

To the Mayor and Members of the City Council**August 3, 2021**

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**SUBJECT: SALES TAX OVERPAYMENTS**

The City of Fort Worth has entered into four repayment agreements with the State of Texas Comptroller's Office since 2011 for sales tax overpayments credited to the City of Fort Worth (City) and the Fort Worth Crime Control and Prevention District (CCPD). The purpose of this report is to provide a summary of the repayment agreements.

The overpayments in question occurred over two separate periods: the first between 1988 and 2004; the second between 2008 and 2017. Both were the result of tax payers remitting sales tax collections for goods/services that were later deemed exempt from state sales tax. In each instance, the overpayment was confirmed through court proceedings resulting from litigation by the respective tax payer(s). Following each court settlement, the Comptroller's office performed an audit to ensure the overpayment findings were accurate. Following each audit, the Comptroller's office and the City reached a repayment agreement—the terms of which are summarized below.

Individual tax payer information is considered confidential. Therefore, in conformance with state law, the information disclosed to the City does not include any identifying information about the individual tax payer.

2011 Repayment Agreement

The State Comptroller notified the City of a cumulative \$12,923,183 overpayment of sales taxes that occurred between 1988 and 2004. The General Fund portion of the overpayment totaled \$9,306,918, while the Crime Control & Prevention District portion totaled \$3,616,265. In August 2011 the City and Comptroller's Office reached a repayment agreement whereby the City and CCPD would repay the overpaid amount over a 240 month period ending in June 2032.

The agreement stipulated that (1) the City would make 239 monthly payments in the amount of \$38,778, following an initial payment of \$38,976; and (2) CCPD would make 239 monthly payments of \$15,067, following an initial payment of \$15,252. No fees or interest charges were applied to the repayments.

The Comptroller's Office deferred monthly payments pursuant to this agreement between April 2020 and January 2021 to help alleviate the strain on local governments due to the COVID-19 pandemic. Monthly deductions resumed in February 2021 and are scheduled to continue through April 2033.


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2021 Repayment Agreement

The State Comptroller notified the City of a cumulative \$18,620,544 overpayment of sales taxes that occurred between 2008 and 2017. The General Fund portion of the overpayment totaled \$12,413,696, while the Crime Control & Prevention District portion totaled \$6,206,848. In July 2021 the City and Comptroller's Office reached a repayment agreement whereby the City and CCPD will repay the overpaid amount over a 144 month period ending in September 2033.

The agreement stipulated that (1) the City would make 143 monthly payments in the amount of \$86,206, following an initial payment of \$86,237; and (2) CCPD would make 143 monthly payments of \$43,103, following an initial payment of \$43,118. No fees or interest charges will be applied to the repayments.

The table below provides the original liability, monthly repayment amounts, and estimated ending liability as of September 30, 2021 for the City's General Fund and CCPD.

SALES AND USE TAX LIABILITIES

2011 Repayment Agreement			
		General Fund	CCPD
	Total Payback Amount	9,306,918	3,616,265
	Monthly Payback Amount	(38,778)	(15,067)
2021 Repayment Agreement			
		General Fund	CCPD
	Total Payback Amount	12,413,696	6,206,848
	Monthly Payback Amount	(86,206)	(43,103)
	Total Liability	21,720,614	9,823,113
	Outstanding Liability (as of 9/30/2021)	17,416,058	8,150,491

Beginning in Fiscal Year 2022 (October 2021), the annualized repayment amounts will be \$1,499,808 against the General Fund liability and \$698,040 against the CCPD liability, which will continue through Fiscal Year 2032. A residual annualized repayment of approximately \$

These monthly payments/deductions are included in the Net Collections reported to Mayor and Council monthly in the respective monthly Sales Tax IR's. As we develop budgets, forecasts, or

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other projections for sales tax collections, these liabilities are taken into consideration and incorporated into our analysis.

Financial Management Services records and reports these outstanding liabilities as long-term loans to the State of Texas. Fund balance is committed within the General Fund and CCPD to reflect the total amount owed to the State at the conclusion of each fiscal year.

If you have any questions, please call Mark McAvoy, Director of Planning and Data Analytics, at 817-392-6222.

David Cooke
City Manager