

ORDER PROVIDING FOR THE IMPOSITION AND LEVY OF A SHORT-TERM MOTOR VEHICLE RENTAL TAX EQUAL TO FIVE PERCENT (5.00%); 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 Resolution 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 proposition 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"); and

WHEREAS, the Commissioners Court has found and determined that it is in the best interests of the County to impose the short-term motor vehicle rental tax authorized by the voters at the Election (the "short-term motor vehicle rental 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.

Unless otherwise expressly provided or the context clearly requires otherwise, the following terms shall have the meanings specified below when used in this Order:

1. "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.

2. "County" shall mean Lubbock County, Texas and shall include its designee.

3. "Gross Rental Receipts" shall mean the value received or promised as consideration to the Owner of a Motor Vehicle for rental of the motor vehicle, but does not include:

- (A) separately stated charges for insurance;
- (B) charges for damages to the Motor Vehicle occurring during the rental agreement period;
- (C) separately stated charges for motor fuel sold by the Owner of the Motor Vehicle; or
- (D) discounts.

4. "Motor Vehicle" shall mean a self-propelled vehicle designed principally to transport persons or property on a public roadway and includes a passenger car, van, station wagon, sports utility vehicle and truck. The terms does not include a:

- (A) trailer, semitrailer, house trailer, truck having a manufacturer's rating of more than one-half ton or road-building machine;
- (B) a device moved only by human power;

- (C) a device used exclusively on stationary rails or tracks;
- (D) a farm machine; or
- (E) a mobile office.

5. "Owner of a Motor Vehicle" shall mean a person named in the certificate of title as the owner of the Motor Vehicle, or a person who has the exclusive use of a Motor Vehicle and holds the Motor Vehicle for the purpose of renting it to another person.

6. "Rental" shall mean an agreement by the Owner of a Motor Vehicle to authorize for not longer than 30 days the exclusive use of that Motor Vehicle to another for consideration, where the transfer of possession of the Motor Vehicle occurs anywhere within the County.

SECTION 2.

(a) There is hereby levied and imposed a short-term motor vehicle rental tax at the rate of five percent (5.00%), a rate that is an increment of one-eighth of one percent (0.125%), on the rental of a Motor Vehicle within Lubbock County, Texas, consistent with the proposition authorizing the levy and collection of the short-term motor vehicle rental tax approved at the Election and applicable provisions of the Act. The exemptions as provided in Chapter 152, Subchapter E, Texas Tax Code, shall apply to the short-term motor vehicle rental tax imposed by this Order.

(b) The short-term motor vehicle rental tax imposed under this Section shall be calculated on the basis of the Gross Rental Receipts from Motor Vehicle Rentals within Lubbock County, Texas, consistent with the provisions of the Act.

(c) The short-term motor vehicle rental tax shall be collected beginning on July 1, 2019.

(d) In no event shall the short-term motor vehicle rental tax approved by the voters at the Election exceed five percent (5%) on the Gross Rental Receipts from Motor Vehicle Rentals with Lubbock County.

SECTION 3.

(a) The Owner of a Motor Vehicle who enters into a Rental of a Motor Vehicle with any other person shall collect the short-term motor vehicle rental tax imposed by this Order on behalf of the County.

(b) The Owner of a Motor Vehicle subject to the short-term motor vehicle rental tax imposed by this Order shall add such short-term motor vehicle rental tax to the Rental charge.

(c) Each bill or other receipt for a Motor Vehicle Rental subject to the short-term motor vehicle rental tax imposed by this Order shall contain a statement in a conspicuous locating stating:

LUBBOCK COUNTY REQUIRES THAT AN ADDITIONAL TAX OF 5.00% BE IMPOSED ON EACH MOTOR VEHICLE RENTAL 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 4.

(a) On the 20th day of the month following each month in which a short-term motor vehicle rental tax is earned, the Owner of a Motor Vehicle required by this Order to collect the short-term motor vehicle rental tax shall file a report with the County showing (1) the consideration paid for all Rentals in the preceding month; (2) the amount of short-term motor vehicle rental tax collected on the Rentals; 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 short-term motor vehicle rental tax taxes imposed by this Order.

(b) Every Owner of a Motor Vehicle required by this Order to collect the short-term motor vehicle rental tax shall pay short-term motor vehicle rental tax due on all Rentals 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 short-term motor vehicle rental tax by the next day that is a Business Day. If the short-term motor vehicle rental 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 Owner of a Motor Vehicle used for Rental purposes shall keep for four years records and supporting documents (except for mileage records, which are not required by this Order to be so maintained), containing (1) the amount of Gross Rental Receipts received from the Rental of the Motor Vehicle and (2) the short-term motor vehicle rental tax imposed by this Order and paid to the County on each Motor Vehicle used for rental purposes by the owner.

SECTION 5.

(a) Any Owner of a Motor Vehicle required to collect the short-term motor vehicle rental tax imposed by this Order who fails to report when required by this Order or who fails to pay the short-term motor vehicle rental tax when due and as required by this Order, shall pay a penalty of five percent (5%) of the amount of the short-term motor vehicle rental tax due. If the Owner of a Motor Vehicle fails to file the report or pay the short-term motor vehicle rental tax before the 30th day after the date that the report or tax payment was due, the Owner of the Motor Vehicle shall pay an additional penalty of five

percent (5%) of the amount of the short-term motor vehicle rental tax due. The penalties provided by this Subsection may never be less than \$5.00.

(b) A delinquent short-term motor vehicle rental tax draws interest on such short-term motor vehicle rental taxes and penalties due at the rate of ten percent (10%) per annum, beginning sixty (60) days after the date on which the short-term motor vehicle rental tax was due to the County.

(c) In addition to the amount of short-term motor vehicle rental tax, penalties and interest, the Owner of a Motor Vehicle is liable to the County for all costs and reasonable attorneys' fees incurred by the County in enforcing this Order against the Owner and in collecting any short-term motor vehicle rental 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 short-term motor vehicle rental tax imposed by this Order and who has failed to file a tax report or pay the short-term motor vehicle rental tax when due in order to either (1) collect the short-term motor vehicle rental tax not paid or (2) enjoin the Owner of a Motor Vehicle from operating a Motor Vehicle Rental Business in the County until the short-term motor vehicle rental tax is paid or the report is filed. This remedy is in addition to all other available remedies.

SECTION 6.

(a) 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 short-term motor vehicle rental tax, 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 short-term motor vehicle rental tax; 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.

(b) County staff is hereby directed to coordinate efforts with the County Tax Assessor-Collector to ensure the timely collection of the short-term motor vehicle rental tax 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. The County shall, upon giving reasonable notice to the Owner of a Motor Vehicle or the person operating the Motor Vehicle Rental Business, have access to all books and records necessary to enable the County or its designee to determine the correctness of any report filed as required by this Order and the amount of short-term motor vehicle rental taxes due under this Order.

SECTION 7.

- (a) If the Owner of a Motor Vehicle Rental Business that makes Rentals subject to the short-term motor vehicle rental tax imposed under this sells the business, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount of short-term motor vehicle rental 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 short-term motor vehicle rental tax is due to the County.
- (b) The purchaser of a Motor Vehicle Rental Business 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 Motel Vehicle Rental Business 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 short-term motor vehicle rental 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 8.

The proceeds of the short-term motor vehicle rental tax shall be deposited into the Venue Project Fund and may be used only for purposes authorized by the Act. The short-term motor vehicle rental taxes imposed by this Order shall remain in effect until amended or rescinded by the Commissioners Court of Lubbock County; however, the short-term motor vehicle rental taxes imposed by this Order shall not be effective after all bonds or other obligations issued to pay the costs of the Venue Project are paid in full.

SECTION 9.

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 10.

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 11.

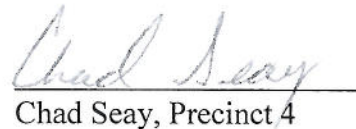
This Order shall be in full force and effect following its adoption and publication as specified herein.

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


Bill McCay, Precinct 1


Jason Corley, Precinct 2


Gilbert A. Flores, Precinct 3

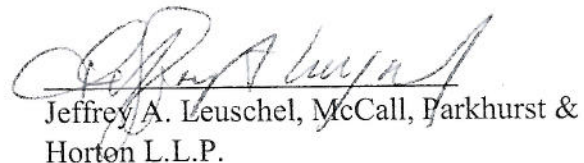

Chad Seay, Precinct 4


Curtis Parish, County Judge

ATTEST:


Kelly Pinion, County Clerk

APPROVED AS TO FORM:


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