

ORDER PROVIDING FOR THE IMPOSITION AND LEVY OF A HOTEL OCCUPANCY TAX EQUAL TO TWO PERCENT (2.00%); PROVIDING FOR COLLECTION, REPORTING, RECORDKEEPING, AND REMITTAL REQUIREMENTS AND PROCEDURES; IMPOSING PENALTIES FOR VIOLATIONS OF THIS ORDER; AND FURTHER PROVIDING THAT THIS ORDER IS CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 334 of the Texas Local Government Code, as amended (the "Act"), authorizes the Commissioners Court to designate various sports- and community-related capital improvements as a "venue project" and to designate one or more methods of financing authorized by the Act that the County wants to use to finance the project, subject to approval of the voters in an election called for that purpose; and

WHEREAS, in accordance with requirements in the Act, on July 9, 2018, the Commissioners Court adopted a resolution authorizing the planning, acquisition, establishment, development, renovation and construction of a multipurpose arena and adjacent support facilities and any related infrastructure (the "Venue Project Resolution") as a venue project in accordance with the Act (collectively, the "Venue Project"), and designating each method of financing under the Act proposed to be used for the Venue Project, subject to voter approval at an election called for such purpose; and

WHEREAS, by letter dated July 26, 2018, the Texas Comptroller of Public Accounts (the "Comptroller") notified the County of the Comptroller's determination that approval and implementation of the Venue Project Proceedings would have no significant negative fiscal impact on state revenue; and

WHEREAS, on August 20, 2018, the Commissioners Court adopted an order calling for and ordering an Election to be held on November 6, 2018 (the "Election"), at which all qualified voters of the County would have the opportunity to vote on the question of approving and implementing the Venue Project Resolution designating the multipurpose arena with adjacent support facilities and any related infrastructure as a Venue Project and the method of financing the Venue Project under the Act; and

WHEREAS, at the Election, a majority of the voters of the County voting in the election voted in favor of the propositions authorizing the County to provide for the planning, acquisition, development, establishment, construction, renovation and financing of the Venue Project, and to impose (i) a hotel occupancy tax at a rate not to exceed two percent (2.00%), and (ii) a short-term motor vehicle rental tax not to exceed five percent (5.00%), for the purpose of financing the Venue Project, with the maximum hotel occupancy tax rate imposed from all sources in the County would be fifteen percent (15.00%) of the price paid for a room in a hotel, as verified in the proceedings, adopted by the Commissioners Court on November 15, 2018 following the canvassing of the returns and declaring the results of the Election; and

WHEREAS, in accordance with the wishes of the majority of voters of the County voting on the propositions presented at the Election, the County is working toward the planning,

acquisition, development, establishment, construction, renovation and financing of the Venue Project; and

WHEREAS, the Commissioners Court anticipates issuing revenue bonds to fund the County's portion of the costs of the Venue Project (the "Public Contribution");

WHEREAS, the Commissioners Court has found and determined that it is in the best interests of the County to impose the hotel occupancy tax authorized by the voters at the Election (the "hotel occupancy tax") with the revenue from the taxes to be pledged as additional security for and payment of revenue bonds, the proceeds of which shall benefit the Venue Project.

NOW THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF LUBBOCK COUNTY, TEXAS:

#### SECTION 1.

(a) There is hereby levied and imposed a hotel occupancy tax at the rate of two percent (2.00%), to be imposed on the full cost, excluding the amount of any other tax that may apply, of the price paid for a room in a hotel within Lubbock County, Texas, consistent with the proposition authorizing the levy and collection of the hotel occupancy tax approved at the Election and applicable provisions of the Act.

(b) The hotel occupancy tax imposed under this Section shall be calculated based on and be added to the full cost, excluding the amount of any other tax that may apply, of the price paid for a room in a hotel within Lubbock County, Texas.

(c) The hotel occupancy tax shall be collected beginning on July 1, 2019.

(d) In no event shall the hotel occupancy tax approved by the voters at the Election, together with other state and local hotel occupancy taxes collected on the price paid for a room in a hotel within Lubbock County, Texas, exceed fifteen percent (15.00%).

(e) For purposes of this Section 1, "hotel" has the meaning assigned by Section 156.001, Texas Tax Code; and "price paid for a room" does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except those services related to cleaning and readying the room for use or possession.

#### SECTION 2.

(a) Every person owning, operating, managing or controlling any hotel shall collect the hotel occupancy tax imposed by this Order on behalf of the County on every occupancy occurring on and after the effective date provided in Section 1(c) of this Order, and such persons shall report and pay the hotel occupancy tax to the County in accordance with all requirements and procedures set forth in this Order.



(b) Each bill or other receipt for a hotel room charge subject to the hotel occupancy tax imposed by this Order shall contain a statement in a conspicuous location stating:

LUBBOCK COUNTY REQUIRES THAT AN ADDITIONAL TAX OF 2% BE IMPOSED ON EACH HOTEL ROOM CHARGE FOR THE PURPOSE OF FINANCING A VENUE PROJECT, CONSISTING OF A NEW MULTI-PURPOSE EXPOSITION CENTER, OTHER ADJACENT SUPPORT FACILITIES AND RELATED INFRASTRUCTURE, APPROVED BY THE VOTERS OF THE COUNTY ON NOVEMBER 6, 2018.

### SECTION 3.

(a) On the 20th day of the month following each month in which a hotel occupancy tax is earned, every person required by this order to collect the hotel occupancy tax shall file a report with the County showing (1) the consideration paid for all occupancies in the preceding month; (2) the amount of hotel occupancy tax collected on the occupancies; and (3) any other information the County may reasonably request in order to assist the County in properly accounting for the proper collection of the hotel occupancy taxes imposed by this Order.

(b) Every person required by this Order to collect the hotel occupancy tax shall pay the hotel occupancy tax dues on all occupancies in the preceding month to the County at the time of filing the report required by subsection (a) of this Section.

(c) If the 20th day of the month falls on a day other than a Business Day, the County must receive the hotel occupancy tax by the next day that is a Business Day. If the hotel occupancy tax is paid by United States mail, the date of receipt by the County is the date postmarked by the U.S. Postal Service.

(d) Each remittance of a hotel occupancy tax required by this Order must contain the following statement and representation:

THE HOTEL OCCUPANCY TAX REMITTED AND PAID TO LUBBOCK COUNTY WITH THIS REPORT WAS COLLECTED PURSUANT TO THE REQUIREMENTS OF THE ORDER IMPOSING THE HOTEL OCCUPANCY TAX BY THE LUBBOCK COUNTY COMMISSIONERS COURT

(e) As used in this Section, the term "Business Day" means a day other than a Saturday, a Sunday, or a date included on the list of legal holidays for banking purposes, which is published in the Texas Register before January 1 of each year by the Comptroller of Public Accounts, and distributed to each Texas state agency that receives reports or payments, pursuant to Section 111.053(b), Texas Tax Code.

#### SECTION 4.

(a) Exceptions to the payment of hotel occupancy taxes set forth in Subchapter C, Chapter 156, Texas Tax Code, apply to the collection of hotel occupancy taxes ordered to be levied and collected by this Order.

(b) Those persons and entities entitled to a refund of hotel occupancy taxes under Subchapter C, Chapter 156, Texas Tax Code, may seek a refund of the hotel occupancy tax ordered to be levied and collection by this Order may seek a refund of such hotel occupancy taxes in accordance with the provisions of Subchapter C, Chapter 156, Texas Tax Code.

#### SECTION 5.

(a) Any owner of a hotel who fails to report when required by this Order or who fails to pay the hotel occupancy tax when due and as required by this Order, shall pay a penalty of five percent (5%) of the amount of the hotel occupancy tax due. If the owner fails to file the report or pay the hotel occupancy tax before the 30th day after the date that the report or tax payment was due, the owner shall pay an additional penalty of five percent (5%) of the amount of the hotel occupancy tax due.

(b) Delinquent hotel occupancy taxes and accrued penalties draw interest at the rate of ten percent (10%) per annum, beginning sixty (60) days after the date on which the hotel occupancy tax was due to the County.

(c) In addition to the amount of hotel occupancy tax, penalties and interest, the County shall be entitled to all its costs and reasonable attorneys' fees incurred in enforcing this Order against the person owning, controlling, operating or managing a hotel and in collecting any hotel occupancy tax owned by the person under this Order.

(d) An attorney acting on behalf of the County, or the Criminal District Attorney of Lubbock County, may bring suit against a person who is required to collect the hotel occupancy tax imposed by this Order and who has failed to file a tax report or pay the hotel occupancy tax when due in order to either (1) collect the hotel occupancy tax not paid or (2) enjoin the person from operating a hotel in the County until the hotel occupancy tax is paid or the report is filed. This remedy is in addition to all other available remedies.

(e) The Commissioners Court or the County Tax Assessor-Collector shall have the authority to establish any rules and regulations necessary to implement and collect the taxes, including, but not limited to, the establishment of procedures for the allocation of revenues and imposition and collection of the taxes; the development of record-keeping, reports, and filing requirements related to the levy and collection of the taxes; and the development of tax collection procedures and protocols, and auditing requirements to ensure that the proper amount of taxes have been collected and deposited with the County.



(f) County staff is hereby directed to coordinate efforts with the County Tax Assessor-Collector to ensure the timely collection of the taxes and the development of procedures for the allocation of revenues and imposition and collection of the taxes; the development of record-keeping, reports, and filing requirements related to the levy and collection of the taxes; and the development of tax collection procedures and protocols, and auditing requirements to ensure that the proper amount of taxes have been collected and deposited with the County.

#### SECTION 6.

(a) If the person who is liable for the payment of the hotel occupancy tax under this Order is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount of hotel occupancy tax due until the seller provides a receipt from the person designated by the County to provide the receipt showing that the amount has been paid or a certificate showing that no hotel occupancy tax is due to the County.

(b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this Section is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a hotel may request that the person designated by the County to provide a receipt under Subsection (a) of this Section issue a certificate stating that no hotel occupancy tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The person designated by the County shall issue the certificate or statement not later than the 60th day after the date the person receives the request.

(d) If the person designated by the County to provide the receipt under Subsection (a) of this Section fails to issue the certificate or statement within the period provided by Subsection (c) of this Section, the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

#### SECTION 7.

The proceeds of the hotel occupancy taxes shall be deposited into the Venue Project Fund and may be used only for purposes authorized by the Act.

#### SECTION 8.

This Order shall be cumulative of all Orders of the County, except where the provisions of this Order are in direct conflict with the provisions of such other Orders, in which case the conflicting provisions of such other Orders are hereby repealed.

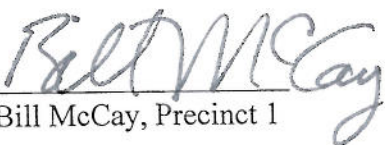
SECTION 9.

The sections, paragraphs, sentences, clauses and phrases of this Order are severable. If any portion of this Order is declared illegal or unconstitutional by the valid final judgment or decree of any court of competent jurisdiction, such illegality or unconstitutionality shall not affect the legality and enforceability of any of the remaining portions of this Order.

SECTION 10.

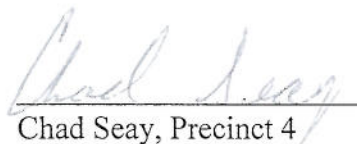
This Order shall be in full force and effect following its adoption and publication as specified herein.

PASSED AND APPROVED BY THE COMMISSIONERS COURT OF LUBBOCK COUNTY, TEXAS, THIS THE 10<sup>th</sup> DAY OF JUNE, 2019

  
Bill McCay, Precinct 1

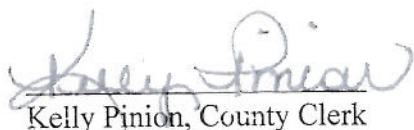
  
Jason Corley, Precinct 2

  
Gilbert A. Flores, Precinct 3

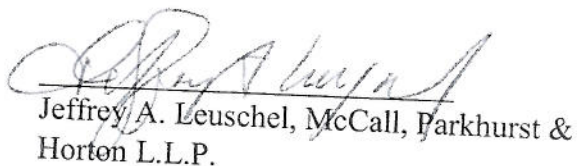
  
Chad Seay, Precinct 4

  
Curtis Parish, County Judge

ATTEST:

  
Kelly Pinion, County Clerk

APPROVED AS TO FORM:

  
Jeffrey A. Leuschel, McCall, Parkhurst &  
Horton L.L.P.