

RESOLUTION No. R-2020-09

**A RESOLUTION AUTHORIZING AND APPROVING THE MAYOR AND/OR CITY CLERK TO ENTER INTO A CONSULTING AGREEMENT BETWEEN THE CITY OF WARD AND TRISTEM TO CONDUCT A FRANCHISE FEE AUDIT, AND FOR OTHER PURPOSES.**

**WHEREAS, THE CITY OF WARD** desires to enter into a Consulting Agreement (Attachment 1) with TriStem to conduct a Franchise Audit to determine if payments received by utility vendors have been accurate.

**WHEREAS**, if it is determined that a utility has been underpaying its Franchise Fees, TriStem will act on behalf of the City of Ward to obtain refunds; and,

**WHEREAS**, the City of Ward will pay TriStem 40% of any reimbursement received from the utility as a result of TriStem's services or audit process, per the signed Consulting Agreement.

**NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF WARD THAT** the Mayor or City Clerk is hereby authorized to enter into an agreement with TriStem to conduct a Franchise Fee Audit on any and all utility vendors.

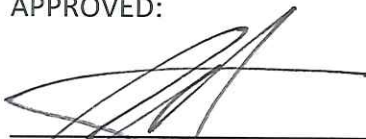
Said resolution has been properly introduced and the vote was:

PASSED:

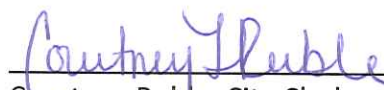
YEAS 6 NAYS 0

DATE: April 20<sup>th</sup>, 2020

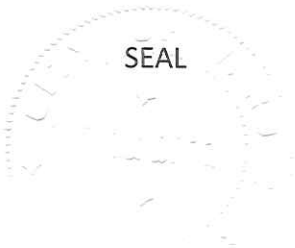
APPROVED:

  
\_\_\_\_\_  
Charles Gastineau, Mayor

ATTEST:

  
\_\_\_\_\_  
Courtney Ruble, City Clerk

SEAL



STATE OF TEXAS

County of \_\_\_\_\_

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**Reduce your  
bottom line...**

ELECTRIC

STREET LIGHTS

GAS

TELECOM

WATER / SEWER

WASTE

FRANCHISE FEES

R-2020-09

**There may be hidden  
revenue in your  
utility bills!**

*"Tri-STEM has been one of the best things that has happened to the City of Brownwood in a long time. They have helped us to recover one-billings in electricity and communication charges and savings going forward that were very significant. They have been very professional, diligent and hard-working. We could not be more pleased with our relationship."*

Walter Middleton, Finance Director  
City of Brownwood, TX



UTILITY COST RECOVERY & SAVINGS EXPERTS

**1-800-234-7937**

**www.tristem.com**

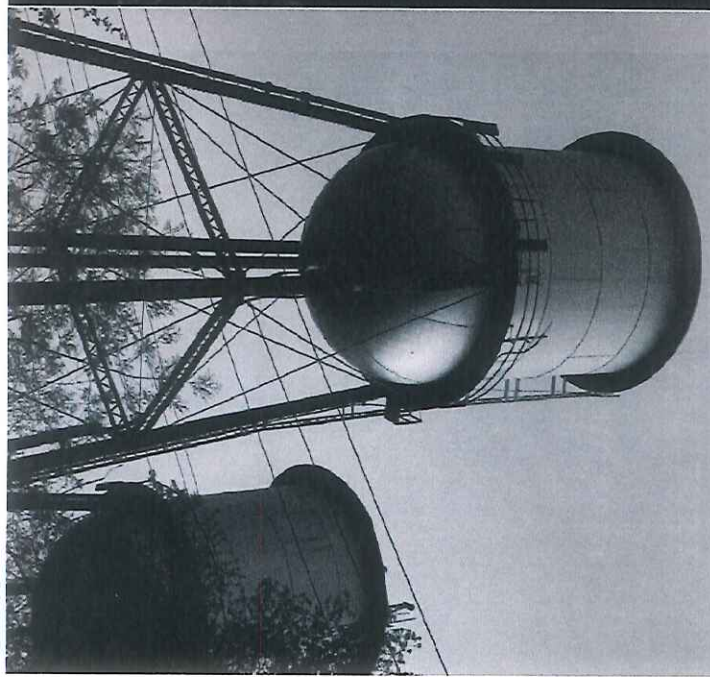
635 N. Robinson Dr., Suite G  
Robinson, TX 76706

info@tristem.com

**Over \$200,000,000  
Recovered & Saved  
Established 1979**



UTILITY COST RECOVERY & SAVINGS EXPERTS



## Why Hire TriStem:

TriStem has 40+ years of experience advocating for utility consumers and auditing utility bills. Other utility bill audit firms come to us for our expertise. Hundreds of hours are spent analyzing documents in-house. Depending on the suspected errors, several days to multiple weeks are spent in the field to verify billing records. When you hire TriStem, you are getting a valuable service not found anywhere else. **Software programs that claim to audit your bills do not come close to our results.** Refund & savings opportunities we find for our clients include:

- Meter Read Errors
- Contractual Billing Errors
- Clerical Billing Errors, Decimal Errors
- Taxes and Fees Billed in Error
- Street and Guard Light Billing Errors

- Incorrect Rates
- Account Reconciliation
- Power Factor Correction

## Utility Audit Benefits:

Our contingent fee structure allows you to contract with our company with no upfront cost. You will receive refunds for errors found on past bills while the corrections we implement will save your organization money on future utility bills. You will have a better grip on your bills and have peace of mind that you are being billed correctly. **If we don't find any errors or savings opportunities, there is no fee for our services.**

**Our FREE PREVIEW will give you insight on refund and savings opportunities!**

## Our Results:

### Case Study

### Refunds

### Savings

#### Schools

Dallas ISD	\$129,415	\$16,761
DeSoto ISD	\$32,134	\$5,635
Los Fresnos CISD	\$128,145	\$130,000
Texas Tech University	\$1,044,000	\$100,000

#### Hospitals

Coyrell Memorial Hospital Authority	\$127,888	\$38,528
Dallas Nephrology	-	\$51,848
Pecos County Memorial Hospital	\$47,306	\$13,818

#### Municipalities

Fort Stockton, TX	\$944,261	\$120,000
Galveston County, TX	\$83,730	\$13,545
Harris County, TX	\$383,730	\$13,834
Jefferson Parish, LA	\$215,894	\$16,530
Saint Louis, MO	\$1,878,031	\$300,890
Savannah, GA	\$550,000	\$200,000

#### Manufacturers

ETS Lindgren	\$13,096	\$12,251
Thermoform Engineered Quality	\$26,923	\$33,000

#### Non-Profits/Hotels

Energy Lodge	\$59,546	\$16,228
First Baptist Church of McAllen	\$21,356	\$5,000

## Our Clients:

- Government Entities
- Schools
- Colleges & Universities
- Churches
- Non-Profits
- Hospitals
- Hotels
- Manufacturers
- Other Businesses



# TRISTEM

UTILITY COST RECOVERY & SAVINGS EXPERTS

1-800-234-7937  
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## CONSULTING AGREEMENT

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, hereinafter referred to as CLIENT, and TRISTEM, LTD., hereinafter referred to as TRISTEM or CONSULTANT, and covers the relationship of CONSULTANT and CLIENT.

### Utility Bill Audit

TRISTEM will conduct an audit of prior utility billing and payments to determine that amounts billed by vendors have been accurate. TRISTEM will also determine if there are alternative rates or other mechanisms that would result in savings for CLIENT's accounts. TRISTEM will notify CLIENT of the results of the audit, will seek to obtain refunds from vendors for any past overbillings which have occurred, and will work to implement all CLIENT approved savings measures. As a fee for these services, CLIENT agrees to pay TRISTEM 40% of any refunds CLIENT receives from its utility providers as a result of TRISTEM'S services or audit process, or any part thereof, plus 40% of any approved and implemented savings (billing reductions) resulting from TRISTEM'S work for a period of twelve (12) months beginning with the first month during which savings are realized.

### Franchise Fee Audit

TRISTEM will conduct an audit of prior utility franchise fee payments made to the CLIENT to determine that amounts paid by utility vendors have been accurate. TRISTEM will notify CLIENT of the results of the audit, will seek to obtain refunds from utility vendors for any past underpayments which have occurred, and will work to implement all franchise fee correction measures. As a fee for these services, CLIENT agrees to pay TRISTEM 40% of any reimbursements CLIENT receives from its utility providers as a result of TRISTEM'S services or audit process.

### Consultant Fees

CONSULTANT'S fee is not due until CLIENT receives refunds and/or billing reductions from utility vendor(s). CLIENT agrees to pay CONSULTANT'S fee within 30 days of receipt of TRISTEM's invoice, whether refund is in the form of cash, credit to accounts, in-kind contributions or any other form of payment or reimbursement. If future considerations are given in lieu of refunds, TRISTEM will receive the same percentage of the value of the future considerations, as TRISTEM would have received for refunds obtained.

CLIENT retains TRISTEM for audit services for (please check desired services):

- Electric (including metered & unmetered accounts)
- Natural Gas
- Water/Sewer
- Waste
- Telecommunications (includes local, long distance and cellular)
- Franchise Fees

**AGREED AND ACCEPTED:**

**CLIENT:** \_\_\_\_\_

**BY:** \_\_\_\_\_  
Signature Title

**DATE:** \_\_\_\_\_

**TRISTEM, LTD.**

**BY:** \_\_\_\_\_  
Signature Title

**DATE:** \_\_\_\_\_



## Franchise Fee Audit Services

### Core Objectives of a TriStem Franchise Fee Audit

A franchise fee audit can be an asset to any municipality that collects franchise fees. TriStem strives to accomplish the following objectives for each of its clients during a franchise fee audit:

- Save your organization's valuable time by conducting a comprehensive audit on your behalf.
- Add your organization's bottom line by securing funds owed by utility providers for prior franchise fee tax periods.
- Enhance future revenue – correction of utility's prior errors results in increased franchise fee tax payments to you in the future.
- Educate your organization on utility practices and regulations applicable to your specific region, providing your staff with knowledge to prevent future utility errors after our audit has been completed.

TriStem values the importance of customer service and will tailor our franchise fee audit to address specific concerns or needs of each client.

### TriStem will conduct a thorough investigation of utility franchise agreements by:

- Reviewing service locations to ensure all franchise fee tax addresses are accounted for.
- Recovering underpayments for prior periods, up to the maximum period allowed by state law.
- Ensuring franchisees correct algorithms for future franchise fee tax disbursements.

Our franchise fee audit staff has been trained by a CGFO with a complete understanding of the needs of elected officials and City staff, having served in the government sector for over 20 years including positions as Finance Director and Mayor.

### Franchise Fee Audit Process

1. The local ordinance and state laws will be reviewed to ensure we understand the algorithms for each type of franchise fee.

2. While reviewing these documents, the City will be asked to provide:

- Name and related information of City's contact person for each franchisee
- Signed LOA
- List of all IN City addresses (obtained from City's utility dept or County appraisal district)

3. Next we will send out LOA & Requests for Data to Franchisees including:

- A detailed calculation on how each franchise provider calculates the tax.
- A detailed list of customers used in the calculation (by the service address) for the years in question.

4. Upon Receipt of Requested Data:

- Recalculate payments based on the state law and city ordinances to ensure that each franchisee's algorithm has been correctly applied.
- Cross reference all addresses within the service zip code to ensure that "non-city" accounts are coded correctly.

5. After identifying list of addresses in question, we will coordinate with the franchisee on the calculation of accounts that were erroneously omitted. This will happen concurrently with correction any calculation errors.

6. Negotiate with franchisee on the amount due and coordinate payment to City.

7. City is paid for back franchise fees based on data corrections or formula areas, for the full period allowed by law.

#### **What Will a Franchise Fee Audit Cost the City?**

Our franchise fee audits are contingent fee based – if you don't receive actual funds from your franchised utility providers as a result of our service, you owe us nothing. Our only fee is a percentage of actual funds secured for prior errors. Any savings that occur in the future as a result of our service are 100% yours to keep after the first 12 months.

#### **Why Should the City Choose TriStem for a Franchise Fee Audit?**

TriStem has been working as an advocate for commercial utility consumers across the U.S. for nearly 40 years – no other company can match our experience or expertise.

TriStem has completed successful franchise tax audits for other municipal consumers, including: City of Nacogdoches, City of Harker Heights, City of Glenn Heights, City of Comanche, City of Breckenridge, City of Killeen, and City of Copperas Cove.





## UTILITY BILL AUDIT PROJECT APPROACH

TriStem strives to accomplish the following objectives for each of its clients:

1. **Save** your organization's **valuable time** by conducting a comprehensive audit on your behalf;
2. **Enhance** your organization's **revenue** by securing refunds of overbilled utility services;
3. **Reduce future expenses** by correcting ongoing errors and implementing savings opportunities;
4. **Educate** your organization on utility billing practices and regulations applicable to your specific region and business, providing your staff with knowledge to identify future billing errors and savings opportunities after our audit has been completed.

*TriStem values the importance of customer service, and will tailor our audit to address specific concerns or needs of each client.*

Our staff has over 100 years combined experience in auditing electric, natural gas, water, sewer, telecommunications and waste accounts for commercial consumers to find "anything and everything" that could cause your organization to overpay for these vital services. We cannot predict what we might find; however, there are some basic procedures that TriStem follows for every audit to ensure the best outcome.

TriStem will obtain a copy of one invoice for each account to be audited, along with supplemental information on your service locations necessary to perform the audit. We obtain historical billing and usage data from your provider(s). We analyze these records as well as utility tariffs, service contracts and all applicable state and local laws. During the audit, TriStem locate and document overcharges and other billing errors, and determine if rate adjustments or other cost savings opportunities exist.

TriStem will work directly with the utility companies to obtain the proper remedy for all documented overcharges. The client can be involved in this process to the degree it chooses. Our job is not complete until you have received all applicable refunds, billing corrections, and approved savings. For any particular billing error, a claim for recovery will be filed as soon as that overcharge can be documented. Throughout the audit process, TriStem will communicate with the client to keep them up-to-date on what errors are found and what steps TriStem is taking to resolve the errors. This includes periodic reports (via emails, letters, meetings and/or phone) and frequent communication as needed.

After our Clients send some basic information such as a copy of one months' bill for each account, a Letters of Authorization, copies of any contracts with your providers, and a few other pieces of information we get to work for you!

### **Work Plan**

TriStem will review your organization's account history of usage and charges to determine if errors or savings opportunities exist. The following is a detailed summary of the various stages of TriStem's process:

- 1. Data Collection** - Obtain necessary documents and information from Client.
- 2. Initial Review** - Perform brief review of all bills received to detect common errors and savings opportunities. We correct errors we find and facilitate refunds as we go along.
- 3. Database Compilation** – We prepare a database of your information and run our proprietary audit routines to assist us in detecting errors. *This database will be provided to the client upon completion of the audit as a basis for future account tracking.*
- 4. Acquisition of Documents from Utility Providers** - This will take place concurrently with the Database Compilation stage.
- 5. In-Depth Analysis** - Our goal during this stage is identifying any errors or savings opportunities, including, but not limited to: meter read errors, charges billed for incorrect or non-existent equipment, meter malfunctions, incorrect meter constants, clerical billing errors, billing for services belonging to others, alternative rates and riders, unneeded services, discounts not applied, etc.
- 6. Acquisition of Supplemental Information** - Consult with client and/or utility providers regarding any accounts where verification of service characteristics is needed in order to determine billing accuracy and cost savings possibilities. When investigating possible billing errors, TriStem may need to contact certain client personnel regarding facility use and operations, such as facility managers, maintenance managers, or anyone else familiar with the facilities we are investigating.
- 7. Refund Claims/Recovery and Cost-Savings Measures** - Submit refund claims (with backup documentation) and communicate with utility providers to accomplish correction and refund of verified account errors. Submit requests to utility providers for client-approved account changes to reduce future expense. The date that a claim for refund is filed is dependent upon what we find in your bills. In each case, our clients receive copies of all claims. TriStem will take the lead role in the recovery stage and stay on the claim until the proper recovery has been obtained. The client may be involved to the degree it chooses.
- 8. Field Work** - For accounts requiring on-site inspection to determine billing/metering accuracy, TriStem will make arrangements with the client to perform field work to view meters, transformers, and any other equipment or facilities whose operational characteristics play a role in the monthly billing. For telecommunications audits, a site visit may be scheduled earlier in the audit process to physically inspect your phone system and network setup.
- 9. Final Report** - After the audit is complete, all account errors have been corrected, approved savings recommendations have been implemented, and all refunds issued, TriStem will submit a final report to the client to summarize work performed.