

TO: Honorable Mayor and Members of the City Council  
From: Paul A. Hofmann, City Manager  
Date: November 5, 2021  
Subject: Weekly Memo, October 31, – November 5, 2021



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**Personnel Updates**

Victor Brown, Parks Maintenance Specialist, received his Backflow Prevention Assembly Tester License and has started testing backflows for the Water division of Public Works.

Jeff White began his employment with the City of Bastrop on Monday, November 1 as our new Parks Superintendent.

**Upcoming Training**

**TML Economic Development Conference**

Date: November 11, 2021 – November 12, 2021  
Time: All Day  
Location: Bastrop

**TML-TAMCC Elected Officials’ Conference**

Date: February 2, 2022 - February 4, 2022  
Time: All Day  
Location: Sugar Land

**City Hall Essentials – Municipal Fundamentals Seminar**

Date: December 3, 2021  
Time: 8:00 a.m. – 4:15 p.m.  
Location: GoTo Platform

**New Banners**

The Main Street Advisory Board’s Design Committee has continued its efforts in beatification of downtown by rebranding the city parking lots and updating the Old Iron Bridge flags. The committee, in partnership with the Bird City Coalition, has renamed each parking lot after a native bird, which include Pine Warbler Lot, Cardinal Lot, Wild Turkey Lot, Blue Heron Lot, and Barred Owl Lot. New parking banners have been designed with a graphic of each bird and its name. In addition, each lot has been designated a color to coincide with the Downtown Bastrop color scheme.

The Old Iron Bridge flags were reimaged for visibility and strength due the river’s high winds. The size of the flags was doubled for visibility and aesthetic and each pole will be double flagged. Flags were perforated and new high wind brackets were installed to handle the high winds from the bridge. The bridge flags welcome the public as they enter in to Downtown saying “Come”, “Explore,” “Historic,” “Downtown,” and “Bastrop.” As they leave it says “Y’all,” “Come,” “Back,” and “Again.” The additional flags will display “Sip,” “Shop,” “Play”, “Eat,” and a Riverwalk Directional.

Funding for the projects were budgeted through the Main Street beautification budget as part of the Design Committee workplan. The plan is that flags along Chestnut and the bridge will be changed every two years or as they become worn. The installation of the new high wind brackets will allow banners to sway, prolonging banner use.

### **November 11 Farm Street Village Neighborhood Meeting**

The developer for the proposed Farm Street Village project, for which Council held a public hearing on October 26, has scheduled a November 11 meeting to present the proposed plan to the neighboring community.

Please let us know early Monday if you plan to attend. We won't post it as a City Council meeting unless a quorum attends. The meeting is a good chance for discussion between the developer and neighbors. I would advise Council Members to not attend, to let the discussion happen, and allow the developer to present her reaction to the November 11 meeting when it comes back to the City Council, currently scheduled for December 14.

### **Bastrop County EMS Committee**

County Judge Paul Pape has recently convened two meetings of the committee responsible for reviewing the County-wide EMS services contract and contractor performance and making recommendations for moving forward. Fire Chief Rosales, Police Chief Nagy, and I serve on the committee. The current contract runs through the end of May 2022.

Committee members, including the two chiefs and I, have made suggestions for increasing the service level standards described in the current contract. Among the issues raised by Bastrop representatives are response time requirements (currently 10 minutes for the city limits), and the current contractual "cap" on penalties for falling below response time requirements. We have also suggested the contractor be required to keep a minimum number of adequately equipped ambulances in the service area at all times. Our suggestions correspond with what our research indicates to be best practice, and our understanding of recent practice in the region. Of course, the objective is to tighten our standards at no cost to taxpayers.

Chiefs Nagy and Rosales bring very helpful real-world experiences and examples to the discussion.

### **2021 National Amateur Disc Golf Tournament Championship**

The National Championship games were held in Austin with 1,300 players from all over the US. Bastrop locals, Melody and Aria Castruita participated in the tournament, with Aria claiming the 2021 championship!

### **Scheduled Time Out of Office**

I will be in Austin on Friday, December 3 co-presenting a "train the trainer" session required for Texas City Management Association members to be certified trainers on the TCMA code of ethics.

### **Veterans Weekend Car Show**

The 15<sup>th</sup> Annual Veterans Weekend Car Show presented by the Bastrop Area Cruisers is coming up Friday, November 12 with the Cruise In, starting at 4 p.m. & Saturday, November 13 with the Car Show from 7 a.m. – 3 p.m. and the Veterans March & Tribute from 10:30 a.m.– noon.

## **Future Agenda Items**

December 14, 2021

- Presentation of Strategic Planning Calendar
- Water Plant Construction Manager at Risk Contract
- Budget amendment FY2022
- 2022 Council Meeting Schedule
- Zoning Concept scheme 2<sup>nd</sup> reading Farm Street Village
- Pecan Park Commercial Planned Development
- Contract for Maintenance, Mowing and Landscaping Services for City Buildings and ROW's
- BCAD Board of Directors Election

January 11, 2022

- 2<sup>nd</sup> reading amending budget FY2022
- Texas Combination Tax and Revenue Certificates of Obligation
- XS Ranch consent agreement to new owners
- Homeland Security Grant contract
- Emergency Management Performance Grant

## **Attachments**

- Aria Castruita Photo
- November 11 Farm Street Village meeting
- TML Legislative Update Number 42

**NATIONAL  
CHAMPIONSHIP**



**ARIA CASTRUITA**

**2021 CHAMPION**

Farm Street Village  
*1500 Farm Street Bastrop, TX*  
**Neighborhood Meeting**

The purpose of this letter is to invite you to attend a neighborhood meeting on Thursday November 11, 2021, at the Bastrop Convention Center, 1408 Chestnut St, Bastrop, TX 78602 from 5:00 pm to 7:00 pm.

The purpose of this meeting is for us to hear comments from the neighborhood regarding our proposed residential development, Farm Street Village located at 1500 Farm Street, and for the neighborhood to learn more about the development. Everyone is welcome and encouraged to attend.

Please join us on November 11th to share your valuable feedback and hear from your other neighbors and us about Farm Street Village.

If you have any questions about this informational meeting, please contact Sallie Burchett at [sallie@structuretexas.com](mailto:sallie@structuretexas.com) or 512.473.2527.



# Legislative UPDATE

November 5, 2021  
Number 42

## **Post-Session Update: Procurement**

A number of procurement bills passed during the 2021 regular session. For example, [H.B. 692](#) relates to construction contract retainage. Among many other things, it provides that: (1) if the total value of a public works contract is less than \$5 million, a governmental entity may not withhold retainage in an amount that exceeds 10 percent of the contract price; and (2) if the total value of a public works contract is \$5 million or more, a governmental entity may not withhold retainage in an amount that exceeds five percent of the contract price. Those limitations also apply to the rate of retainage for any item in a bid schedule or schedule of values for the project, including materials and equipment delivered on site to be installed.

In addition, three “anti-boycott” bills passed. (Some city officials may recall similar legislation from 2017 relating to contracting with companies that boycott Israel.) Those bills, [S.B. 13](#), [S.B. 19](#), and [S.B. 2116](#), govern contracts related to energy companies, firearms companies, and China, Iran, North Korea, Russia, or other designated countries, respectively.

The League’s “[Municipal Procurement Made Easy](#)” publication has been updated to reflect the new laws listed above and more.

## **COVID-19 Update (No. 207)**

All pandemic-related updates, including information about the American Rescue Plan's city-related provisions, will be in the [Legislative Update Newsletter](#) from now on.

### **ARPA Funding Agreements for Non-Entitlement Cities**

TML has received inquiries from a few non-entitlement cities (cities under 50,000 population) regarding potential unanticipated consequences that might flow from acceptance of the [American Rescue Plan Act / Coronavirus Local Fiscal Recovery grant funding](#). Specifically, concerns have been raised that acceptance of these funds will obligate cities who accept the funds (Recipient Cities) to enforce potential future state or federal COVID-19 vaccine mandates or other regulations. The bottom line is that whether a city will be subject to future state or federal rules and regulations is disconnected to accepting ARPA/CLFR funds today.

To receive the ARPA/CLFR funds, a non-entitlement Recipient City must enter an American Rescue Plan Act Coronavirus Local Fiscal Recovery Fund Agreement (Agreement) with the Texas Division of Emergency Management (TDEM). That Agreement sets the terms by which the non-entitlement Recipient City receives its allotment of ARPA/CLFR funding. The questions TML has received relate to the scope of statements in the Agreement such as “the Recipient and the Division will be governed by all applicable state and federal laws, rules and regulations” as well as, “... other applicable federal statutes, regulations, and executive orders” and whether such statements will be used to force a state or federal COVID-19 vaccine mandate on non-entitlement Recipient Cities. The short answer to the question is likely “no,” and a few reasons are discussed below.

1. Texas cities are already subject to “applicable” state and federal law. The Agreement does not create new laws to apply to Texas cities; rather, it restates the current rule: Texas cities must follow applicable state and federal law. Keep in mind as well that future legislation or regulation need not be tied to receipt of ARPA/CLFR funds to be binding. Declining ARPA/CLFR grant funding guarantees only that the city will not receive those funds. It does not guarantee protection from future legislation.
2. The Agreement is quite specific with regard to much of the “applicable” law. The Agreement cites specific sections of the Code of Federal Regulation that apply to all federal grant funding, the Americans with Disabilities Act, the Civil Rights Act of 1964, and the American Rescue Plan Act as being specifically applicable, and as stated above, those laws are already applicable to Texas cities. There are no additional specific requirements related to COVID-19 vaccinations or masking contained in the Agreement. The Agreement states that the Department of the Treasury may impose additional conditions on the receipt of a “subsequent tranche” of future award funds, and if that is the case, Texas cities will know in advance and can reject the funds if those additional terms are too onerous.
3. There are currently no federal COVID-19 mandates that apply to Texas cities, and ARPA funding does not change this. The current Presidential Executive Orders related to federal contracting and the Presidential directive related to mandatory COVID-19 vaccination are likely not applicable to Texas cities. Please review [TML's previous analysis of the](#)

[President's Executive Orders](#) related to federal contracting and COVID-19 vaccines, which likely do not directly apply to Texas cities.

4. The Agreement is between the non-entitlement Recipient City and TDEM, and TDEM is the agency that enforces the Agreement. The Agreement does not create a contractual relationship between the non-entitlement Recipient City and any department or division of the federal government.

Ultimately, the Agreement and the receipt of ARPA/CLRF funding likely does not increase a city's exposure to regulations from the state or federal governments, and declining the funds does not insulate cities, either. The truth is that if the state or federal government wishes to mandate COVID-19 vaccines or other regulations, they can attempt to do so regardless of whether a city has accepted these grant funds. We encourage city officials to read through their city's Agreement and call their city attorney or the TML Legal Services Department with any questions or concerns.

### **American Rescue Plan Act Funds**

As a reminder, the Texas Division of Emergency Management maintains its [Coronavirus Local Fiscal Recovery Fund FAQ](#) with guidance related to the ARPA/CLFR fund program.

The U.S. Treasury Department's Coronavirus State and Local Fiscal Recovery Funds FAQ contains a number of questions and answers related to eligibility for recovery funds and eligible uses of recovery funds and can be accessed [here](#).

The National League of Cities also maintains an ARPA-related FAQ which can be found [here](#).

**Reminder:** TML Coronavirus materials are archived by date here and by subject here.

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