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**CITY OF PALACIOS  
REGULAR CITY COUNCIL MEETING**

**AGENDA**

**THURSDAY, FEBRUARY 23, 2023  
6:00PM**

**REGULAR CITY COUNCIL MEETING**

**City of Palacios Council Chambers  
311 Henderson  
Palacios, Texas 77465**

**CALL TO ORDER:**

- a. Quorum Call.
- b. Invocation. Councilmember Schulman.
- c. Pledge of Allegiance to the United States Flag.
- d. Pledge of Allegiance to the Texas Flag.
- e. Pledge of Allegiance to the Palacios Flag.

**ANNOUNCEMENTS:**

*With respect to items not listed on this agenda, Council Members may announce community events, may announce community recognitions, may request specific factual information or a recitation of existing policy from staff, or may request placement of items on the Board agenda for discussion or action at a following meeting.*

- a. Mayor's Announcements
- b. Council Member's Announcements

**CITIZEN COMMUNICATION FORUM:**

*The public is invited to address the City Council and speak on any matter. Please note Council Members may not deliberate on topics not included on this agenda. The presentation shall be no longer than three (3) minutes.*

## PRESENTATION

**Performance Services** – Presentation by Performance Services of Round Rock, Texas on the water meter testing, accuracy, and plans for water meter replacing funding for the City. *Presented by Larry Jones, President, Performance Services*

## DISCUSSION AND ACTION ITEMS

1. **Minutes** Discuss and approve the minutes of the February 09, 2023, regular City Council Meeting.
2. **ALERT Grant Resolution No. 2023-R-10** Approve Resolution No. 2023-R-10 allowing the city to receive funds for the Palacios Police Department to attend training for active shooters. *Presented by Tammy McDonald.*
3. **Ratify HOT Tax Agreement in Support of the Chamber of Commerce and City by the Sea Museum** Ratify agreements between the city, Chamber of Commerce, and City by the Sea Museum. *Presented by Mayor Jim Gardner*

## ADJOURNMENT

### **AGENDA NOTICES:**

**Action by Council Authorized:** The City Council may vote and act upon any item within this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code Section 551.071, to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body if considered necessary and legally justified under the Open Meetings Act. The City Attorney may appear in person or appear in executive session by conference call in accordance with applicable state law.

**Attendance By Other Elected or Appointed Officials:** It is anticipated that members of other city boards, commissions, and committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions, and committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions, and committees of the City, whose members may be in attendance. The members of the boards, commissions, and committees may participate in discussions on the same items listed on the agenda, which occur at the meeting. Still, such in attendance will not take any action unless such item and action are expressly provided for on the agenda for that board, commission, or committee subject to the Texas Open Meetings Act.

**Executive Sessions Authorized:** This agenda has been reviewed and approved by the City's legal counsel, and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally addressed in the closed portion of the meeting considering public views of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c). The meeting is conducted by all participants in reliance on this opinion.

**Certification of Posting:** This is to certify that the above notice of a Regular Called Council Meeting was posted on the front bulletin board of the City Hall of the City of Palacios, Texas, on **Friday, February 17, 2023, before 6:00 PM**. If you have any questions concerning the above items, please contact City Manager Cynthia Raleigh at (361) 972-3605. This Notice was posted under the Texas Open Meeting Act (TEX.REV.CIV.STAT.ANN. Chapter 551) and recent guidelines from the Texas Attorney General.

**Posting of Agenda Packet:** The posting of the agenda packet on the City’s website is for transparency and convenience of the public. All documents such as ordinances and resolutions are presented in draft form in the packet and are presented to City Council for use in their deliberations at the council meeting. It is not the intent of the City Administration or City Council to consider the draft documents as adopted or not subject to revision. All draft documents discussed at duly called city council meetings will be revised pursuant to action taken at the meeting and the final form of such adopted documents are subject to review by the public through the public information act.

*Aleighta C. Galvan*

Aleighta C. Galvan, City Secretary

This facility is accessible in accordance with the Americans with Disabilities Act. Accessible parking spaces are available. If you require special assistance or have a request for sign interpretative services or other services, please call 361-972-3605 at least 24 hours before the meeting.

The next regular City Council meeting will  
be held on March 09, 2023, at 6:00 p.m.

**CITY OF PALACIOS, TEXAS**  
**REGULAR CITY COUNCIL MEETING**

**MINUTES**

**February 09, 2023**

**REGULAR CITY COUNCIL MEETING**

A regular City Council meeting was held by the City Council of the City of Palacios on February 09, 2023, at 6:00 p.m., in Council Chambers located at 311 Henderson, Palacios, Texas 77465.

**CALL TO ORDER**

*Mayor Jim Gardner called the City Council meeting to order at 6:02PM.*

**CERTIFICATION OF A QUORUM**

*Mayor Jim Gardner certified a quorum was present.*

**ATTENDANCE ROLL CALL**

*Mayor, Jim Gardner, Present  
Councilmember Place 6, Donna Schulman  
Councilmember Place 5, Raylynn Samora, Present  
Councilmember, Place 4, Troy Lewis, Absent  
Councilmember Place 3, Chip Woolf, Present  
Councilmember, Place 2, Sharon Trainor, Present  
Councilmember Place 1, Larry Glenn, Present*

**CITY STAFF IN ATTENDANCE:**

*Cynthia Raleigh, City Manager  
Anne Marie Odefey, City Attorney  
Tammy McDonald, Finance Director  
Aleigha Galvan, City Secretary  
Ryan Adams, Code Compliance  
Manuel Guevara, Public Works Foreman  
Sergeant Steven Johnson*

**INVOCATION & PLEDGES**

*Councilmember Samora led the Council, Staff, and Citizens in prayer and pledges to the U.S., Texas, and Palacios Flags.*

**ANNOUNCEMENTS:**

- Mayor's Announcements ~ Mayor Gardner notified Council and public of various events happening in the following months.

**CITIZEN COMMUNICATION FORUM:** ~ Public Comments

- To be done at item #7

**PRESENTATIONS:**

- **Update on Pending Litigation Regarding the Luther Hotel** Cause No. 23-H-0013 in the 23<sup>rd</sup> Judicial District Court of Matagorda County, Texas, Margaret Doughty and Edith Gower v. City of Palacios, Texas and the Estate of Harold Jack Findley. *Presented by City Attorney, Anne Marie Odefey. City Attorney, Odefey, let Council know the District Judge, Ben Harden has dismissed the City of Palacios from the current lawsuit.*
- **City Manager Update** Updates on ongoing projects in the city. *Raleigh updated Council on the following items: Water plant upgrades and repairs by Mercer Controls, fire hydrants project, smoke test repairs, airport projects, burn site, website, records management, team organization, Bethany Park lift station, bridge repairs, golf cart tags, gradall repair, mini excavator and trailer purchase, Bethany Park street repair project, police department/ court lobby, collaboration with*

*other communities, windstorm insurance, employee health insurance, FOEC building, infrastructure funding, golf cart signage, downtown sidewalks, downtown sewer line project and lift station, Bethany Park drainage, water meter testing, generator well No. 4, and vehicle safety.*

**DISCUSSION AND ACTION ITEMS:**

1. **Minutes** Discuss and approve the minutes of the January 26, 2023, regular City Council Meeting. *Motion to approve the January 26<sup>th</sup> minutes of the regular City Council Meeting made by Councilmember Schulman. Seconded: Councilmember Trainor. Passed Unanimously.*

*ITEM #7 WAS MOVED TO BE DISCUSSED BEFORE ACTION ITEMS 2-6*

**CITIZEN'S FORUM**

1. *James Folse, Bay City Mayor Pro Tem, gave support of TIRZ for the City of Palacios. He answered questions from Council about the success of the program for the City of Bay City.*
2. *Becca Sitz, Bay City Councilmember, spoke about the success of the TIRZ program in the City of Bay City, and gave suggestions to Council about how to implement the program in Palacios.*

**DISCUSSION AND ACTION ITEMS (Cont.):**

7. **TIRZ #1** Discuss and approve next steps in moving forward with TIRZ. *Presented by D.C. Dunham. Dunham explained to Council about the TIRZ program in Bay City, and the different projects it has produced.. Council asked questions and for information on how the program works. Dunham passed out a TIRZ map of Matagorda. (SEE ATTACHMENT "A") Council asked for more information on the subject. Dunham explained the need to address the first steps is most important. Councilmember Trainor made a motion to move forward with TIRZ. Councilmember Woolf made an amended motion to move forward by having the consultant make a presentation to Council by TIRZ 101 at the city's expense. Seconded by Councilmember Schulman. Passed unanimously.*
2. **Approve PEDC Bert West Small Business Development Grant Project.** Approve final reading of Resolution No. 2023-R-07 approving the PEDC's Bert West Small Business Development Grant Project and declaring an effective date. *Thomas A. Gwosdz, Attorney for the PEDC. Councilmember Woolf made a motion to accept the Final Reading of Resolution No. 2023-R-07. Seconded by Councilmember Glenn. Passed unanimously.*
3. **Resolution No. 2023-R- 08 Borderstar Grant Authorization** Discuss and approve Resolution No. 2023-R-08 granting overtime funds for police officers who work the border initiative in the City of Palacios for the 2023-2024 year. *Presented by Tammy McDonald. Councilmember Schulman asked that the public be made aware of this program. Chief Bias sent word through the City Secretary that he would do a write up in the Palacios Beacon to notify the public. Motion made by Councilmember Glenn to approve Resolution No. 2023-R-08. Seconded by Councilmember Samora. Passed Unanimously.*
4. **January Financials, Bills Paid, and Grant Update** Discuss and approve the January 2023 financials and bills paid. *Presented by Tammy McDonald. Councilmember Glenn asked to speak with Tammy McDonald at a later time to discuss these in person. Councilmember Trainor made a motion to accept the reports as written. Seconded by Councilmember Samora. Passed Unanimously.*
5. **Bethany Park Lift Station Project** approve repairs to Liftstation pumps at Bethany Park by Hahn Equipment *Presented by City Manager, Cynthia Raleigh. Councilmember Glenn made a motion to accept repairs to liftstation pumps at Bethany Park by Hahn Equipment. Seconded by Councilmember Samora. Passed unanimously.*
6. **Ratify Special Agreement with the Outrigger Event Center** Approve rental of the Palacios Pavilion for the Outrigger Event Center for a 10-month period. *Presented by Mayor Gardner. Councilmember Schulman asked about the property being surplus. City Manager, Raleigh, explained the situation to Council. Council discussed the portion of the contract regarding alcohol*

*and security. Councilmember Glenn made a motion to accept the Pavilion Agreement with the Outrigger Event Center. Seconded by Councilmember Schulman. Passed Unanimously.*

**ADJOURNMENT**

*Meeting Adjourned by Mayor Gardner at 8:17 PM.*

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Jim Gardner, MAYOR

ATTEST:

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Aleighta Galvan, CITY SECRETARY

**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** February 23, 2023  
**Department:** Finance/HR Manager  
**Subject:** ALERRT GRANT - PD

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**BACKGROUND**

The City of Palacios previously applied and was awarded the ALERRT Grant. This grant covers expenses related to taking Active Shooter Level 1 class, including mileage, costs of hotel, cost of meal, and overtime worked to cover shifts of officers taking classes.

**GOALS**

The goal of the grant is to make sure that all officers are trained for active shooters.

**FISCAL IMPACT**

The fiscal impact for the City of Palacios is having trained officers for any possible active shooter situations with no cost to the city.

**RECOMMENDATION**

Staff recommends that the city approve the attached resolution so that the Police Department may be reimbursed for these expenses.

**ATTACHMENT**

See attached Resolution 2023-R-10 Authorizing Mayor as signatory for this grant.

**RESOLUTION 2023-R-10**

**WHEREAS**, The City of Palacios finds it in the best interest of the citizens of Palacios, that the ALERRT Program be operated for the 2023 year; and

**WHEREAS**, City of Palacios agrees to provide no match for the said project as no match is required by the AL-ALERRT Law Enforcement Training grant application; and

**WHEREAS**, City of Palacios agrees that in the event of loss or misuse of the Office of the Governor funds, City of Palacios assures that the funds will be returned to the Office of the Governor in full.

**WHEREAS**, City of Palacios designates Jim Gardner, Mayor as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter, or terminate the grant on behalf of the applicant agency.

**NOW THEREFORE, BE IT RESOLVED** that City of Palacios approves submission of the grant application for the FY 23 ALERRT Travel Assistance to the Office of the Governor.

Signed by:

Passed and approved this 23rd of February 2023

Grant Number: 4641001

**Commented [am1]:** The Grant Number (ex: 1650304) can be found in eGrants after you create a new or continuation funding solicitation.

Signed By:

Witnessed By:

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Jim Gardner, Mayor

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Aleigha Galvan, City Secretary



**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** February 23, 2023  
**Department:** Finance/HR Manager  
**Subject:** Hot Tax Promotion Service Agreement

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**BACKGROUND**

The City of Palacios extended a contract from Hot Tax for promotional services from the Palacios Chamber of Commerce.

**GOALS**

The goal of the agreement is to promote Palacios and encourage visitors to stay in Palacios overnight.

**FISCAL IMPACT**

The fiscal impact for the City of Palacios will be an increase in Hot Tax.

**RECOMMENDATION**

Staff recommends that the city approve the attached agreement.

**ATTACHMENT**

See attached contract between City of Palacios and Palacios Chamber of Commerce.

**Promotion Service Agreement  
For Hotel/Motel Tax Revenue  
Between the City of Palacios  
and the Palacios Chamber of Commerce**

This Promotion Service Agreement (the “Agreement”) is entered into this day between the City of Palacios, Texas, 311 Henderson Ave., Palacios, Texas, a municipal corporation (the “City”), acting by and through its duly authorized City Manager, and the Palacios Chamber of Commerce, a non-profit corporation (the “Promoter”), acting by and through its duly authorized Chairman.

**Recitals**

**Whereas** pursuant to Tex. Tax Code § 351.001 et. seq., the City levies a tax upon hotel and motel occupancy within the City, whose proceeds may be used only for the promotion of tourism and the convention and hotel industry in the City;

**Whereas** the Promoter has submitted to the City a proposal for the Palacios Advertising Brochures (the “Activities”), which the City Council has found to be a permitted use of hotel occupancy tax revenue under Tex. Tax Code § 351.101; and

**Whereas** the City may, through a written contract, delegate the management and supervision of those Activities funded by said hotel and motel occupancy tax, according to Tex. Tax Code § 351.101(c).

**Now therefore**, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

**Article 1  
Promotional Activities**

1.1. **Formation.** City engages Promoter to administer the hotel occupancy tax funds granted for the activities herein described. Promoter accepts such engagement and shall discharge such duties in accordance with Chapter 351 of the Texas Tax Code and the terms and conditions herein set forth.

1.2. **Term.** The term of this Agreement shall be from the date of its execution to September 30, 2023 unless sooner terminated in writing by City.

1.3. **Termination.** It is understood and agreed that either party may terminate this Agreement by giving the other party notice in writing at least 30 days in advance of the first day of a calendar quarterly period. Such termination shall become effective at the end of the calendar quarterly period following such notice.

**Article 2  
Promoter’s Responsibilities**

2.1. **Promotional Activities.** Promoter shall promote tourism and the convention and hotel/motel industry between the effective date of the Agreement and September 30, 2023 by completing the Activities in accordance with the budget attached hereto as Exhibit “A”.

2.2. **No Commingling of Funds.** As a part of the Activities, Promoter shall maintain revenue provided under this Agreement in a separate account established for that purpose and may not commingle that revenue with any other money. The Promoter acknowledges that execution of this Agreement creates a fiduciary duty in the Promoter under state law with respect to the revenue provided by this Agreement.

2.3. **Documentation.** Promoter shall maintain complete and accurate records of each expenditure of hotel occupancy tax revenue made by the Promoter and, on request of the City, shall make

the records available for inspection and review to the City. The City may, upon reasonable notice, audit all books and records of Promoter pertaining to the Activity. Promoter shall be required to keep such records available for such purpose at least two years after the expiration of this Agreement.

2.4. **Quarterly Reporting.** During the term of the Agreement, the Promoter shall provide a written report detailing the expenditures made from the Hotel Occupancy Funds received under the Agreement (the “Quarterly Report”). Such report shall be submitted to the City at least quarterly and shall be delivered to the City Secretary no later than 30 days after the conclusion of the each calendar quarter. By way of example, such report for activities during the first calendar quarter – January 1 through March 31 – shall detail expenditures during the first calendar quarter, and shall be due on or before April 30. Each Quarterly Report shall include, at a minimum, the amount, date, payee, and purpose of each expenditure, organized in the same manner as the Budget attached hereto as Exhibit “A”.

### **Article 3 City’s Responsibilities**

3.1. **Payment.** City agrees to pay an amount equal to **\$10,000.00** to Promoter from the revenue the City receives from the hotel occupancy tax. This total amount shall be paid within 30 days after execution of this Agreement. All revenue payments under this Agreement are subject to reversion in accordance with Paragraph 3.3, below.

3.2. **Allocated Funds.** Payments from the City to Promoter are subject to funds being appropriated by the City Council for the express purpose of purchasing the services provided for in this Agreement. Funds are allocated from the City’s fiscal year budget cycle.

3.3. **Audit.** In addition to required reports covering Activities and expenditures of Promoter, the City may request a certified audit within 180 days of the closing of Promoter’s fiscal year. Such audit, if requested, shall be at the expense of the Promoter, and shall be completed within 90 days of the City’s request. The auditors performing the audit shall have access to and the right to examine all records and accounts directly related to the program and such other Promoter records and accounts as may be reasonably necessary to conduct and complete its audit.

Should either the independent audit or a decision of any court of competent jurisdiction determine that funds provided to Promoter by City under this Agreement have been spent improperly, Promoter shall immediately return all said funds, plus a reasonable rate of interest that shall accrue from the time of original disbursement to the time of return to the City. Any such misuse of funds shall be considered a material breach of this Agreement and the City, at its sole option, may immediately declare this Agreement null and void.

### **Article 4 Miscellaneous**

4.1. **Parties in Interest.** This Agreement shall bind and benefit the City and Promoter and shall not bestow any rights upon any third parties.

4.2. **Mutual Cooperation.** City and Promoter agree to cooperate fully with one another and to coordinate their efforts in order to ensure that the conditions of this Agreement are fulfilled and to ensure optimal encouragement and promotion of the tourism and the convention and hotel industry within the City. In order to expedite the conditions of the Agreement and to effect economies of scale, the parties agree to keep each other fully informed of their plans, operations, and activities and wherever possible to coordinate fully their efforts to promote and otherwise undertake the encouragement and promotion of the tourism and the convention and hotel industry within the City.

4.3. **Ability to Contract with Others.** Nothing in this Agreement shall in any way limit either party from contracting with other persons or organizations for the encouragement, promotion, and solicitation of tourism and conventions for the City.

4.4. **No Obligation for Additional Funds.** Nothing in this Agreement shall in any way place any obligation on any other funds or sources of revenue of the City and nothing herein shall create any lien or other obligation on any other sources of income, revenues or funds of the City. The obligations of the City provided by this Agreement are payable only from the hotel occupancy tax revenue receipts fund. The City, at its sole option, may further subordinate the obligations of the City hereunder to other present and future obligations of the City.

4.5. **Independent Contractor.** Promoter is engaged as an independent contractor and is not an officer, agent or employee of the City in regard to its operations and actions. Promoter shall select and employ such persons as it may deem necessary to fulfill its obligations and responsibilities under this Agreement. Said persons shall be at all times employees, contractors or agents of Promoter and shall not be officers, agents or employees of the City. The power to hire, manage, supervise, direct, and discharge such persons shall be vested solely and exclusively with Promoter. The City shall not manage, direct, supervise or discharge said persons or direct them in the performance of their duties for Promoter under this Agreement.

4.6. **Indemnification.** Promoter agrees to indemnify, save harmless and defend the City and the City's officers, agents, and employees from any and all claims, causes of action and damages of every kind arising from the operations of Promoter and Promoter's officers, agents and employees, carried out in furtherance of this Agreement.

4.7. **Notices.** All written notices must be made by certified mail, return receipt requested, and shall be addressed to the applicable parties, or their successors in office, at the following addresses:

City Manager	Sally Kurtz
City of Palacios	Palacios Chamber of Commerce
311 Henderson Ave.	420 Main St.
Palacios, Texas 77465	Palacios, Tx. 77465
361-972-3605	361-972-2615

4.8. **Conflict of Interest.** No member of the City Council, the Board of Directors of Promoter, or any member of any other City board or any appointive officer or employee of the City shall ever be pecuniarily interested, directly or indirectly, in this Agreement except on behalf of the City or Promoter as an officer or employee. Any violation of this Section with the knowledge, express or implied, of the person involved shall render this Agreement voidable by the City Manager or City Council.

4.9. **Texas Public Information Act.** Promoter acknowledges that it is "an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds" for purposes of the application of Tex. Gov't Code § 552.

4.10. **Time.** Time is of the essence in the performance of the terms of this contract.

[SIGNATURE PAGE FOLLOWS]

EXECUTED, this \_\_\_\_ day of \_\_\_\_\_, 2023 in Matagorda County, Texas.

**City of Palacios**

**Palacios Chamber of Commerce**

\_\_\_\_\_  
**Cindy Raleigh**, City Manager

\_\_\_\_\_  
**Sally Kurtz**, Chamber Chairman

(seal)

Attest:

Attest:

\_\_\_\_\_  
**Aleighta Galvan**, City Secretary

\_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Printed Name & Title

\_\_\_\_\_  
**Thomas A. Gwosdz**, City Attorney

**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** February 23, 2023  
**Department:** City Council  
**Subject:** Hot Tax Agreements

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**BACKGROUND**

Historically, the City of Palacios Economic Development Corporation has supported the Chamber of Commerce through HOT Funds in the amount of \$10K yearly for advertising and promotions of the City of Palacios. In the last fiscal year, the HOT Tax funds were placed back under the direction of the City Council instead of the Economic Development Corporation. In doing so, our legal counsel advised that any HOT Tax Funds distributed must accompany an agreement between the city and the recipient of said funds.

The City of Palacios provided \$10K toward the City by the Sea Museum in October 2022 in HOT Tax Funds for their advertising campaign of special events that will bring tourism to the City of Palacios. Legal Counsel advised that an agreement needed to be ratified now that funds were distributed to the museum.

The Chamber of Commerce is requesting \$10K in funding from HOT tax to support their advertising and promotional efforts. The funds have not yet been distributed. Action tonight would ratify the agreement with the museum, approve the agreement with the Chamber, and approve the distribution of funds to the Chamber of Commerce.

**GOALS**

To enter into an agreement with the Chamber of Commerce for HOT Tax fund distribution in the amount \$10,000 for this fiscal year and to ratify an agreement with the City by the Sea Museum for funds distributed in October 2022.

**FISCAL IMPACT**

\$10,000 to the City by the Sea Museum – paid for from HOT Tax

\$10,000 to the Chamber of Commerce – to be paid for from HOT Tax

The budget for HOT Tax for fiscal year 2022-23 is \$55,000 with \$13,437.55 used to date, leaving a balance of \$41,562.50.

The conceptual idea of HOT Tax funds for advertising is that the fund balance will increase due to expenditures for advertising and bringing tourism to Palacios that will result in “heads in beds” with more hotel tax revenue.

**RECOMMENDATION**

Staff recommends that the city ratify the agreement with the City by the Sea Museum, and approve the agreement with the Chamber of Commerce providing for \$10,000 in HOT Tax funds.

**ATTACHMENT**

HOT Tax agreements between the City, the City by the Sea Museum and the Chamber of Commerce

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For Hotel/Motel Tax Revenue  
Between the City of Palacios  
and the Palacios Museum**

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**Whereas** pursuant to Tex. Tax Code § 351.001 et. seq., the City levies a tax upon hotel and motel occupancy within the City, whose proceeds may be used only for the promotion of tourism and the convention and hotel industry in the City;

**Whereas** the Promoter has submitted to the City a proposal for the Forrest Bess Exhibition and Gala (the “Activities”), which the City Council has found to be a permitted use of hotel occupancy tax revenue under Tex. Tax Code § 351.101; and

**Whereas** the City may, through a written contract, delegate the management and supervision of those Activities funded by said hotel and motel occupancy tax, according to Tex. Tax Code § 351.101(c).

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2.3. **Documentation.** Promoter shall maintain complete and accurate records of each expenditure of hotel occupancy tax revenue made by the Promoter and, on request of the City, shall make the records available for inspection and review to the City. The City may, upon reasonable notice, audit all



books and records of Promoter pertaining to the Activity. Promoter shall be required to keep such records available for such purpose at least two years after the expiration of this Agreement.

2.4. **Quarterly Reporting.** During the term of the Agreement, the Promoter shall provide a written report detailing the expenditures made from the Hotel Occupancy Funds received under the Agreement (the “Quarterly Report”). Such report shall be submitted to the City at least quarterly and shall be delivered to the City Secretary no later than 30 days after the conclusion of the each calendar quarter. By way of example, such report for activities during the first calendar quarter – January 1 through March 31 – shall detail expenditures during the first calendar quarter, and shall be due on or before on April 30. Each Quarterly Report shall include, at a minimum, the amount, date, payee, and purpose of each expenditure, organized in the same manner as the Budget attached hereto as Exhibit “A”.

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Should either the independent audit or a decision of any court of competent jurisdiction determine that funds provided to Promoter by City under this Agreement have been spent improperly, Promoter shall immediately return all said funds, plus a reasonable rate of interest that shall accrue from the time of original disbursement to the time of return to the City. Any such misuse of funds shall be considered a material breach of this Agreement and the City, at its sole option, may immediately declare this Agreement null and void.

### **Article 4 Miscellaneous**

4.1. **Parties in Interest.** This Agreement shall bind and benefit the City and Promoter and shall not bestow any rights upon any third parties.

4.2. **Mutual Cooperation.** City and Promoter agree to cooperate fully with one another and to coordinate their efforts in order to ensure that the conditions of this Agreement are fulfilled and to ensure optimal encouragement and promotion of the tourism and the convention and hotel industry within the City. In order to expedite the conditions of the Agreement and to effect economies of scale, the parties agree to keep each other fully informed of their plans, operations, and activities and wherever possible to coordinate fully their efforts to promote and otherwise undertake the encouragement and promotion of the tourism and the convention and hotel industry within the City.

4.3. **Ability to Contract with Others.** Nothing in this Agreement shall in any way limit either party from contracting with other persons or organizations for the encouragement, promotion, and solicitation of tourism and conventions for the City.

4.4. **No Obligation for Additional Funds.** Nothing in this Agreement shall in any way place any obligation on any other funds or sources of revenue of the City and nothing herein shall create any lien or other obligation on any other sources of income, revenues or funds of the City. The obligations of the City provided by this Agreement are payable only from the hotel occupancy tax revenue receipts fund. The City, at its sole option, may further subordinate the obligations of the City hereunder to other present and future obligations of the City.

4.5. **Independent Contractor.** Promoter is engaged as an independent contractor and is not an officer, agent or employee of the City in regard to its operations and actions. Promoter shall select and employ such persons as it may deem necessary to fulfill its obligations and responsibilities under this Agreement. Said persons shall be at all times employees, contractors or agents of Promoter and shall not be officers, agents or employees of the City. The power to hire, manage, supervise, direct, and discharge such persons shall be vested solely and exclusively with Promoter. The City shall not manage, direct, supervise or discharge said persons or direct them in the performance of their duties for Promoter under this Agreement.

4.6. **Indemnification.** Promoter agrees to indemnify, save harmless and defend the City and the City's officers, agents, and employees from any and all claims, causes of action and damages of every kind arising from the operations of Promoter and Promoter's officers, agents and employees, carried out in furtherance of this Agreement.

4.7. **Notices.** All written notices must be made by certified mail, return receipt requested, and shall be addressed to the applicable parties, or their successors in office, at the following addresses:

City Manager	Esmerelda Salinas
City of Palacios	Palacios Museum
311 Henderson Ave.	401 Commerce St.
Palacios, Texas 77465	Palacios, Tx. 77465
361-972-3605	361-972-1148

4.8. **Conflict of Interest.** No member of the City Council, the Board of Directors of Promoter, or any member of any other City board or any appointive officer or employee of the City shall ever be pecuniarily interested, directly or indirectly, in this Agreement except on behalf of the City or Promoter as an officer or employee. Any violation of this Section with the knowledge, express or implied, of the person involved shall render this Agreement voidable by the City Manager or City Council.

4.9. **Texas Public Information Act.** Promoter acknowledges that it is "an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds" for purposes of the application of Tex. Gov't Code § 552.

4.10. **Time.** Time is of the essence in the performance of the terms of this contract.

[SIGNATURE PAGE FOLLOWS]

EXECUTED, this \_\_\_\_ day of \_\_\_\_\_, 2023 in Matagorda County, Texas.

**City of Palacios**

**Palacios Museum**

\_\_\_\_\_  
**Cindy Raleigh**, City Manager

\_\_\_\_\_  
**Esmelda Salinas**, Director

(seal)

Attest:

Attest:

\_\_\_\_\_  
**Alegha Galvan**, City Secretary

\_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Printed Name & Title

\_\_\_\_\_  
**Thomas A. Gwosdz**, City Attorney