being subdivided by families or sold off allowing for new housing to be built right next to Fachwerk, stone Sunday houses, or craftsman styled houses during this time period. The development pattern is not representative of a single time frame. That is what makes Fredericksburg’s Historic District unique. It is not a neighborhood built out by one generation but rather a continuous development that is still happening on the few remaining empty lots. In a single block, one can see a house built in the 1870s next to a house from the 1920s next to a house from the 1970s, and so on. This has allowed every generation to leave its mark on Fredericksburg.

Also in 2018, a Community Visioning Committee released their findings from a study that was conducted to develop a plan for the future of Fredericksburg and Gillespie County, based on community input. The revised Community Visioning Report titled, “A Path to the Future”, identified the Historic District and historic preservation as key elements in maintaining and preserving our culture. On the topic of culture and heritage in the report, the goal was set to retain and emphasize the historic culture and heritage that make Fredericksburg and Gillespie County the place we chose to make our home. The report noted, “It is important to continue the work of historic preservation in the city and county. Once these treasures are lost, they are lost forever.” The report recommended continuation of the work of the Historic Review Board to protect the visual architecture and construction in the Historic District, as well as expanding the Historic District in a thoughtful and deliberate manner.

The 2018 Historic Resource Survey was a process that welcomed public input. The HRB held an open house to discuss the process and the proposed boundary in May 2018. Another public meeting and presentation on the consultant’s findings was held in November 2018. The HRB made their recommendation for the proposed boundary in April 2019, and public hearings were held in May and June 2019. The city council voted in favor of expanding the Historic District in June 2019.

As Fredericksburg continues to grow and flourish, preservation of our history and culture will remain an important aspect of our community. The responsibility is ours to continue to preserve our culture, our history, our land, and our charm for future generations of residents and visitors.
The City of Grand Prairie is undergoing unprecedented revenue and economic development expansion in the form of new residential, retail, and restaurant growth. With its 2018 population at 189,430, it is the 15th largest city in Texas and in the top 150 nationwide. Grand Prairie has opened three City-owned destinations in the last two years, including a year-round, resort-styled indoor waterpark; a 120,000 square-foot recreation center with arts and entertainment components; and a 10-acre “destination” playground featuring ADA-accessible equipment and creative, inclusive play opportunities.

To learn more about Grand Prairie’s economic development successes, we caught up with Mayor Ron Jensen.

If the last decade was a movie, what are the memorable scenes in Grand Prairie economic development?

Ron Jensen: I think the movie starts with the extension of the George Bush Turnpike (State Highway 161) between I-30 and I-20. That opened up a vast expansion of land to develop, which in turn helped us draw in a developer with the means to get things done and the willingness to take risks—in other words, someone who believed in us and our vision. Things really began to heat up in that area when we landed IKEA and started developing the EpicCentral campus (formerly Grand Central Park), home to the waterpark and other City-owned projects. In the space of a few short years, we’ve added dozens of new retail, restaurants, and hotels (with more on the way) up and down the corridor and in other parts of town. It’s all adding up to be an exciting, game-changing time for our city.”

Which of these efforts have been particularly beneficial for the City?

RJ: Getting big-box and big-name brands like IKEA, Living Spaces, Main Event, and Walmart have been good for us. Not only are the big guys multi-million dollar sales tax generators, they bring in other businesses that want to capitalize on their customer traffic.

In other words, big retailers mean more revenue—and more choices. As mayor, expanding choices for Grand Prairie has been one of my most important priorities. In the past, we didn’t draw as many visitors as we do today, and residents frequently had to drive to another town to dine or shop. Now that’s all changing.

But, big box is just part of our story. The City has designed and developed our own destinations, too—like Epic Waters Indoor Waterpark, The Epic Fitness, Arts, and Recreation
Center; and PlayGrand Adventures. It’s also exciting when a South Grand Prairie High graduate decides to come back home and open up the first Smoothie King franchise in our city, or when a mom-and-pop restaurant opens. You don’t have to give up the smaller or independent projects to have big-box, the two can work together. If the need or want for the product or service is there, the customers will come.

You mentioned the importance of developers. In your opinion, what are the keys to winning developer confidence?

RJ: In addition to having a good economic development team, you have to make a conscious effort to sell yourself as an attractive community that is full of possibilities. You have to let the world know that you’re open for business. One way we’ve spread the word is by positioning me as a consistent and visible face of the City. I go to every event I can, I do every magazine or TV interview possible. I stay involved in regional efforts, such as when I was the chair of the North Texas Regional Transportation Council. This isn’t to raise my profile, it’s to raise the City’s profile and get our messages out there.

What’s on the horizon for Grand Prairie in the 2020s?

RJ: In the next couple of years, we’ll break ground on hotels and restaurants on the EpicCentral campus. A planned community of condos is also in the works for the area south of EpicCentral. Once these projects come online, we expect to see another surge of growth in that area.

In other parts of town, we’re considering plans to redevelop one of our public golf courses into a high-end destination course and conference center hotel. Also, we’re working on growth in the I-30 and Beltline Road area near Lone Star Park, which will bring new life to that sector. There’s more that I can’t announce just yet, so stay tuned.

What advice do you have for a city that is looking to expand revenue opportunities or upgrade economic development?

RJ: First: Don’t assume that it can’t be done—and be creative. Our city manager believes in giving attention and respect to everyone who comes to us with an idea, because you never know where that idea might take you. If you see potential, try to reach a partnership agreement with the idea owner. Try to find the win-win so that everyone benefits.

Second: Don’t be afraid of incentives. For me it’s all about the math: what’s the investment, and how fast is the payback? It’s also about the long-term benefit to residents. If something is going to bring in revenue or jobs, or if it’s going to light up an underserved area, or if it’s something that residents have been asking for, then why not incentivize to get the deal done on the most favorable terms for your city?

Third: Don’t be shy about speaking up. If you’re having dinner at a restaurant you really like in another town, give the owner your card and tell them you’d like to talk to them about coming to your city. The same goes with talking to other mayors and city managers. I won’t say much about anything that isn’t a done deal, but if it’s a matter of public record, I have no problem sharing background about our economic development successes. I once had a mayor from Mississippi ask to tour Epic Waters, for example. He liked what he saw and wanted to find out how to do something similar in his own city, which I thought was great. There’s room for all of us to have success.” ★
PROTECT YOUR CITY REVENUES BY WATCHING OUT FOR ELECTRICITY CONTRACT GOTCHAS

By Margaret Somereve, Interim Executive Director, Texas Coalition for Affordable Power

Contracting for municipal electricity is complex. It can be very challenging to find the true lowest price. Apply a standard request for proposal (RFP) to a power acquisition and your city risks hidden charges due to complicated contract language. Recommend to council what appears at first to be the low bid and then find yourself later explaining why the promoted rate may not be the actual rate. Cities face few recurring monthly expenses greater than the expenses they incur for electricity. But electricity is not just a price. It is a service too. And both need consideration in the procurement process.

Back in a 2018 edition of Texas Town & City we enumerated several leadership tips for energy procurement. This month, with our eye on the “revenue” part of the “revenue and economic development” theme, we describe contract “add-ons” that can undermine an otherwise solid energy contract. A failure to account for these add-ons can increase your budget.

It’s important, though, to first review a few basics about the Texas electricity market, commercial energy, and the process of procuring it. Understanding these basics will help you avoid mistakes down the line.

The Basics

Your city’s energy bill is comprised of two components: 1) Transmission and Distribution (T&D) utility charges and 2) energy charges. The Texas Public Utility Commission (PUC) regulates the first; the market sets prices for the second. Always keep in mind that since T&D rates are approved and set by the Texas PUC, these charges are non-negotiable. When dealing with procurement, it should be the second part of your bill – the energy component – that should command your attention.

When contracting for electricity, you can sign up for a single fixed-price deal, a variable-price deal, or some combination of both. Although variable-price deals may result in lower average prices over the long run, they also are subject to the most month-to-month volatility and can spike to budget-busting amounts if you are not paying attention to the contract and the market.

In an earlier issue of Texas Town & City, we described a number of different useful RFP strategies for power purchases. We won’t go through those again except to note that when it comes to using RFPs to procure electricity that pitfalls always remain if you are not aware of them. Also, keep in mind that electric price quote commitments typically remain valid for 24 hours or less.

Some cities seek professional assistance for power procurement. Typically, this means signing your city up with the services of an energy broker or energy aggregator. Brokers can help your city in the acquisition process, but they are not philanthropists. Some brokers, for instance, might present options only from its partnered suppliers and exclude potentially favorable options from alternative suppliers. Some may fail to include detailed analyses of the bids or contracts they present, and this will complicate any effort to make apples-to-apples comparisons between them. A broker may not necessarily attempt to identify and negotiate more favorable contract terms for the end user.

Aggregators, in contrast to brokers, combine the load of those in their aggregation group and then shop that load into the market. Some coalitions of political subdivisions themselves can serve in the aggregator role, and, as such, they will operate on a non-profit basis. Such aggregators likewise enjoy other advantages unique to groupings of governmental entities. But beware: some brokers use the word aggregator or aggregation in their company name, while in reality they obtain quotes for your load only and so don’t achieve the true benefits of aggregation. If your city elects to go the aggregator route, you may want to know whether the aggregator operates on a for-profit or non-profit basis, how much it charges as an aggregation fee, and inquire about any additional services the aggregator offers.
Now, with that bit of background dispensed with, let’s move on to a discussion of some of those contracting pitfalls. For this edition, we’re focusing specifically on price add-ons and related contract provisions. These add-ons come in different forms – ceilings, meter charges, congestion costs – and all can lead to cost overruns if your city fails to account for them properly. Below we list some of the most common add-ons … so be sure to look for them in the fine print. If you don’t see these included in your contract, ask your retail electric provider, broker, or aggregator how they plan on handling these charges.

**Common Add-On Charges**

**Bandwidth Charges:** Bandwidth refers to a range of electricity usage your city expects to use over the term of the contract. Usage outside of the bandwidth range may result in imposition of a market price instead of a contract price – hence, bandwidth charges. Bandwidths vary by contract, and the price is usually higher for wider bandwidths.

Some contracts impose bandwidth on a total-use basis and some base them on consumption at individual meters. Some contracts allow the electricity seller the right to decide if they want to impose bandwidth provisions or not.

**Congestion Costs:** Congestion costs are costs incurred to relieve congestion on the ERCOT transmission grid. Congestion costs vary by ERCOT zone and can be significant. Because congestion costs are market based, your supplier can never predict them with certainty. “Fixing” these costs in an energy contract is similar to buying price insurance, but often that insurance ends up costing more than the actual cost of relieving the congestion.

Retail supply contracts treat congestion costs in many different ways. Some include it in the energy price and others treat it as an additional charge. Different suppliers define congestion costs in different ways and use different terms to address congestion costs.

**Ancillary Services Costs:** Ancillary Services are various costs incurred by ERCOT to maintain system reliability. Similar to congestion costs, ancillary services costs change hourly. The energy seller typically will include Ancillary Services costs in the quoted energy price, but because those actual costs are unknown at the time of contracting, such inclusion again is similar to buying price insurance. As with congestion costs, this means your city may end up paying more than the actual Ancillary Services costs incurred by its retail electric provider.

Most contracts will include Ancillary Services as part of the fixed costs of energy. Some contracts stipulate that the seller can adjust the energy price upward if these costs are higher than anticipated.

**Change in Law or Material Changes:** A Change in Law (or Material Changes) provision typically allows the electricity seller to adjust the price or some other contract provision should the seller find itself confronting additional costs due to developments outside of its control. These can include costs for congestion, costs for ancillary services, costs resulting from changes in market rules, or costs due to revised laws or regulations.

Most or all retail supply contracts will include some form of a Material Change provision and so look it over before you sign. Typical language creates a unilateral right for the energy seller to adjust the price upward if some action by ERCOT, the Texas PUC or the Texas legislature causes its underlying costs to go up. However, we have seen very few instances in which the buyer can exercise this clause to lower the energy price because of a decrease in underlying costs.

**Broker Fees and Aggregation Fees:** Brokers, as noted above, are individuals or companies that solicit and present energy offers to your city obtained from multiple sources. An aggregator, by contrast, combines load of all members in the aggregation group and shops that load to the market. Brokers and aggregators typically receive payment via usage-based fees. Ask what the fee is and what services are included in the fee. Many contracts will have an a la carte menu for additional services which could run into the thousands when you thought the service was included.

**The Bottom Line**

Understand that each of these complex add-on charges represent potential pitfalls for a successful energy procurement. Contracts will include or exclude a variety of them so ask your energy supplier how it accounts for them and make your expectations clear. What sort of energy-related services will your city expect from the retail electric provider? Will your retail electric supplier charge extra for these services? What happens if Congestion or Ancillary Services charges are greater than anticipated? Asking the right questions now will help protect your city revenues in the future. ★

*Margaret Somereve is the Interim Executive Director of the Texas Coalition for Affordable Power, a coalition of cities that purchases power in the deregulated market for their own governmental use. Somereve’s prior local government career in Texas spans three municipalities, where she has specialized in utility regulation, lease negotiations, and the coordination of legislative issues.*
Economic development is top of mind for city leaders across Texas. From small towns to our largest metropolitan areas, stimulating local economies has proven to revitalize communities and bring tremendous financial and lifestyle benefits to residents. This is definitely true for the City of Farmers Branch, a growing first-ring suburb of Dallas, with 12.1 square miles and a population estimated at 40,000 that is anticipated to eclipse 50,000 in the next five to 10 years.

While traditional economic development initiatives that try to attract companies with big names, drive retail expansion, and encourage real estate projects get a bulk of the attention, we often overlook the other side of the coin. An equally important aspect of economic development is helping residents keep more of their hard-earned money so they can use it for important needs like healthcare, clothes, food, cars, and home improvements. This improves quality of life, and the extra spending has a multiplier effect that provides ongoing economic benefits for communities.

One way for cities to put more money back into consumers’ pockets is by helping them get the lowest possible rates on their electricity. I’m proud to say that Farmers Branch – along with a growing number of other Texas cities – is providing a program that takes advantage of electricity deregulation and helps residents save on their electric bills.

When the Texas legislature passed electricity deregulation more than 20 years ago, it was praised as a boon to the Texas economy and a cost-saving opportunity for consumers. However, most Texas residents aren’t taking advantage of deregulation due to the complexity of the system. As a result, they are paying much more for electricity than they should be.

According to the Electric Reliability Council of Texas, a whopping 70 percent of Texans who live in deregulated service areas don’t shop for lower electric rates due to complex rules and the difficulty in comparing providers. But that’s changing in cities across the state with free volume buying programs that do the legwork for consumers.
Texas Political Subdivisions JSIF
Serving Texas Cities Since 1983

You owe it to your City to get another insurance quote...
What’s the worst that could happen?
You find out you’re getting a good price.
Or you find out you really can get a better price and better service!

Coverages Include
Auto Physical Damage
Auto Liability
Crime
Crisis Management (Active Shooter)
General Liability
Cyber Liability
Law Enforcement
Property
Public Officials
Workers’ Compensation

TPS

Compare your current insurance coverage and pricing with us today!
972-361-6303 • keith.alberts@tpspool.org
www.tpspool.org

Here’s how it works: electric providers are invited to an auction where they compete with their best offers for a large pool of consumers. The winning bid is customized to the specific circumstances of each resident that signed up, and residents decide whether to accept the offer.

The City of Farmers Branch offered residents and staff the opportunity to participate in our “Farmers Branch Power Switch” program starting in 2018. There is no cost, no obligation, and no risk associated with the program, which is licensed by the Public Utility Commission of Texas. It provides a mechanism to help consumers better understand the energy market and provide a possible pathway to saving money on electric bills. The more people that register for the program, the better the opportunity for the broker to make a low-cost deal.

So far, more than 800 Farmers Branch households have switched providers, saving an average of $427 per year on their electric bills. Residents absolutely love this program and the savings equate to around 30 percent* of the city portion of their property taxes. This powerful comparison allows us to translate this program into real savings and the always popular property tax conversation.

Farmers Branch utilizes data to drive resource allocation and this program is no different. In addition to measuring participation and savings, the program participants are surveyed. So far, 88 percent of the registrants think organizing this program contributes to the city’s positive image, and residents have saved more than $350,000 so far.

With rising housing, healthcare, college, and other expenses putting a squeeze on families’ monthly budgets, every little bit helps. The legislature did the right thing by deregulating the electricity industry so Texans could take advantage of market forces to get the best deals, but by virtue of its own complexity, the system is denying most residents that opportunity. What better way for city leaders to make a positive impact on their residents’ lives than by closing this gap and helping them reap the financial benefits they deserve from deregulation.

I call that good government in action. ★

*Average home price at $233,681 with a 20 percent homestead exemption and a City property tax rate of $0.59950

TEXAS TOWN & CITY • 37 • MARCH 2020
THE 2020 CENSUS AND REDISTRICTING: What You Need To Know Now

By David Méndez, Bob Heath, and Joshua Katz, Bickerstaff Heath Delgado Acosta LLP

Does your city elect members of the governing body from single-member-districts? If so, it's time to start planning for the 2021 redistricting effort. Upon the release of the 2020 census data by the federal government, city councils must review population changes to determine if districts have become imbalanced and must be redrawn. Holding elections based on imbalanced districts may subject the city to potential legal challenges under the one-person, one-vote principle of the United States Constitution.

Organize a Timely and Comprehensive Redistricting Process

With the limited window available for redistricting, it is crucial for a city to craft an efficient and comprehensive redistricting process. The 2021 redistricting cycle will mark the first time since 1972 that Texas cities undertake the process without the preclearance requirements of Section 5 of the Voting Rights Act (VRA). Historically, Section 5 required Texas cities to obtain approval of voting changes, including redistricting plans, from the Department of Justice prior to using them in an election. As a result of a 2014 ruling by the United States Supreme Court, Section 5 preclearance is no longer applicable. However, cities remain subject to the nondiscrimination requirements of Section 2 of the VRA.

To address this Section 2 obligation, cities should make sure any plan they consider does not adversely impact the voting rights of protected voter groups while avoiding a potential challenge from other voters. This is essentially a balancing act. The city wants to avoid adversely impacting voting rights of any protected minority voting group while at the same time ensuring that any accommodations it makes for the protected group are only to the limited extent necessary to address the issues of these voters. Otherwise, the city risks a finding of a prohibited race-based redistricting under the principles of Shaw v. Reno.

As cities have navigated these competing legal standards, a well-defined and recognized set of districting criteria has developed. These criteria, which have been developed by the courts in the context of voting rights litigation under the Voting Rights Act as well as federal and state constitutional cases set out the guiding elements for properly drawn redistricting plans. Adherence to these traditional districting criteria for the development of redistricting plans and data should form the foundation for the city’s process.

While a process for public participation as originally dictated by the Department of Justice preclearance process under Section 5 of the Voting Rights Act no longer applies, cities may nonetheless find that their constituents will continue to demand transparency and an opportunity to participate and provide input into the redistricting process. Guidelines for public participation and for the submission of redistricting plans by the public for council consideration may further facilitate the redistricting process for the city.

The Census Redistricting Data File

The census will count the population of the United States as of April 1, 2020. The data derived from the census is known as the “P.L. 94-171 file.” The file consists of total population and voting-age population catalogued by sex, race, ethnicity, and voting age. It is reported at the “census-block level,” which is the smallest geographic area used to determine population. The file is required to be released by April 1, 2021.
Historically, cities have used the P.L. 94-171 file to redistrict. During the past decade, however, lawsuits were brought to compel cities to instead use “citizen-voting-age population (CVAP)”. Using CVAP data would have the effect of excluding children and non-citizens from the count. The United States Supreme Court ruled that there is no constitutional requirement to use CVAP. It left open the question whether a city or state could choose to use CVAP.

**The Citizenship Question**

To provide CVAP data as part of the census, the Trump administration attempted to include a citizenship question on the 2020 census. The move was challenged by various states and cities, and the Supreme Court invalidated the administration’s effort. Because the Court prohibited inclusion of the question on the census, the administration now plans to report CVAP in a separate file released contemporaneously with the P.L. 94-171 release. This file will be created by supplementing census responses with administrative records that reflect individuals’ citizenship status. While this CVAP data may be available, it is not clear at this time how complete and accurate it will be. Also, depending on the results of the 2020 presidential election, it is not clear whether the agency will continue on its current course to produce and release this data.

**Timing the City’s Redistricting Effort**

Because the P.L. 94-171 file is not likely to be released until February or March 2021, cities will not be able to use this census data to draw districts for their May 2021 general elections. The November 2, 2021, general election or elections in 2022 will be the first ones for which the new census data can be used.

Cities with November 2, 2021 elections have a particularly small window to redistrict. Under Texas law, a boundary change for a single-member district is not effective unless it is adopted more than three months before election day (in this case, before August 2, 2021). However, the candidate filing period for this election actually opens July 17, 2021. Likewise, early voting by mail requires that ballots be prepared and mailed to voters shortly after the filing deadline. As a practical matter, and to avoid criticism from anxious candidates and voters for this election cycle, a city should plan to complete its redistricting process at least as early as the beginning of the candidate filing period. This allows a 100-day window (April 1 to mid-July) for the city to redistrict for its November 2021 elections.

Probably only a few Texas cities have to face the November 2021 scheduling issues. In fact, most Texas cities will be looking at redistricting for general elections beginning in 2022 or in May 2023. While these cities do not have to engage in the 100-day sprint described above, there may be practical reasons to complete redistricting by the end of September 2021.

To avoid voter confusion and simplify election administration, county election administrators generally try to create county election precincts that track the boundaries of the various political subdivisions in their jurisdiction, including each city. Counties are required to complete election precinct changes by October 1 of odd-numbered years. Thus, in order to make it possible for the county to conform precinct boundaries to a city’s single-member-districts, it is helpful to complete the city’s redistricting before the county must finalize its election-precinct boundaries on October 1.

**Preparation and Planning Can Insure a Successful Process**

Because redistricting occurs only once per decade, cities do not typically have a timetable and task list at their fingertips for redistricting. Also, because of council turnover, councilmembers rarely have any prior experience with the topic. The city needs to get out in front of the issue and work with staff and experienced redistricting experts to develop and present an overview and a timetable of the process for council before they receive inquiries from their constituents about this topic and important deadlines elapse. A council work session at about the time the census is being taken (April 2020) that provides a redistricting overview is not too soon to broach the subject to let the council and the community know that “the city’s got this.”

David Méndez, Bob Heath, and Joshua Katz are attorneys at Bickerstaff Heath Delgado Acosta LLP. BHDA is a Texas firm founded in 1980 with a practice devoted to representing state and local governmental entities, and has represented cities in every aspect of redistricting and Voting Rights Act litigation for nearly 40 years.
YOUR ROADMAP FOR THE NEW TML WEBSITE

By Jennifer Stamps, Creative Manager, TML

It’s been a year since we launched the new Texas Municipal League (TML) website. While all of your favorite features and resources are still on the website, it’s likely they’re in a new location since the redesign. In this article, you’ll learn where to find your frequently visited sections of the website, and how to access some new features.

Events Calendar

You can access the events calendar two ways: on the main menu under Education > Upcoming Events > Events Calendar, or by clicking on the calendar icon from the homepage (just below the TML logo). On the events calendar, you’ll find: TML workshops, board meetings, TML affiliate workshops, regional meetings, and other events of city interest not hosted by TML. The calendar defaults to show you the month at a glance. To view several months at a time (or the entire year), just enter “start” and “end” dates in the navy blue search bar. In the navy blue search bar, you can also select which calendar(s) to view.

Spotlight

This is a new website feature. If you go to the homepage and scroll down about half-way, you’ll notice the spotlight section with a few images. This is where we post anything new and exciting. Here, you’ll find a PDF of the most current Texas Town & City magazine, and workshops that are live and ready for registration. Check this section regularly as it’s updated several times a month.

Legislative Update

The website features the same Legislative Update (LU) you know and love, with a new look. You can access the LU two ways: on the main menu under Policy > Legislative Information > Legislative Update, or from the clipboard icon on the homepage (just below the TML logo). The main LU page will be updated with the current year and listed reverse chronologically starting with the most recent update. You can also access several years of archives from the same page.

Publications

Access the Publications section of the website from the main menu under resources > Directories and Publications > Publications. From there, you’ll have access to all of the TML publications including the updated Handbook for Mayors and Councilmembers, Key Legal Requirements for Texas City Officials, and Revenue Manual for Texas Cities. The Publications section is not currently password protected, but it will be a member-only section requiring a password in the near future.

Visit the TML website today at www.tml.org.
Get rewarded for shopping.

The more governmental entities and school districts in Texas spend through BuyBoard, the more money they are eligible to receive at the end of the year.

- $9.1 million in rebates delivered in 2018-19 alone
- More than 970 members rebated
- Over $58.8 million redistributed to members since 2006

Learn more at buyboard.com/tx-rebate.
**SHOWCASE YOUR CITY**

Do you want to see your city’s photo here? Getting published is easy as 1-2-3.

1. Use the hashtags #MyTexasCity and #CitiesProvide on your Instagram account;
2. Tag us on Instagram (@tml_texas); or
3. If you’re not on Instagram, you can email us your photo (jen@tml.org).

---

**@beecavelibrary**

It was a busy day for our community helpers at the library on Saturday! In the morning, we welcomed The Bee Cave Police Department and Lake Travis Fire and Rescue for our special Saturday Storytime! So much fun to try out their superhero vehicles, and more to learn more about all of the heroic things they do for our community!

Then we welcomed back Lake Travis Fire and Rescue that afternoon for a teen CPR and Bleeding Control class, hosted by our library TAB. We learned incredible life saving skills and feel all the more empowered to serve anyone in need.

Thank you Bee Cave Police and Lake Travis Fire Department!

---

**@visitlaredotx**

Beautiful days in Laredo allow for fun days at the park!

Photo by: @thatpupbud

---

**@cityofsanmarcos**

This photo looks so serene, how could we not share?

Photo by: @type1_carguy
THE TEXAS DEPARTMENT OF AGRICULTURE’S (TDA) Healthy Community Network (HCN) unites elected officials who are committed to advancing health in communities across the Lone Star State. These leaders have joined together to reduce hunger, prevent obesity, and promote wellness by encouraging all Texans to embrace the 3E’s of Healthy Living.

HCN recognizes the efforts of these leaders and supports their vision for a healthier Texas. To Learn More and Join Today Visit www.SquareMeals.org/HCN
Bureau Veritas is here for you in the relief and rebuild efforts from Hurricane Harvey.

Honesty, Integrity and Professionalism are our guiding principles. We’ve provided services throughout Texas since 1998 and our highly qualified team is ready to help assess and rebuild affected regions.

We offer these professional services:

- Disaster Recovery
- Plan Review
- Construction/C.O. Inspections
- Building Inspections
- Facility Condition Assessments
- Industrial Hygiene
- Air Quality Monitoring
- Asbestos Assessments
- Permit Expediating
- Power Facility Inspections
- Fire and Life Safety Inspections
- Environmental Site Assessments
- Food Complaint Investigations
- Food Handler/Manager Classes
- Food Establishment Inspections
- Temporary/Special Event/Seasonal Inspections
- Public Swimming Pool Inspections
- And More

Associate Member of TML
800.906.7199 • www.us.bureauveritas.com