



**ELGIN CITY COUNCIL AGENDA
ELGIN PUBLIC LIBRARY ANNEX COUNCIL CHAMBERS
404 NORTH MAIN STREET
July 2, 2024
6:30 PM**

Members of the public may watch the meeting at:

https://www.youtube.com/channel/UC3OGBV_loV0Nr3AqM1jTzA

I. CALL TO ORDER

II. ROLL CALL

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

V. PUBLIC HEARING

- 1. Public Hearing On An Ordinance Of The City Of Elgin Texas, Amending Chapter 42, Section 42-319 et. seq. Code Of Ordinances By Adopting New Land Use Assumptions And Capital Improvement Plan And By Amending The Water And Wastewater Impact Fees And; Providing For A Savings Clause And Repealing Conflicting Ordinances And Resolutions.**
- 2. Public Hearing On An Ordinance Of The City Of Elgin, Texas Adopting Chapter 214, Subchapter A, Of The Texas Local Government Code, Repealing Chapter 6, Article III. Unsafe Building Abatement Of The Elgin City Code And Repealing All Other Ordinances And Parts Of Ordinances In Conflict Herewith; Containing Penalties Not To Exceed Two Thousand Dollars (\$2,000) For Each Offense Except Where A Different Penalty Has Been Established By State Law And Each And Every Day Said Violation Is Continued Shall Constitute A Separate Offense; Providing A Severability Clause; Providing A Repealer Clause; And Providing For Publication.**
- 3. Public Hearing On An Ordinance Amending The Official Map Of The City Of Elgin, Texas Adopted In Chapter 46, Section 46-3, Revised Code Of Ordinances, City Of Elgin, Texas, 2013 And Making This Amendment A Part Of Said Official Zoning Map, To Wit: To Rezone Approximately 59.987 Acres Of Land From "C-3" Highway Commercial District To "PDD" Planned Development District, Located On A Parcels Of Land Known By The Bastrop County Appraisal District As Parcel Numbers 11945 And 8731878 Lying In And Being Situated Out Of The Elizabeth Standifer Survey,**

Abstract 59, In Bastrop County, Texas, Said Tract Being More Described In Exhibit "A"; And Providing For A Savings Clause And Repealing Conflicting Ordinances And Resolutions.

4. Public Hearing on the Proposed 2024 Five-Year Capital Improvement Plan

VI. PUBLIC COMMENT

The "PUBLIC COMMENT" item posted on the agenda is reserved for members of the public who would like to address the City Council regarding posted agenda items or non-agenda items. Individuals requesting to speak or address the City Council during the meeting shall do so under the "PUBLIC COMMENT" agenda item. Speakers shall be required to fill out a "PUBLIC COMMENT FORM" and present it, along with any material, handouts, or information for Council, to the City Secretary prior to commencement of the Council meeting. **As of May 1, 2022, all such public comments will be done IN PERSON. You may email public comments and they will be distributed to each of the Council Members but not read out loud.**

Speaker comments are limited to three (3) minutes. No formal action can be taken by the City Council on items not posted on the agenda. Items requiring a PUBLIC HEARING will allow a member of the public an opportunity to speak during the Public Hearing and does not require a "PUBLIC COMMENT FORM".

Speakers must address their comments to the Mayor or Presiding Officer rather than to an individual Council Member or Staff Member. All speakers must limit their comments to the specific subject matter noted on the "PUBLIC COMMENT FORM" and refrain from any personal attacks or derogatory comments directed at any Council Member, Staff Member, other individual, or group.

VII. CITY MANAGERS REPORT

- 1. Review and Discussion of Potential or Requested Inclusions in the FY2024-25 Annual Budget Proposal to be Presented by the City Manager.**
- 2. General Activity Report and/or Project Update**

VIII. CONSENT AGENDA

The Consent Agenda includes non-controversial and routine items that are considered to be self-explanatory by the City Council and will be enacted with one motion, one second, and one vote. Any member of the City Council may pull any item from the Consent Agenda in order that the City Council discuss and act upon it individually as a part of the Regular Agenda.

- 1. City Council Regular Meeting Minutes-June 18, 2024**
- 2. City Council Work Session Meeting Minutes-June 25, 2024**
- 3. A RESOLUTION OF THE CITY OF ELGIN, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDER #5 FOR VETERANS MEMORIAL PARK EXPANSION, AND MAKING CERTAIN FINDINGS RELATED THERETO.**
- 4. A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH IMPERIUM EXTERIORS, FOR REPAIRS TO THE HISTORIC NOFSINGER HOUSE AND MAKING CERTAIN FINDINGS RELATED THERETO.**

5. A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDERS WITH TRC ENGINEERS, FOR VARIOUS CAPITAL PROJECTS AS PART OF TO THE 2021 CERTIFICATES OF OBLIGATION AND MAKING CERTAIN FINDINGS RELATED THERETO.
6. A RESOLUTION OF THE CITY OF ELGIN, TEXAS, APPOINTING ESMERALDA RANGEL AS ASSISTANT CITY SECRETARY OF THE CITY OF ELGIN IN ACCORDANCE WITH THE CITY CHARTER; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS

IX. NEW BUSINESS

1. AN ORDINANCE OF THE CITY OF ELGIN, TEXAS, AMENDING CHAPTER 42, SECTION 42-319 et. seq. CODE OF ORDINANCES, BY ADOPTING NEW LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENT PLAN AND BY AMENDING THE WATER AND WASTEWATER IMPACT FEES, AND; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES OR RESOLUTIONS.
2. AN ORDINANCE OF THE CITY OF ELGIN, TEXAS ADOPTING CHAPTER 214, SUBCHAPTER A, OF THE TEXAS LOCAL GOVERNMENT CODE, REPEALING ARTICLE III. UNSAFE BUILDING ABATEMENT OF THE ELGIN CITY CODE AND REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; CONTAINING PENALTIES NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE EXCEPT WHERE A DIFFERENT PENALTY HAS BEEN ESTABLISHED BY STATE LAW AND EACH AND EVERY DAY SAID VIOLATION IS CONTINUED SHALL CONSTITUTE A SEPARATE OFFENSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALED CLAUSE; AND PROVIDING FOR PUBLICATION.
3. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS ("CITY") DESIGNATING CERTAIN AREAS OF THE CITY'S EXTRATERRITORIAL JURISDICTION AS INDUSTRIAL DISTRICT AREAS; REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING FOR A PENALTY; AND DECLARING AN EFFECTIVE DATE.
4. AN ORDINANCE AMENDING THE OFFICIAL MAP OF THE CITY OF ELGIN, TEXAS ADOPTED IN CHAPTER 46, SECTION 46-3, REVISED CODE OF ORDINANCES, CITY OF ELGIN, TEXAS, 2013 AND MAKING THIS AMENDMENT A PART OF SAID OFFICIAL ZONING MAP, TO WIT: TO REZONE APPROXIMATELY 59.987 ACRES OF LAND FROM "C-3" HIGHWAY COMMERCIAL DISTRICT TO "PDD" PLANNED DEVELOPMENT DISTRICT, LOCATED ON A PARCELS OF LAND KNOWN BY THE BASTROP COUNTY APPRAISAL DISTRICT AS PARCEL NUMBERS 11945 AND 8731878 LYING IN AND BEING SITUATED OUT OF THE ELIZABETH STANDIFER SURVEY, ABSTRACT 59, IN BASTROP COUNTY, TEXAS, SAID TRACT BEING MORE DESCRIBED IN EXHIBIT "A"; AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

X. EXECUTIVE SESSION

The City Council may announce that it will adjourn the public meeting at any time during the meeting and convene in Executive Session pursuant to Chapter 551 of the Texas

Government Code to discuss any matter as specifically listed on the agenda and/or as permitted by Chapter 551 of the Texas Government Code.

XI. RECONVENE

The City Council will return to open session for possible discussion and action as a result of the Executive Session

XII. ANNOUNCEMENTS

XIII. ADJOURNMENT

The City Council may retire to executive session any time between the meeting's opening and adjournment for the purpose of consultation with legal counsel pursuant to Chapter 551.071 of the Texas Government Code; discussion of personnel matters pursuant to Chapter 551.074 of the Texas Government Code; deliberation regarding real property pursuant to Chapter 551.072 of the Texas Government Code; deliberation regarding economic development negotiations pursuant to Chapter 551.087 of the Texas Government Code; and/or deliberation regarding the deployment, or specific occasions for implementation of security personnel or devices pursuant to Chapter 551.076 of the Texas Government Code. Action, if any, will be taken in open session.

Attendance By Other Elected or Appointed Officials: It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or 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/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

Notice of Assistance at Public Meetings, the City of Elgin is committed to compliance with the Americans with Disabilities Act. Elgin City Hall and Council Chambers are wheelchair accessible and special marked parking is available. Persons with Disabilities who plan to attend this meeting and who may need assistance are requested to contact the City Secretary's Office at (512)229-3223. Please provide forty-eight hours notice when feasible.

I, Esmeralda Rangel, Assistant City Secretary for the City of Elgin, hereby certify this notice was posted at the City Hall Annex of the City of Elgin, Texas on or before Friday, June 28, 2024, in accordance with Chapter 551 of the Texas Government Code.



Esmeralda Rangel, Assistant City Secretary



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: Public Hearing On An Ordinance Of The City Of Elgin Texas, Amending Chapter 42, Section 42-319 et. seq. Code Of Ordinances By Adopting New Land Use Assumptions And Capital Improvement Plan And By Amending The Water And Wastewater Impact Fees And; Providing For A Savings Clause And Repealing Conflicting Ordinances And Resolutions.

DEPARTMENT: Development Services

PROPOSED ACTION: No Council Action proposed or requested at this time; this time is to allow for public comments on the proposed ordinance in accordance with State Law.

BACKGROUND:

On June 18, 2024, the City Council reviewed the proposed amendments to the land use assumptions, capital improvement plan, and impact fees which had been reviewed by the Planning and Zoning Commission acting as the Advisory Committee. The Advisory Committee recommended approval of the proposed amendments as well as recommended that the City Council adopt the maximum eligible impact fees of \$5,103.41 for water and \$5,850.86 for wastewater. Per State Law, the City is now required to hold a public hearing on the proposed Ordinance.

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

Receive public comments.

ATTACHMENTS:

1. 2024 Impact Fee Update Ordinance

- { } Staff will be making a detailed presentation on this agenda item at the meeting.
- {X} Staff will provide brief comments and answer questions on this item at the meeting.
- { } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

ORDINANCE NO. 2024-07-02-

AN ORDINANCE OF THE CITY OF ELGIN, TEXAS, AMENDING CHAPTER 42, SECTION 42-319 et. seq. CODE OF ORDINANCES, BY ADOPTING NEW LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENT PLAN AND BY AMENDING THE WATER AND WASTEWATER IMPACT FEES, AND; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES OR RESOLUTIONS.

WHEREAS, Sec. 395.052, Tex. Local Gov't Code, requires a municipality imposing impact fees to review and evaluate its current land use assumptions and capital improvements plan at least every five (5) years (dating from the day the initial capital improvements plan is adopted); and

WHEREAS, the last time such land use assumptions and capital improvements plan were reviewed, evaluated and updated was July 2019; and

WHEREAS, the City Council has reviewed, evaluated, and now wishes to adopt updated land use assumptions and a capital improvements plan in order to comply with said Texas Local Government Code requirements for same.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS, THAT:

Section 1. All of the above premises are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

Section 2. Pursuant to and under the authority granted in Chapter 395 et. seq. of the Texas Local Government Code and Chapter 42, Section 42.321, Code of Ordinances, City of Elgin, Texas, the following is hereby adopted:

"The updated capital improvements plan and land use assumptions plan for water and wastewater facilities dated July 2024, is adopted and incorporated in this section by reference and shall be kept on record in the office of the city secretary."

Section 3. Pursuant to and under the authority granted in Chapter 395 et. seq. of the Texas Local Government Code and Chapter 42, Section 42.321, Code of Ordinances, City of Elgin, Texas, the following is hereby adopted:

- A. Maximum Impact fees:
City Water: **\$5,103.41**
Wastewater: **\$5,850.86**
- B. Effective Impact fee to be appropriately charged beginning _____ :
City Water: _____
Wastewater: _____

Section 4. This Ordinance shall become effective immediately after its passage.

Section 5. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

Section 6. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

Section 7. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this ordinance and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meeting Act, Chapter 551, Texas Government Code, as amended.

READ, PASSED, and AMENDED on first reading this 2nd day of July 2024.

THERESA Y. MCSHAN, Mayor
City of Elgin, Texas

ATTEST:

ESMERALDA RANGEL, Assistant City Secretary



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: Public Hearing On An Ordinance Of The City Of Elgin, Texas Adopting Chapter 214, Subchapter A, Of The Texas Local Government Code, Repealing Chapter 6, Article III. Unsafe Building Abatement Of The Elgin City Code And Repealing All Other Ordinances And Parts Of Ordinances In Conflict Herewith; Containing Penalties Not To Exceed Two Thousand Dollars (\$2,000) For Each Offense Except Where A Different Penalty Has Been Established By State Law And Each And Every Day Said Violation Is Continued Shall Constitute A Separate Offense; Providing A Severability Clause; Providing A Repealer Clause; And Providing For Publication.

DEPARTMENT: Development Services

PROPOSED ACTION: No Council action is proposed or requested at this time; this item is to allow for public comments on the proposed Ordinance in accordance with State law.

BACKGROUND:

Council has directed staff to research and provide updates to our Code of Ordinances for the purpose of facilitating action to be taken on Substandard Buildings.

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

None.

ATTACHMENTS:

1. Ordinance Substandard Bldg
2. Proposed changes to Article III Unsafe Building Abatement
3. Chapter 214 Staff Report
4. Opinion Letter 214 Adoption
5. Chapter 214 Outline 6-26-24
6. Chapter 214 Link

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{X} Staff will provide brief comments and answer questions on this item at the meeting.

{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

ORDINANCE NO. 2024-07-16-____

AN ORDINANCE OF THE CITY OF ELGIN, TEXAS ADOPTING CHAPTER 214, SUBCHAPTER A, OF THE TEXAS LOCAL GOVERNMENT CODE, REPEALING CHAPTER 6, ARTICLE III. UNSAFE BUILDING ABATEMENT OF THE ELGIN CITY CODE AND REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; CONTAINING PENALTIES NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE EXCEPT WHERE A DIFFERENT PENALTY HAS BEEN ESTABLISHED BY STATE LAW AND EACH AND EVERY DAY SAID VIOLATION IS CONTINUED SHALL CONSTITUTE A SEPARATE OFFENSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, it is deemed in the best interest of the City of Elgin for the health, safety, and welfare of its citizens that an ordinance be established to regulate substandard structures within the city of Elgin; and

WHEREAS, this ordinance shall be known as the “Substandard Building Abatement Ordinance” of the city of Elgin, Texas.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF ELGIN, TEXAS:

SECTION 1. There is hereby adopted, provisions of Chapter 214, Subchapter A, of the Texas Local Government Code, as amended from time to time, relating to dangerous structures.

SECTION 2. The 2021 International Building Code or the most recently adopted version of the International Building Code is adopted as the minimum standard for the continued use and occupancy of all buildings regardless of the date of construction.

SECTION 3. There is hereby repealed, Article III, sections 6-56 to 6-70 of the Elgin City Code, relating to unsafe building abatement.

SECTION 4. That if any provision of this ordinance or its application to any person or circumstances is held invalid for any reason, the invalidity does not effect any other provision or applications of this ordinance which can be given effect without the invalid provision or application, and to this extent the provisions of this ordinance are declared to be severable

SECTION 5. All other ordinances, parts of ordinances or resolutions in conflict with this ordinance are hereby repealed to the extent of any such conflict.

SECTION 6. A person who violates any provision of this ordinance or who fails to perform an act required by this ordinance that governs health and sanitation commits an offense and shall be guilty of a class “C” misdemeanor for each day or portion thereof during which the violation is continued. An offense under this ordinance is punishable by a fine not to exceed two thousand

dollars (\$2,000), or the amount fixed by State law if the violation is one for which the State has fixed a fine.

SECTION 7. The City Clerk is hereby authorized and directed to publish the caption of this ordinance, together with the penalty provision contained herein, in the manner and for the length of time prescribed by law.

SECTION 8. In accordance with the City Charter, this ordinance was introduced before the Elgin City Council on the ____ day of _____, 2024.

PASSED, APPROVED, and ADOPTED on the ____ day of _____, 2024.

THERESA Y. MCSHAN, Mayor
City of Elgin, Texas

ATTEST:

ESMERALDA RANGEL, Assistant City Secretary

**~~ARTICLE III. UNSAFE BUILDING ABATEMENT~~¹ **SUBSTANDARD BUILDING
ABATEMENT****

~~Sec. 6-56. Statement of purpose.~~

~~It is the purpose of this article to secure the beneficial interests and purposes thereof, which are public safety, health and general welfare, through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises.~~

~~(Code 1990, ch. 3, § 2(A); Ord. No. 90-05, 3-6-1990)~~

~~Sec. 6-57. Definitions.~~

~~Words not defined herein shall have the meanings stated in the city adopted international code council codes. Words not defined in the city adopted international code council codes shall have the meanings stated in the Webster's 11th New Collegiate Dictionary, as revised.~~

~~*Approved* means approved by the building official or other authority having jurisdiction.~~

~~*Building* means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for 50 percent of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof." For the purpose of this article each portion of a building separated from other portions by a fire wall shall be considered as a separate building.~~

~~*Building official* means the officer or other designated authority charged with the administration and enforcement of this article or his duly authorized representative.~~

~~*City* means the City of Elgin, Texas.~~

~~*County* means with respect to land located in Bastrop County, Bastrop County, Texas and, with respect to land located within Travis County, Travis County, Texas.~~

~~*Commission* means the city building standards commission.~~

~~*Department* means the development services department or other agency charged with the enforcement of this article.~~

~~*Owner* means any person, agent, firm or corporation having a legal or equitable interest in the property.~~

~~*Structure* means that which is built or constructed.~~

~~*Unsafe building* means any building or structure that has any of the following conditions, such that the life, health, property or safety of its occupants or the general public are endangered:~~

- ~~(1) Any means of egress or portion thereof that is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic.~~

¹State law reference(s)—Unsafe buildings, V.T.C.A., Local Government Code § 214.001 et seq.

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- (2) ~~Any means of egress or portion thereof, such as, but not limited to, fire doors, closing devices and fire-resistive ratings, that is in disrepair or in a dilapidated or nonworking condition such that the means of egress could be rendered unsafe in case of fire or panic.~~
 - (3) ~~The stress in any material, member or portion thereof, due to all imposed loads including dead load, that exceeds the stresses allowed in the standard building code for new buildings.~~
 - (4) ~~The building, structure or portion thereof that has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than it was prior to the damage and is less than the minimum requirement established by the city adopted international building code for new buildings.~~
 - (5) ~~Any exterior appendage or portion of the building or structure that is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the international building code as adopted by the city.~~
 - (6) ~~If for any reason the building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used.~~
 - (7) ~~The building, structure or portion thereof as a result of decay, deterioration or dilapidation that is likely to fully or partially collapse.~~
 - (8) ~~The building, structure or portion thereof that has been constructed or maintained in violation of a specific requirement of the codes or of a city, county or state law.~~
 - (9) ~~Any building, structure or portion thereof that is in such a condition as to constitute a public nuisance.~~
 - (10) ~~Any building, structure or portion thereof that is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.~~

(Code 1990, ch. 3, § 2(B); Ord. No. 90-05, 3-6-1990; Ord. No. 2020-02-04-08, § I, 2-4-2020)

~~Sec. 6-58. Scope.~~

~~The provisions of this article shall apply to all unsafe buildings or structures, as herein defined, and shall apply equally to new and existing conditions.~~

~~(Code 1990, ch. 3, § 2(C); Ord. No. 90-05, 3-6-1990)~~

~~Sec. 6-59. Alterations, repairs or rehabilitation work.~~

- (a) ~~Alterations, repairs or rehabilitation work may be made to any existing building without requiring the building to comply with all the requirements of the city adopted international building code provided that the alteration, repair or rehabilitation work conforms to the requirements of the building code for new construction. The building official shall determine, subject to appeal to the commission the extent, if any, to which the existing building shall be made to conform to the requirements of the city adopted international building code for new construction.~~
- (b) ~~Alterations, repairs or rehabilitation work shall not cause an existing building to become unsafe as defined in section 6-57.~~

(c) ~~If the occupancy classification of an existing building is changed, the building shall be made to conform to the intent of the city adopted international building code for the new occupancy classification as established by the building official.~~

(d) ~~Repairs and alterations, not covered by subsections (a) through (c) of this section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of this article or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed; but not more than 25 percent of the roof covering of a building shall be replaced in any period of 12 months unless the entire roof covering is made to conform with the requirements of the city adopted international building code for new buildings.~~

(Code 1990, ch. 3, § 2(D); Ord. No. 90-05, 3-6-1990; Ord. No. 2020-02-04-08, § I, 2-4-2020)

~~Sec. 6-60. Special historic buildings and districts.~~

~~The provisions of this article relating to the construction, alteration, repair, enlargement, restoration, relocation or moving buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the building official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings within historic districts. The applicant must submit complete architectural and engineering plans and specifications bearing the seal of a registered professional engineer or architect.~~

(Code 1990, ch. 3, § 2(E); Ord. No. 90-05, 3-6-1990; Ord. No. 2020-02-04-08, § I, 2-4-2020)

~~Sec. 6-61. Maintenance.~~

~~All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the city adopted international building code in a building when erected, altered or repaired, shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings and structures.~~

(Code 1990, ch. 3, § 2(F); Ord. No. 90-05, 3-6-1990; Ord. No. 2020-02-04-08, § I, 2-4-2020)

~~Sec. 6-62. Organization.~~

(a) ~~Enforcement officer.~~ The provisions of this article shall be enforced by the building official.

(b) ~~Restrictions on employees.~~ An officer or employee connected with the department shall not have a financial interest in the furnishing of labor, material or appliances for the construction, alteration, demolition, repair or maintenance of a building, or in the making of plans or of specifications therefor, unless he is the owner of such building. Such officer or employee shall not engage in any work which is inconsistent with his duties or with the interests of the department.

(c) ~~Records.~~ The building official shall keep, or cause to be kept, a record of the business of the department. The records of the department shall be open to public inspection.

(Code 1990, ch. 3, § 2(G); Ord. No. 90-05, 3-6-1990)

~~Sec. 6-63. Powers and duties of the building official.~~

(a) ~~Right of entry.~~

-
- (1) ~~The building official or his authorized representative may enter any building, structure or premises at all reasonable times to make an inspection or enforce any of the provisions of this article.~~
- (2) ~~When entering a building, structure or premises that is occupied, the building official shall first identify himself, present proper credentials and request entry. If the building, structure or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge of the building and demand entry. If entry is refused, the building official or his authorized representative shall have recourse to every remedy provided by law to secure entry.~~
- (3) ~~No person, owner or occupant of any building or premises shall fail, after proper credentials are displayed, to permit entry into any building or onto any property by the building official or his authorized agent for the purpose of inspections pursuant to this article. Any person violating this article shall be prosecuted within the limits of the law as established by the proper governing authority.~~
- (b) ~~Inspections.~~ The building official, the fire official and other authorized representatives are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this article.
- (c) ~~Requirements not covered by article.~~ Any requirement necessary for the strength or stability of an existing or proposed building or structure, or for the safety or health of the occupants thereof, not specifically covered by this article, shall be determined by the building official.
- (d) ~~Liability.~~ Any officer or employee, or member of the commission, charged with the enforcement of this article, acting for the applicable governing body in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of such act performed by him in the enforcement of any provision of this article shall be defended by the legal department of the applicable governing body until the final termination of the proceedings.
- (e) ~~Reports.~~ the building official shall annually submit a report to the city manager of the decisions rendered by the commission during the preceding year. The report shall include a summary of the decisions of the commission during said year.
- (Code 1990, ch. 3, § 2(H); Ord. No. 90-05, 3-6-1990; Ord. No. 2020-02-04-08, § 1, 2-4-2020)

Sec. 6-64. Violations and penalties.

Any person, firm, corporation or agent who shall violate a provision of this article, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any structure, or has erected, constructed, altered, repaired, moved or demolished a building or structure in violation of a detailed statement or drawing submitted and approved thereunder, shall be prosecuted within the limits provided by state or local law. Each such person shall be deemed guilty of a separate offense for any violation of any of the provisions of this article, and upon conviction of any such violation such person shall be punished within the limits and as provided by state or local laws.

(Code 1990, ch. 3, § 2(I); Ord. No. 90-05, 3-6-1990)

Sec. 6-65. Inspection and notice of noncompliance.

- (a) ~~Building official to inspect.~~ The building official shall inspect or cause to be inspected any building, structure or portion thereof which is or may be unsafe. After the building official has inspected or caused to be inspected a building, structure or portion thereof and has determined that such building, structure or portion

thereof is unsafe, he shall initiate proceedings to cause the abatement of the unsafe condition by repair, vacation or demolition or combination thereof.

- (b) ~~Notice.~~ The building official shall prepare and issue a notice of unsafe building directed to the owner of record of the building or structure. The notice shall contain, but not be limited to, the following information:
- (1) ~~The street address and legal description of the building, structure or premises.~~
 - (2) ~~A statement advising that if the required action as determined by the building official is not commenced within 30 days, the building official shall request that the building standards commission call for a public hearing to determine whether or not conditions exist which render the building or structure unsafe under the provisions of this article.~~
 - (3) ~~If the building or structure is to be repaired, the notice shall require that all necessary permits must be secured within 30 days after receipt of notice and work commenced within 60 days after receipt of said notice and continued to completion within such time as the building official determines.~~
 - (4) ~~If the building or structure is to be vacated, the notice shall indicate the time within which vacation is to be completed.~~
 - (5) ~~If the building or structure is to be demolished, the building official shall require that all permits for demolition be secured within 30 days receipt of notice, that the premises be vacated within 60 days after receipt of notice, and that the demolition be completed within such time as deemed reasonable by the building official.~~
 - (6) ~~A statement advising that if the required action as determined by the building official is not commenced within or completed, as required, the building official shall request that the commission call for a public hearing to determine whether or not conditions exist which render the building or structure unsafe under the provisions of this article.~~
 - (7) ~~All notices and all attachments thereto shall be served upon the owner of record and posted on the property in a conspicuous location. A copy of the notice and all attachments thereto shall also be served on any person determined from official public records to have a legal interest in the property. Failure of the building official to serve any person herein required to be served other than the owner of record shall not invalidate any proceedings hereunder nor shall it relieve any other person served from any obligation imposed on him.~~
 - (8) ~~All notices shall be served either personally or by certified mail, postage prepaid, return receipt requested, to each person at the address as it appears on the official public records. If addresses are not available on any person required to be served the notice, the notice addressed to such person shall be mailed to the address of the building or structure involved in the proceedings. The failure of any person to receive notice, other than the owner of record, shall not invalidate any proceedings under this article. Service by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt. Proof of service of the notice shall be by written declaration indicating the date, time and manner in which service was made and signed by the person served on by the return receipt.~~

(Code 1990, ch. 3, § 2(1); Ord. No. 90-05, 3-6-1990; Ord. No. 2020-02-04-08, § 1, 2-4-2020)

Sec. 6-66. Standards for compliance.

The following action shall be taken by the building official when ordering the repair, vacation or demolition of an unsafe building or structure:

(1) ~~The building shall be ordered repaired in accordance with the city adopted international building code or demolished at the option of the owner.~~

(2) ~~If the building or structure poses an immediate hazard to life or to the safety of the public it shall be ordered vacated immediately.~~

(Code 1990, ch. 3, § 2(K); Ord. No. 90-05, 3-6-1990; Ord. No. 2020-02-04-08, § 1, 2-4-2020)

~~Sec. 6-67. Posting of notice to vacate.~~

(a) ~~Every notice to vacate, in addition to complying with section 6-65(b)(8), shall be posted at each exit and entrance to the building or structure and shall state:~~

~~"This Building is Unsafe and its Use or Occupancy Has Been
Prohibited by the Building Official"~~

(b) ~~Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation or their agents to remove such notice without written permission of the building official, or for any person to enter the building except for the purpose of making the required repairs or of demolishing same.~~

(Code 1990, ch. 3, § 2(L); Ord. No. 90-05, 3-6-1990)

~~Sec. 6-68. Rules of procedure for public hearing.~~

(a) ~~*Calling of public hearing.* After the receipt of a written request from the building official, the commission shall call a public hearing to determine whether or not conditions exist which render a building or structure unsafe under the provisions of this article such that said building or structure must be demolished in order to protect the public health, safety and welfare. Said ordinance shall state with specificity each violation which renders said building or structure unsafe.~~

(b) ~~*Reasonable dispatch.* The commission shall proceed with reasonable dispatch to conclude said public hearing, with due regard to the convenience and necessity of the parties involved. The hearing notice shall be served personally or posted certified mail at least 15 days before the hearing date.~~

(c) ~~*Subpoenas.* The commission may obtain the issuance and service of subpoenas for the attendance of witnesses or the production of evidence at the hearings. The issuance and service of subpoenas shall be in accordance with established law. Any person who refuses, without legal excuse, to respond to any subpoena lawfully issued and served may be prosecuted to the extent established by law.~~

(d) ~~*Procedure.*~~

(1) ~~Hearings shall not be required to be conducted in accordance with the technical rules relating to evidence and testimony.~~

(2) ~~The commission may grant continuance for good cause.~~

(3) ~~In any proceedings under this article the chair of the commission shall have the power to administer oaths and affirmations and to certify official acts. In the chair's absence, the acting chair may administer oaths and compel the attendance of witnesses.~~

(4) ~~Oral evidence shall be taken only on oath or affirmation.~~

(5) ~~Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence. The further use of hearsay evidence shall be limited to that which would be admissible in civil court.~~

-
- (6) ~~Relevant evidence shall be admitted if it is the type on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil courts.~~
- (7) ~~The commission may inspect any building, structure or premises during the course of the hearing, provided the following are complied with:~~
- ~~a. Notice of such inspection is given to the parties prior to making the inspection;~~
 - ~~b. The parties are allowed to be present during the inspection; and~~
 - ~~c. The inspector states for the record, upon completion of the inspection, the facts observed and any conclusions drawn therefrom.~~
- (e) ~~Decision.~~
- (1) ~~After completion of the public hearing, if the commission finds that the building or structure is in violation of the provisions of this article, it may order the owner of the building to, within 30 days, secure the building from unauthorized entry or to repair, remove, or demolish the building, whichever is applicable, unless the owner establishes at the hearing that the work cannot reasonably be performed within 30 days.~~
- (2) ~~The commission may allow the owner more than 30 days to repair, remove, or demolish the building. If the commission allows the owner, lienholder, or mortgagee more than 30 days to repair, remove or demolish the building, the commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed.~~
- (f) ~~Appeal. If any owner is aggrieved by the decision of the commission, nothing in this article shall be construed to deprive them of seeking redress in the civil or other applicable court. Said appeal must be filed within 30 days from the date a copy of the final decision of the commission is delivered as required by the Texas Local Government Code.~~
- (Code 1990, ch. 3, § 2(M); Ord. No. 90-05, 3-6-1990; Ord. No. 2020-02-04-08, § 1, 2-4-2020)

Sec. 6-69. Compliance.

- (a) ~~Failure to respond.~~ Any person who, after the order of the building official or the decision of the commission becomes final, fails or refuses to respond to the direction of such order, shall be prosecuted to the extent provided for by law.
- (b) ~~Failure to commence work.~~
- (1) ~~Whenever the required repair, vacation or demolition is not commenced within 30 days after the effective date of any order, the building, structure or premises shall be posted as follows:~~

Unsafe Building Do Not Occupy	
It shall be punishable by law to occupy this building or remove or deface this notice (specify the applicable local law and the penalty for violation thereof).	
Building Official	
City of	

- (2) ~~Subsequent to posting the building, the building official may cause the building to be repaired to the extent required to render it safe or if the notice required demolition, to cause the building or structure~~

~~to be demolished and all debris removed from the premises. The cost of repair or demolition shall constitute a lien on the property and shall be collected in a manner provided by law.~~

~~(3) Any monies received from the sale of a building or from the demolition thereof, over and above the cost incurred, shall be paid to the owner of record or other persons lawfully entitled thereto.~~

~~(c) *Extension of time.* The building official may approve one or more extensions of time as he may determine to be reasonable to complete the required repair or demolition. Such requests for extensions shall be made in writing stating the reasons therefor. If the extensions of time, in total, exceed 60 days, they must also be approved by the commission.~~

~~(d) *Interference.* No person shall obstruct or interfere with the implementation of any action required by the final notice of the building official or the commission. Any person found interfering or obstructing such actions shall be prosecuted to the extent provided for by law.~~

~~(Code 1990, ch. 3, § 2(N); Ord. No. 90-05, 3-6-1990; Ord. No. 2020-02-04-08, § 1, 2-4-2020)~~

Sec. 6-70. Recovery of cost of repair or demolition.

~~Whenever a building or structure is repaired or demolished in accordance with the provision of this article and cost of such repair or demolition is borne by the city, the city may assess the expenses on the property on which the building is located. The assessment of the reasonable expenses incurred shall be determined by the building official, and a lien shall be placed on the property and recorded in the deed records of the applicable county, based on the property location.~~

~~(Code 1990, ch. 3, § 2(O); Ord. No. 90-05, 3-6-1990; Ord. No. 2020-02-04-08, § 1, 2-4-2020)~~

Sec. 6-71 Texas Local Government Code Chapter 214, Subchapter A adopted.

The provisions of Chapter 214, Subchapter A of the Texas Local Government Code, as amended from time to time, are hereby adopted as the rules and regulations governing dangerous structures.

Sec. 6-72 Definitions

Words not defined herein shall have the meanings stated in the city adopted international code council codes. Words not defined in the city adopted international code council codes shall have the meanings stated in the Webster's 11th New Collegiate Dictionary, as revised.

Building means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for 50 percent of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof." For the purpose of this article each portion of a building separated from other portions by a fire wall shall be considered as a separate building.

Deterioration means to weaken, disintegrate, corrode, rust or decay and lose effectiveness.

Dilapidated means a condition that exists created by decay, deterioration, or fallen into partial ruin especially through neglect or misuse.

Sec. 6-73 Substandard buildings defined.

All buildings or structures which have any or all of the following defects or lack of facilities shall be deemed substandard buildings;

-
- (1) All buildings or structures which do not have the number of water closets, urinals and lavatories required by the plumbing ordinance of the city, or which have pit privies where the same are not permitted by law, or which are not connected to the city sewer when required by law, or where inadequate and unsanitary pit privies or septic tanks are maintained.
 - (2) All buildings or structures that have become deteriorated through natural causes or by damage through exposure to the elements, especially wind, hail, or rain, or damage through fire, to the extent that the roof, windows and doors, or portions of the house, building, or structure which protect from the weather, will no longer reasonably protect from the weather.
 - (3) All buildings or structures which constitute, or in which are maintained, fire hazards, as that term is defined in the fire prevention code of the city.
 - (4) All buildings or structures which are so structurally deteriorated that they are in danger of collapse, or which cannot be expected to withstand the reasonably anticipated storms and/or hurricanes.
 - (5) All buildings or structures so constructed or permitted to be so constructed as to constitute a menace to health or safety including all conditions conducive to the harboring of rats or mice or other disease carrying animals or insects reasonably calculated to spread disease, and including such conditions hazardous to safety as inadequate bracing or the use of deteriorated materials.

Sec. 6-74 Declared nuisance.

All substandard buildings or structures within the terms of this article which shall constitute a menace to the health, morals, safety, or general welfare of its occupants or of the public are declared to be public nuisances and shall be ordered to be vacated, repaired or demolished as hereinafter provided.

Sec. 6-75 Minimum standards for continued use and occupancy.

The 2021 International Building Code and the 2021 International Residential Code for one- and two-family dwellings or the most recently adopted version of the International Building Code is adopted as the minimum standard for the continued use and occupancy of all buildings regardless of the date of construction.

Sec. 6-76 Notice requirements.

- (a) Whenever any such substandard building is located on any premises within the city in violation of section 6-73, the Code Compliance department shall give notice in the form of a Citation to the owner, lienholder, and mortgagee of the premises wherein such public nuisance exists. The notice shall contain, but not be limited to, the following information:
 - (1) The name and address of the owner of the affected property.
 - (2) The street address and legal description of the building, structure or premises.
 - (3) The date, time and place of the hearing.
 - (4) Description of the hearing include a statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this ordinance and the time it will take to reasonably perform the work to bring the building, structure or premises up to code.
- (b) The notice shall be sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service to:
 - (1) The owner's address, as it appears on the official public records.

-
- (2) All lien holders and mortgagees having an interest in the building or in the property on which the building is located that may be discovered after a diligent search performed by the City.
 - (3) If any notice is returned undelivered by the United States Post Office as “refused” or “unclaimed,” the validity of the notice is not affected, and the notice is considered delivered.
 - (c) The notice shall be filed in the official public records of Real Property in the county in which the property is located.

Sec. 6-77 Hearing officer appointed.

The public hearing to determine whether a building complies with the standards set forth in this ordinance shall be held before the Municipal Judge.

Sec. 6-78 Violations and penalties.

Any person, firm, corporation or agent who violates any provision of this ordinance or who fails to perform an act required by this ordinance that governs health and sanitation commits an offense and shall be guilty of a class “C” misdemeanor for each day or portion thereof during which the violation is continued. An offense under this ordinance is punishable by a fine not to exceed two thousand dollars (\$2000), or the amount fixed by State law if the violation is one for which the state has fixed a fine.

Sec 6-79 - 98. Reserved.



Development Services Department

STAFF REPORT

Chapter 214

Substandard Building Abatement

Date: June 26, 2024
Hearing Dates: City Council – July 2, 2024
City Council – July 16, 2024

SUMMARY

The City Attorney has reviewed Chapter 214, Subtitle A of the Texas Local Government Code titled Municipal Regulation of Housing and Other Structures and has provided a recommendation regarding city adoption of the statute.

DEPARTMENT COMMENTS

Per State law, the proposed ordinance establishes minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction; provides for giving proper notice to the owner of a building; and provides for a public hearing before the municipal judge to determine whether a building complies with the standards set out in the ordinance. The main difference between the previous Article III and the proposed ordinance is that the Code Compliance Department will now be issuing citations to property owners of substandard buildings. In addition, the Municipal Judge and not the Building Standards Commission, will act as the fact finder in these cases.

ATTACHMENTS

1. Proposed Ordinance
2. Attorney's Opinion letter
3. Chapter 214 Outline
4. Link to Chapter 214

HEJL & SCHROEDER, P.C.

ATTORNEYS AT LAW

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June 26, 2024

City of Elgin
310 Main Street
Elgin, Texas 78621

RE: Potential Adoption of Chapter 214 of the Texas Local Government
Code

Dear Tom:

You asked me to summarize Chapter 214 of the Texas Local Government (“Chapter 214”) and provide my recommendation regarding city adoption of the state. It is my recommendation that the city adopt Chapter 214 and designate the municipal judge as the fact finder for the required hearing.

Chapter 214 is an essential tool for cities dealing with structures that abandoned and/or are dilapidated, substandard and unfit for human habitation, **especially when the owner cannot be located or is unresponsive.**

The statute allows the city to make diligent efforts to determine the current owner and/or lienholder of the property at issue. The owner and lienholder of the property is then given notice of a hearing. At the hearing the owner can argue the building is not dilapidated or that additional time is needed to make the necessary repairs.

If is determined the building(s) are substandard, dilapidated or unfit for human habitation, then the owner can be ordered by the judge to repair or demolish the building in as little as thirty days, although the judge may give the owner up to 180 days to make the necessary repairs. The statute also allows the judge to order that

the property be secured if it is abandoned or unsecured. Any order by the city may be appealed by the owner to Bastrop County District Court.

If the repairs are not made or the building is not demolished within the allowed time, then the city may demolish or secure the building and charge the owner for the costs. If the owner does not pay the costs, then the city may place a lien on the property for the demolition costs.

This statute is invaluable because the judge may enter the order even if the owner does not appear at the hearing or if the owner cannot be located. This includes properties that are owned by an estate, as is often the case with abandoned properties. It also allows the city abate the issue and recover its costs when the property is sold or transferred.

In summary, it is my recommendation that the city adopt Chapter 214 of the Texas Local Government Code and designate the municipal judge to act as the fact finder. I have drafted a proposed ordinance for your review and provided an outline for city staff to follow to ensure compliance with the ordinance.

If you have any additional questions, please let me know.

Very truly yours,

HEJL & SCHROEDER, P.C.

Mark J. Schroeder

STEP ONE- CITE BUILDING

Building may be cited for:

- 1. Being dilapidated, substandard, or unfit for occupation**
- 2. Unoccupied and unsecured**
- 3. Secured, but still a danger to public. Not adequately secured**
214.001(a)(1)(2)(3)

STEP TWO- SEND CITATION NOTICE

MUST SEND CITATION NOTICE TO ALL

OWNERS/LIENHOLDERS/MORTGAGEES (Always send Certified Mail, Return Receipt Requested- even if refused or unclaimed it still acts as good notice. Also, send by regular mail, too.) 214.001(c)

MUST search ALL of the following when trying to find/cite all owners. 214.001(q)

- 1. Bastrop County Real Property Records**
- 2. Bastrop County Appraisal District Records**
- 3. Texas Secretary of State Records**
- 4. Bastrop County Assumed Name Records**
- 5. City of Elgin Tax Records**
- 6. City of Elgin Utility Records**

Title Company will run search for this information.

MUST file notice of hearing in the ~~Williamson~~ Bastrop or Travis County Official Public Records of Real Property 214.001(e)

Hearing Notice MUST contain: 214.001(c)(e)

- 1. Name and address of owner**
- 2. Legal description of the property**
- 3. Description of the hearing**
- 4. Information to owner that they will have the burden of proof at Municipal Court hearing to produce evidence of scope of work and time needed to bring building up to code. Also, give notice of chance to comment at hearing.**

Hearing Notice is binding on all subsequent grantees, lienholders, etc... if they acquire interest in property after original notice of hearing is sent/filed 214.001(e)

WITHOUT NOTICE, City may secure building if:

- 1. Violates minimum standards**
- 2. Unoccupied, or occupied only by persons with no right to occupy**
214.0011(b)(1)(2)

Within 10 days of securing building, City MUST give notice to owner by:

- 1. Personally serving owner**
- 2. Certified Mail, Return Receipt Requested**
- 3. Notice twice in Elgin Courier in 10 day period if personal service cannot be obtained and post office address unknown**
- 4. Posting notice on front door of building**
214.0011(c)(1-4)

Notice MUST CONTAIN:

- 1. Identification of building**
- 2. Description of violation**
- 3. Statement that City may, or has, secured the building**
- 4. Explanation of Owner's right to request hearing**
214.011(d)(1-4)

Owner must request hearing within 30 days of City securing building.
214.0011(e)

City must conduct hearing within 20 days of owner's request.
214.0011(e)

City may assess expenses and attach lien for expenses of securing building.
214.0011(f)

STEP THREE- CONDUCT HEARING

Hearing is before Elgin Municipal Court

Owner has burden of proof to show scope of work needed to comply with code, and time needed to comply. 214.001(l)

If building is found to be in violation, owner must, within 30 days,

- 1. Secure building from unauthorized entry**
- 2. Repair, remove, or demolish building. 214.001(h)(1)(2)**

Owner bears burden of proving work cannot be done in 30 days. 214.001(h)(2)

If owner given more than 30 days, City must set time schedule to complete work. Building must be secured while work is performed. 214.001(i)

City MAY NOT allow owner more than 90 days for repairs unless owner:

1. Submits detailed plan and schedule for repairs
2. Establishes AT HEARING that work cannot be finished within 90 days
3. Submits regular progress reports 214.001(j)(1)(2)

STEP FOUR-FILE NOTICE OF ORDER

Within 10 days of court order, City **MUST**: 214.001(f)

1. File copy of order in City of Elgin City Clerk's Office
2. Publish in Elgin Courier legal notice containing:
 - a. Street address or legal description of property
 - b. Date of the hearing
 - c. Brief statement of results of order
 - d. Instructions on where to find complete copy of order

City **must** PROMPTLY mail copy of order to owner by certified mail, return receipt requested. **This is all the notice required for future City action if owner fails to take court ordered action.** 214.001(g)

STEP FOUR-FILE LIEN AFTER NON-COMPLIANCE

If owner does not comply with order, City may vacate, secure, remove, or demolish building at its own expense.

FILE LIEN on property to secure expenses, unless homestead. Lien attaches at time notice of lien is filed in County Clerk's Office (**ALWAYS FILE LIEN**) 214.0015(d)

Lien **MUST** contain:

1. Name and address of owner
2. Legal description of property
3. Amount of expenses incurred by City.

If above proper notice is given, and opportunity to repair, remove, or demolish is given to each owner, the lien is subordinate only to tax liens. 214.0015(e)

STEP FIVE- CITY REPAIR/DEMOLITION AFTER ORDER

After the time allowed by order for repair, removal or demolition, the City may:

- 1. Repair building at City expense, and attach lien to property, unless homestead, to cover expenses. (Only repair to meet code minimums)**
214.0015(b)(1)

STEP SIX-CITY MAY FINE OWNER

City pursues civil penalties against owner in District Court
214.0015(b)(2)

Civil Penalty may be up to \$1,000 per day from time of Municipal Court order if:

- 1. Owner was notified of violation and the need to comply**
- 2. Even after notification, owner fails to comply with ordinance**
- 3. City Clerk files certified copy of order with Bastrop County District Clerk's Office**
214.0015(j)(l)

Civil Penalty accrues interest at 10% per year from time of assessment until paid in full. 214.0015(f)

STEP SIX- DISTRICT COURT APPEAL BY OWNER

Owner may file petition in Bastrop County District Court challenging order of Municipal Court if done within 30 days of mailing of Municipal Court order.
214.0012(a)

District Court may issue writ instructing City to review case.

Writ does not stay Municipal Court proceedings

Appeal to District Court is limited to substantial evidence rule hearing. Court may reverse, affirm, or modify.

Costs may not be allowed against City

If City prevails, attorney's fees and costs allowed to City

Chapter 214 Ordinance

Link to Chapter 214

The full text of Local Government Code Chapter 214, Subchapter A can be found at: <https://statutes.capitol.texas.gov/Docs/LG/pdf/LG.214.pdf>



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: Public Hearing On An Ordinance Amending The Official Map Of The City Of Elgin, Texas Adopted In Chapter 46, Section 46-3, Revised Code Of Ordinances, City Of Elgin, Texas, 2013 And Making This Amendment A Part Of Said Official Zoning Map, To Wit: To Rezone Approximately 59.987 Acres Of Land From "C-3" Highway Commercial District To "PDD" Planned Development District, Located On A Parcels Of Land Known By The Bastrop County Appraisal District As Parcel Numbers 11945 And 8731878 Lying In And Being Situated Out Of The Elizabeth Standifer Survey, Abstract 59, In Bastrop County, Texas, Said Tract Being More Described In Exhibit "A"; And Providing For A Savings Clause And Repealing Conflicting Ordinances And Resolutions.

DEPARTMENT: Development Services

PROPOSED ACTION: No Council action is proposed or requested at this time; this item is to allow for public comments on the proposed ordinance in accordance with State Law.

BACKGROUND:

The request is to re-zone approximately 59.987 acres of land in Bastrop County from "C-3" Highway Commercial District to "PDD" Planned Development District. The property is located south of Highway 290 and west of Roy Rivers Road.

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

Receive public comments.

ATTACHMENTS:

1. Rhode Tract PDD Ordinance
2. Rhode Tract Map

- { } Staff will be making a detailed presentation on this agenda item at the meeting.
{X} Staff will provide brief comments and answer questions on this item at the meeting.
{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

ORDINANCE NO. 2024-07-02-_____

AN ORDINANCE AMENDING THE OFFICIAL MAP OF THE CITY OF ELGIN, TEXAS ADOPTED IN CHAPTER 46, SECTION 46-3, REVISED CODE OF ORDINANCES, CITY OF ELGIN, TEXAS, 2013 AND MAKING THIS AMENDMENT A PART OF SAID OFFICIAL ZONING MAP, TO WIT: TO REZONE APPROXIMATELY 59.987 ACRES OF LAND FROM “C-3” HIGHWAY COMMERCIAL DISTRICT TO “PDD” PLANNED DEVELOPMENT DISTRICT, LOCATED ON A PARCELS OF LAND KNOWN BY THE BASTROP COUNTY APPRAISAL DISTRICT AS PARCEL NUMBERS 11945 AND 8731878 LYING IN AND BEING SITUATED OUT OF THE ELIZABETH STANDIFER SURVEY, ABSTRACT 59, IN BASTROP COUNTY, TEXAS, SAID TRACT BEING MORE DESCRIBED IN EXHIBIT “A”; AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

WHEREAS, an application has been made to the City Council of Elgin, Texas to amend the Official Zoning Map to rezone the property described in Exhibit “A” attached hereto and incorporated herein, from C-3 Highway Commercial District, and

WHEREAS, the City Council has submitted the requested change in the Official Zoning Map to the Planning and Zoning Commission for its input, and

WHEREAS, the Planning and Zoning Commission held a workshop concerning the requested change on March 25, 2024, and

WHEREAS, the Planning and Zoning Commission has offered their input on the proposed change to the Official Zoning Map, and

WHEREAS, on July 2, 2024, after proper notification, the City Council held a public hearing on the requested change, and

WHEREAS, the City Council determines that the zoning provided for herein promote the health, safety, morals and protects and preserves the general welfare of the community, and

WHEREAS, each and every requirement set forth in Chapter 211, Sub-Chapter A, Texas Local Government Code, and Chapter 46, City of Elgin Ordinances, concerning public notices, hearings, and other procedural matters has been fully complied with,

NOW THEREFORE, BE IT ORDANED BY THE COUNCIL OF THE CITY OF ELGIN, BASTROP AND TRAVIS COUNTY, TEXAS THAT:

I.

The Official Zoning Map adopted in Chapter 46, Section 46-3, City of Elgin, Texas is hereby amended so that the zoning classification of the property described in Exhibit “A” is classified as PDD Planned Development District.

II.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this Ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

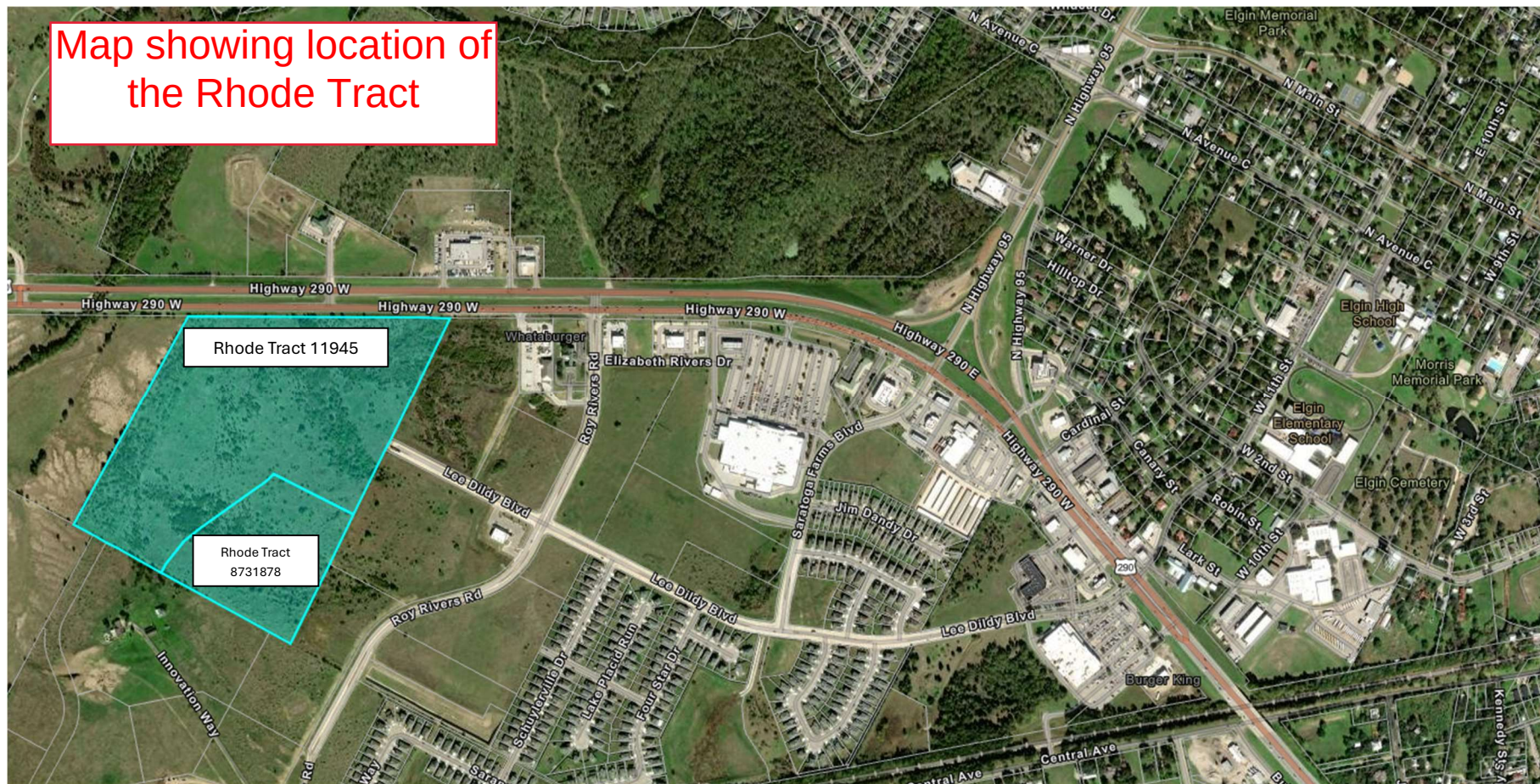
READ, PASSED, AND ADOPTED on first reading this 2nd day of July 2024.

THERESA Y. MCSHAN, Mayor
City of Elgin, Texas

ATTEST:

ESMERALDA RANGEL, Assistant City Secretary

Map showing location of
the Rhode Tract





Elgin City Council Meeting Agenda Item Executive Summary

ITEM: Public Hearing on the Proposed 2024 Five-Year Capital Improvement Plan

DEPARTMENT: Executive

PROPOSED ACTION: No Council action proposed or requested at this time; This item is to allow for public comments on the proposed 2024 Five-Year Capital Improvement Plan (5YRCP) prior to its consideration for adoption by the City Council

BACKGROUND:

Discussed at previous meetings; This hearing represents a formative step in the final development of the FY24-25 Annual Budget. The 5YRCP is a comprehensive financial planning document describing all currently proposed capital expenditures within all city departments and operations for each of the next five years. The 5YRCP is designed to provide operations managers with the opportunity to look beyond the standard 12-month governmental funding cycle, while also providing Council and the administration with information necessary to achieve effective long-term financial planning. Council has already been provided copies of the proposed 2024 5YRCP, which are available for review by the public at City Hall or the Elgin Public Library; or on the city's website.

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

N/A

ATTACHMENTS:

None

- { } Staff will be making a detailed presentation on this agenda item at the meeting.
- {X} Staff will provide brief comments and answer questions on this item at the meeting.
- { } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: Review and Discussion of Potential or Requested Inclusions in the FY2024-25 Annual Budget Proposal to be Presented by the City Manager.

DEPARTMENT: Executive

PROPOSED ACTION: Requested by Mayor McShan; This item is for review and general discussion of potential or requested inclusions in the FY2024-25 Annual Budget proposal to be presented by the City Manager in August.

BACKGROUND:

As stipulated in the City Charter and Code of Ordinances, the City Manager is required to "submit a balanced annual budget . . . prior to the end of the current fiscal year to the Council for review, consideration, and revision, if desired". Prior to the development of such budget proposal, it is constructive to receive feedback from the City Council on potential goals, objectives, or requests for inclusion in said proposal.

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

Review and general discussion of potential or requested inclusions in the FY2024-25 Annual Budget proposal to be presented by the City Manager and direction to staff, if any, as appropriate.

ATTACHMENTS:

None

- { } Staff will be making a detailed presentation on this agenda item at the meeting.
- {X} Staff will provide brief comments and answer questions on this item at the meeting.
- { } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: General Activity Report and/or Project Update

DEPARTMENT: Executive

PROPOSED ACTION: No Council action proposed or requested; This item is to allow for general update and/or activities report relating to various on-going city projects or issues.

BACKGROUND:

This item is to provide opportunities for miscellaneous updates and comments by the staff; and general Q&A with the City Council relative to on-going, non-agenda projects and/or issues.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X}
N/A

RECOMMENDATION:

N/A

ATTACHMENTS:

None

- { } Staff will be making a detailed presentation on this agenda item at the meeting.
- {X} Staff will provide brief comments and answer questions on this item at the meeting.
- { } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: City Council Regular Meeting Minutes-June 18, 2024

DEPARTMENT: Executive

PROPOSED ACTION: Approval of the Regular Meeting Minutes

BACKGROUND:

N/A

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

Approval of the June 18, 2024 Regular Meeting Minutes.

ATTACHMENTS:

1. City Council Regular Meeting Minutes-June 18, 2024

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{ } Staff will provide brief comments and answer questions on this item at the meeting.

{X} This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.



ELGIN CITY CITY COUNCIL MINUTES

June 18, 2024

6:30 PM

CALL TO ORDER

Mayor McShan called the meeting to order at 6:30 p.m.

ROLL CALL

Mayor McShan announced there was a quorum. She stated that Ms. Casnovsky would not be in attendance. Mr. Dennis made a motion to excuse Ms. Casnovsky. Mr. Gibson seconded the motion. All voted in favor. The motion carried.

Present:

Theresa Y. McShan, Mayor
Arthur Gibson III, Council Member
Chuck Swain, Council Member
YaLecia Love, Council Member
Al Rodriguez, Council Member
Matthew Callahan, Council Member
Forest Dennis, Council Member
Sue Brashar, Mayor Pro Tem

Staff:

Thomas L. Mattis, City Manager
Jennifer Stubbs, City Secretary
Michael Gonzales, Public Works Director
Chris Noble, Chief of Police
Amy Miller, Community Services Director
Beau Perry, City Engineer/Development Services Director
Pam Sanders, HR Director
Sonia Browder, Media Specialist
Dodie Navejas, UB Customer Service Manager
Esmeralda Rangel, Administrative Assistant

INVOCATION

Mr. Rodriguez provided the invocation.

PLEDGE OF ALLEGIANCE

Mayor McShan led those in attendance in reciting the Pledge of Allegiance to the Flag of the United States of America and Pledge of Allegiance to the Texas Flag.

PUBLIC HEARING

1. Public Hearing on Updated Land Use Assumptions and Capital Improvements Plan for the City of Elgin.

Mayor McShan read the caption of the Public Hearing. Mr. Mattis stated that this was a required public hearing regarding updates on impact fees, including water and sewage fees, which would be brought to the next council meeting.

No one wished to speak on the public hearing item. Mayor McShan closed the Public Hearing.

PUBLIC COMMENT

There were no public comments.

CITY MANAGERS REPORT

1. Discussion of proposed creation of a Bastrop County Emergency Medical Services Emergency Services District

Mr. Mattis provided information about a proposal regarding the creation of another emergency services district in Bastrop County for EMS. He stated that he and Chief Noble met with the representatives to discuss the proposal, and they both agreed that the creation of another ESD was not the best decision. This was expressed to the petitioners. He stated that the petitioners had already filled their petition with the county judge and the board of elections was asking about the city's position as they want to put this item on the ballot. The petitioners needed an answer within 60 days, but the election representatives wanted it sooner. Discussion followed. Mayor McShan stated that she would form a committee to research more on the topic. The committee consists of Mayor Pro Tem Brashar, Mr. Dennis, Mr. Callahan, and Ms. Love.

2. Historic Review Board 2024 First Quarter Report

There were no questions or comments from Council.

3. General Activity Report and/or Project Update

Mr. Mattis stated that County Line Road was complete, and the grand opening of Thomas Park was a success. He also stated that Veterans Park and the Police Station were on schedule. He also mentioned that Rhodes Tract Mill would be discussed at the next council meeting.

CONSENT AGENDA

1. City Council Regular Meeting Minutes-June 4, 2024

The minutes were approved on the consent agenda.

2. A RESOLUTION OF THE CITY OF ELGIN, TEXAS, AUTHORIZING EXECUTION OF PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT WITH UNION PACIFIC RAILROAD; AND MAKING CERTAIN FINDINGS RELATED THERETO

The resolution was approved on the consent agenda,

3. A RESOLUTION OF THE CITY OF ELGIN, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH DÉCOR IQ HOLIDAY & EVENT SERVICES FOR HOLIDAY LIGHTING, AND MAKING CERTAIN FINDINGS RELATED THERETO.

The resolution was approved on the consent agenda.

4. **A RESOLUTION OF THE CITY OF ELGIN, TEXAS, AUTHORIZING THE CITY MANAGER TO APPROVE PROFESSIONAL SERVICES FEES WITH BAIRD/WILLIAMS CONSTRUCTION, LTD RELATED TO THE ELGIN POLICE DEPARTMENT STATION PROJECT; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

The resolution was approved on the consent agenda.

Mayor Pro Tem Brashar made a motion to approve the consent agenda. Ms. Love seconded the motion. All voted in favor. The motion carried.

NEW BUSINESS

1. **A RESOLUTION OF THE CITY OF ELGIN, TEXAS AMENDING THE MASTER AGREEMENT WITH AQUA WATER SUPPLY REGARDING THE NORTHSIDE MEADOWS DEVELOPMENT SUBJECT TO TRANSFER TO ELGIN CCN FROM AQUA WATER CCN AND MAKING CERTAIN FINDINGS RELATED THERETO**

Mr. Mattis provided details on the project. Mr. Perry answered questions from Council.

Mr. Dennis made a motion to approve the resolution. Mayor Pro Tem Brashar seconded the motion. All voted in favor. The motion carried.

2. **Review and discussion of the proposed City of Elgin 2024 Five-Year Capital Plan (5YRCP).**

The item was moved to a City Council Work Session that would take place next Tuesday the 25th.

EXECUTIVE SESSION

The City Council did not adjourn into executive session.

RECONVENE

ANNOUNCEMENTS

Ms. Miller stated that Western Days week will take place Thursday night through Saturday night, traffic delays were expected. Additional information can be found on the Chamber's website or the Facebook page. Ms. Miller announced a new community service project: a Nature Journal that is distributed throughout events in connection with the Parks department and the library reading program. Mayor McShan also stated that Juneteenth was tomorrow at Thomas Memorial Park. Mr. Swain also stated that he was retiring in 44 days.

ADJOURNMENT

Mayor McShan adjourned the meeting at 7:11 p.m.

Theresa Y. McShan, Mayor

ATTEST:

Esmeralda Rangel, Assistant City Secretary



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: City Council Work Session Meeting Minutes-June 25, 2024

DEPARTMENT: Executive

PROPOSED ACTION: Approval of Work Session Meeting Minutes.

BACKGROUND:
N/A

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

Approval of the June 25, 2024 Work Session Meeting Minutes.

ATTACHMENTS:

1. City Council Work Session Meeting Minutes-June 25, 2024

- { } Staff will be making a detailed presentation on this agenda item at the meeting.
- { } Staff will provide brief comments and answer questions on this item at the meeting.
- {X} This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.



ELGIN CITY CITY COUNCIL MINUTES

June 25, 2024

6:30 PM

CALL TO ORDER

Mayor McShan called the meeting to order at 6:34 p.m.

ROLL CALL

Presents:

Theresa Y. McShan, Mayor
Arthur Gibson III, Council Member
Chuck Swain, Council Member
YaLecia Love, Council Member
Al Rodriguez, Council Member
Forest Dennis, Council Member
Sue Brashar, Mayor Pro Tem

Absent:

Joy Casnovsky, Council Member
Matthew Callahan, Council Member

Staff:

Thomas L. Mattis, City Manager
Jennifer Stubbs, City Secretary
Michael Gonzalez, Public Works Director
Chris Nobel, Chief of Police
Pam Sanders, HR Director
Elizabeth Marzec, Recreation & Leisure Manager
Dodie Navejas, UB Customer Services Manger
Christian Baldwin, Police Officer
Deborah Gibson, Grants Administrator
Esmeralda Rangel, Administrative Assistant

GENERAL DISCUSSION

- 1. Discussion On The Proposed 2024 City of Elgin Five-Year Capital Improvement Plan**
Mr. Mattis gave a recap of the 5-year CIP. He provided details of projects that have already been completed as well as future projects that are listed. Mr. Dennis asked questions about the parks and Ms. Marzec provided answers. Mayor Pro Tem Brashar brought attention to projects that have been on the CIP for the longest time. Discussion followed. Ms. Stubbs left the Dias at 7:26 p.m. and returned at 7:28 p.m. Mr. Dennis also added comments about the city's alleys. Mr. Mattis suggested bringing in an outside entity to provide clarification.

The majority of the council agreed that having an outside consultant to provide them with information they might not even be aware of would be helpful. Comments and clarification were provided on questions about roads, potholes, and TXDoT. Mr. Mattis also talked about the preservation of City Hall. Mr. Gonzales provided clarifying comments on proposed projects. Ms. Marzec encouraged the council to walk the sites proposed in the CIP to get a better understanding than just the picture that is shown in the packet. Discussion followed. Mr. Mattis stated that he believed the city was in a good position to not have to rush to complete any projects. Mayor McShan asked for a survey to be sent out to the council to revise their previous top 10 rankings. Mr. Mattis also stated that there would be a public hearing on the CIP at the next council meeting.

ADJOURNMENT

Mayor McShan adjourned the meeting at 7:53 p.m.

Theresa Y. McShan, Mayor

ATTEST:

Esmeralda Rangel, Assistant City Secretary



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: A RESOLUTION OF THE CITY OF ELGIN, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDER #5 FOR VETERANS MEMORIAL PARK EXPANSION, AND MAKING CERTAIN FINDINGS RELATED THERETO.

DEPARTMENT: Community Services

PROPOSED ACTION: Approve resolution.

BACKGROUND:

The Veterans Memorial Park expansion should be complete before the end of July. The items in change order 5 support the completion of fencing, public art wall Synchronicity in Elgin, and a public drinking fountain.

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

Approve Resolution.

ATTACHMENTS:

1. ResVeteransExpCO5
2. G Hyatt CO#5 with documentation
3. 22.856_Elgin VMP_CO 5 Letter

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{ } Staff will provide brief comments and answer questions on this item at the meeting.

{X} This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

RESOLUTION NO.

**A RESOLUTION OF THE CITY OF ELGIN, TEXAS,
AUTHORIZING THE CITY MANAGER TO EXECUTE
CHANGE ORDER #5 FOR VETERANS MEMORIAL PARK
EXPANSION, AND MAKING CERTAIN FINDINGS RELATED
THERETO.**

WHEREAS, the Elgin City Council and Parks & Recreation Advisory Board have approved an Open Space, Parks, & Recreation Master Plan for the benefit of residents and to improve local parks and;

WHEREAS, the City Council approved a new playground, outdoor classroom, stage, seating, and nature play area for Veterans Memorial Park Expansion and;

WHEREAS, the Parks & Recreation Advisory Board and Historic Review Board reviewed and approved the park expansion and;

WHEREAS, the staff worked with Studio 1619 to find a qualified contractor and;

WHEREAS, staff recommends approving Change Order #5 with the details specified in the attached documents.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ELGIN, BASTROP AND TRAVIS COUNTY, TEXAS THAT:

Section 1. Findings. The following recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Authorization. The City Manager is hereby authorized to execute Change Order #5 in the amount of the proposal attached.

Section 3. Open Meetings. The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered, and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon passage.

PASSED AND ADOPTED this 2nd day of July 2024

THERESA Y. MCSHAN, Mayor
City of Elgin, Texas

ATTEST:

ESMERALDA RANGEL, Assistant City Secretary

Change Order

PROJECT: Elgin Veteran's Memorial	CONTRACT INFORMATION:	CHANGE ORDER NUMBER	005
305 Depot Street	Contract for general construction	DATE:	19-Jun-24
Elgin, Texas 78621	9/6/2023		
OWNER:	ARCHITECT	CONTRACTOR:	
City Of Elgin	Studio 16:19, LLC	G Hyatt Construction	
310 N Main Street	305 W Liberty Ave Ste 100	2006 S Bagdad Rd Ste 170	
Elgin, Texas 78621	Round Rock, TX 78664	Leander, TX 78641	

THE CONTRACT IS CHANGE AS FOLLOWS:

Change Proposal 16	\$ 3,202.02
Change Proposal 17	\$ 5,226.75
Change Proposal 18	\$ 1,161.50

Subtotal: \$ 9,590.27

The original Contract Sum was	\$ 967,266.18
Net change by previously authorized Change orders	\$ 79,044.84
The Contract Sum prior to this Change order was	\$ 1,046,311.02
The Contract Sum will be increased by this change order in the amount of	\$ 9,590.27
The new Contract Sum including this Change order will be	\$ 1,055,901.29
The Contract Time will be increased by	12
The date of Substantial Completion as of the date of this Change Order therefore is	6/28/2024

NOTE: This summary does not reflect changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive.

Studio 16:19, LLC	G Hyatt Construction, INC	City of Elgin
ARCHITECT	CONTRACTOR	OWNER
	<i>Monica Hyatt</i>	
SIGNATURE	SIGNATURE	SIGNATURE
	Monica Hyatt, VP	
PRINTED NAME/TITLE	PRINTED NAME/TITLE	PRINTED NAME/TITLE
	6/19/2024	
DATE	DATE	DATE

G. Hyatt Construction, Inc.

2006 Bagdad Road, Suite # 170
Leander, TX 78641

Friday, May 10, 2024

Beau Perry
City of Elgin
310 N Main Street
Elgin, TX 78621

RE: Change Proposal 16

Mr. Perry:

Per the Contract, Article 10, our lump sum price to complete the water & wastewater connections for the drinking fountain, as requested by the City of Elgin, is \$3,202.02

Our scheduled analysis has determined this change will add seven (7) days to the project schedule at this time. Your approval is requested by May 17, 2024 to maintain the above price and schedule; any approval after this date may increase the time and cost associated with this change, which additional cost and time may be added to our proposal.

Our proposal only covers the work specifically noted in the attached proposal described herein. We call your attention to any exclusions and qualifications attached and reserve the right to provide further proposals for any costs which may be unforeseen or not quoted at this time.

Thank you,



Justin Hyatt,
G. Hyatt Construction, Inc.

G. HYATT CONSTRUCTION, INC.
PROPOSAL

PROJECT: Elgin Veterans Memorial Park
PROPOSAL #: 16
DATE: 5/10/2024

DESCRIPTION: Complete water & wastewater connections for drinking fountain & install

MATERIALS

SUBTOTALS

1 TOTAL DIRECT COST	\$	-	
2 SALES TAX	\$	-	
			\$ -

LABOR

3 ADDITIONAL SUPERV.	-	x	\$ -	
4 ADDITIONAL LABOR	0	MH x	\$ -	
5 LABOR BURDEN (10%)			\$ -	
				\$ -

EQUIPMENT

6 EQUIPMENT RENTAL	\$	-	
			\$ -

SUBCONTRACTORS

7 SUBCONTRACTORS	\$	2,756.80	
8 MARK UP	\$	413.52	\$ 3,170.32

SUBTOTAL OF PROPOSAL	\$	3,170.32
BONDS & INSURANCE	\$	31.70
TOTAL OF PROPOSAL	\$	3,202.02

G. Hyatt hereby agrees to perform the work outlined in this proposal per the amount specified and in accordance with the contract documents after the work is in an approved change order.

TIME EXTENSION REQUEST: 0



Proposal

May 9, 2024

To: G Hyatt Construction

Attn: Justin

Re: Install Outdoor Drinking Fountain

We propose to install the follow **PLUMBING** work as outlined below.

TACLA00045892C
M-40867
BuyBoard# 733-24

Labor	Hours	Rate	Materials & Tools	Rentals / Subcontractors	Incured Cost
Journeyman....	17	\$135.00	Materials..... \$186.70	Rental(s)..... \$0.00	Hours.... \$ -
Apprentice.....	0	\$105.00	Tools..... \$0.00	Subs/Crane..... \$0.00	Rate..... \$ -
Total.....		\$2,360.00	Total..... \$186.70	Total..... \$0.00	Total..... \$ -

HVAC/Plumbing Work: \$2,546.70
Tax 8.25% \$210.10
Total Price \$2,756.80

Scope of Work:

1. Furnish and install: (1) 4" PVC Wye, (20') 1" PVC, (1) 4"x 1" Reducer, (1) 4" PVC C/O Fitting, and misc. other parts and fittings.
2. Set fountain and anchor it down with 3/8" Quick Bolts.
3. Run PVC Drain from 4" Drain line to fountain.
4. Install new components listed above.
5. Pressure test and leak search system.
6. Startup unit and verify all operations.
7. Clean up work area.

Bid Clarifications:

1. Sales tax included.
2. All work performed during normal hours.
3. No electrical of any kind.
4. No dumpsters or haul off.
5. No fire alarm or smoke detectors.
6. No coring, scanning, cutting, patching or concrete work.
7. No removal of walls or ceiling to access "the work".
8. No structural steel framing or roofing.
9. No temporary facilities or temporary air.
10. No other repairs are in this proposal other then listed above.

We appreciate the opportunity to work with you on your project. This pricing is valid for 30 days from the date on the proposal. If you have any questions, please do not hesitate to give us a call.

Sincerely,

Matt Banker
Service Department Project Manager
Office# 512-593-6001
Cell# 737-330-4374
Email: mattb@simechanical.com

Signed: _____

Acceptance of Proposal:

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.



This proposal is conditional upon the following terms and conditions:

1. Customer agrees to pay S I Mechanical, LLC all sums due with respect to this proposal in accordance with the terms specified. Payments are due upon receipt of invoice. In the event payment is not received by S I Mechanical, LLC by the tenth day of the month following billing, such payment shall be considered past due. If default is made in payment of any sums due hereunder and it becomes necessary that this Agreement be placed in the hands of an attorney for collection, customer agrees to pay to S I Mechanical, LLC all costs of collection, including reasonable attorney's fee. S I Mechanical, LLC shall have the right to cancel this Agreement at any time, upon (5) day's written notice, if payments are called for herein are not made.
2. Cancellation Clause: This agreement can only be cancelled by customer upon a 30-day written notice. If in the event the customer cancels this agreement S I Mechanical, LLC will be due the balance of the annual contract for the current contract year or the cost plus profit incurred year to date, which ever is lesser of the two.
3. Customer waives any and every claim which arises in its favor and against S I Mechanical, LLC during the term of this Agreement for any all loss of, or damage to, any of its property, which loss or damage is covered by valid and collectible fire and extended coverage insurance policies, general liability policies, and workmen's compensation policies, to the extent that such loss or damage is recoverable under said insurance policies and such loss is not the result of the gross negligence or willful misconduct of S I Mechanical, LLC or failure of S I Mechanical, LLC to comply with the terms of this agreement.
4. It is agreed that S I Mechanical, LLC shall have no liability to customer or to customer's agents, servants, or employees or to any third parties for injuries to persons, or damage to property directly or indirectly resulting from the failure of any equipment or due to any other cause whatsoever, other than the gross negligence or willful misconduct of S I Mechanical, LLC, and customer agrees to indemnify S I Mechanical, LLC and hold it harmless from any loss, claim, damage, or expense, including attorney's fees, arising out of any such damage or injury. S I Mechanical, LLC shall not be liable for any lost rents, income, or profits nor any indirect, remote, special, or consequential damages from whatever cause and howsoever the same may arise, nor for any delay, loss damage, or injury caused by acts of God, labor disturbances, non-delivery, or unavailability of manpower or material, or any other event beyond S I Mechanical, LLC's control. S I Mechanical, LLC agrees to indemnify customer and hold it harmless from any loss, claim, damage or injury caused by the gross negligence or willful misconduct of S I Mechanical, LLC.
The entire liability of S I Mechanical, LLC and client's exclusive remedy for damages from any cause in connection with the work, including, but not limited to, nonperformance or misrepresentation, and regardless of the form of action, shall be limited to the annual Agreement fee of the current year.
5. This contract constitutes the entire agreement and is not assignable by either party. This Agreement may be modified or amended only by written agreement of both parties. S I Mechanical, LLC is inclusive of it's affiliated companies.
6. S I Mechanical, LLC and it's affiliated companies shall not be responsible to customer or anyone else for the system design or its performance in maintaining design conditions.
7. The Heating, Ventilation, and Air-Conditioning equipment and systems installed, repaired or serviced as a part of this agreement may, under certain conditions, become conducive to or incidentally support microbiological growth. S I Mechanical, LLC makes no claim nor warrants its work to protect against, eliminate or inhibit any type of microbiological growth, including but not limited to, molds, fungi and other related matter, in or around duct systems, HVAC and related equipment or areas adjacent to or in proximity of such systems and equipment.
8. Customer agrees to indemnify, defend, and hold harmless, S I Mechanical, LLC, its officers, directors, agents, assigns, successors and employees from any against any and all claims of damages or injury, of any kind or nature whatsoever, including claims of property damage or personal injury, due to any such microbiological growth in or emanating from any of the customer's HVAC equipment or HVAC systems.
9. Some projects require the use of heavy commercial hoisting or rigging equipment. While all precautions will be exercised to protect the customer's property. S I Mechanical, LLC will not accept any responsibility for damage to parking lots, driveways, or landscaping that may occur as a result of normal hoisting and rigging operations, excluding negligence or accidents.
10. Unless indicated otherwise, all pricing is based upon work being performed during regular working hours of 8:00am to 4:30 pm, Monday through Friday, except holidays. If work is required at times other than normal working hours, the customer agrees to pay the difference between the regular and overtime charge.
11. If S I Mechanical, LLC encounters asbestos or polychlorinated biphenyl (PCB) on the site, S I Mechanical, LLC will stop work and report the evidence of such to the customer. S I Mechanical, LLC will not resume work in the affected area until the asbestos or PCB has been removed or determined harmless by a qualified laboratory.
12. S I Mechanical, LLC shall comply with it's affirmative action, environmental and safety policies as mandated by the government.
13. S I Mechanical, LLC will make every effort to locate and avoid building utilities. It shall be the responsibility of the Customer to provide reference drawings and locate all hidden utilities in and around the work site. S I Mechanical relies on this information to execute the work. Damages to unmarked and unforeseen building utilities is the responsibility of the Customer.
14. S I Mechanical, LLC does not accept consequential damages or liquidated damages unless agreed to in writing.

G. Hyatt Construction, Inc.

2006 Bagdad Road, Suite # 170
Leander, TX 78641

Friday, June 14, 2024

Beau Perry
City of Elgin
310 N Main Street
Elgin, TX 78621

RE: Change Proposal 17

Mr. Perry:

Per the Contract, Article 10, our lump sum price to add one half course of CMU & one full course of glazed brick to the stage is \$5,226.75. This work will entail cutting all the CMU and some of the glazed brick.

Our scheduled analysis has determined this change will add five (5) days to the project schedule at this time. Your approval is requested by June 18, 2024 to maintain the above price and schedule; any approval after this date may increase the time and cost associated with this change, which additional cost and time may be added to our proposal.

Our proposal only covers the work specifically noted in the attached proposal described herein. We call your attention to any exclusions and qualifications attached and reserve the right to provide further proposals for any costs which may be unforeseen or not quoted at this time.

Thank you,



Justin Hyatt,
G. Hyatt Construction, Inc.

G. HYATT CONSTRUCTION, INC.
PROPOSAL

PROJECT: Elgin Veterans Memorial Park
PROPOSAL #: 17
DATE: 6/14/2024

DESCRIPTION: Add one half course of CMU & and one full course of glazed brick around the entirety of the wall - this will entail cutting the block & brick

MATERIALS

SUBTOTALS

1 TOTAL DIRECT COST	\$	-	
2 SALES TAX	\$	-	
		\$	-

LABOR

3 ADDITIONAL SUPERV.	-	x	\$	-	
4 ADDITIONAL LABOR	0	MH x	\$	-	
5 LABOR BURDEN (10%)			\$	-	
			\$		-

EQUIPMENT

6 EQUIPMENT RENTAL	\$	-	
	\$		-

SUBCONTRACTORS

7 SUBCONTRACTORS	\$	4,500.00	
8 MARK UP	\$	675.00	\$ 5,175.00

SUBTOTAL OF PROPOSAL	\$	5,175.00
BONDS & INSURANCE	\$	51.75
TOTAL OF PROPOSAL	\$	5,226.75

G. Hyatt hereby agrees to perform the work outlined in this proposal per the amount specified and in accordance with the contract documents after the work is in an approved change order.

TIME EXTENSION REQUEST: 5

G. Hyatt Construction, Inc.

2006 Bagdad Road, Suite # 170
Leander, TX 78641

Wednesday, June 19, 2024

Amy Miller
City of Elgin
310 N Main Street
Elgin, TX 78621

RE: Change Proposal 18

Ms. Miller:

Per the Contract, Article 10, our lump sum price to move existing irrigation lines at the CARTS building to accommodate the new fence and mow strip is \$1161.50

Our scheduled analysis has determined this change will add zero (0) days to the project schedule at this time. Your approval is requested by June 26, 2024 to maintain the above price and schedule; any approval after this date may increase the time and cost associated with this change, which additional cost and time may be added to our proposal.

Our proposal only covers the work specifically noted in the attached proposal described herein. We call your attention to any exclusions and qualifications attached and reserve the right to provide further proposals for any costs which may be unforeseen or not quoted at this time.

Thank you,



Justin Hyatt,
G. Hyatt Construction, Inc.

G. HYATT CONSTRUCTION, INC.
PROPOSAL

PROJECT: Elgin Veterans Memorial Park
PROPOSAL #: 18
DATE: 6/19/2024

DESCRIPTION: Move irrigation lines at CARTS to accommodate new fence mow strip

MATERIALS

SUBTOTALS

1 TOTAL DIRECT COST	\$	-	
2 SALES TAX	\$	-	
		\$	-

LABOR

3 ADDITIONAL SUPERV.	-	x	\$ -	
4 ADDITIONAL LABOR	0	MH x	\$ -	
5 LABOR BURDEN (10%)			\$	-
			\$	-

EQUIPMENT

6 EQUIPMENT RENTAL	\$	-	
		\$	-

SUBCONTRACTORS

7 SUBCONTRACTORS	\$	1,000.00	
8 MARK UP	\$	150.00	\$ 1,150.00

SUBTOTAL OF PROPOSAL	\$	1,150.00
BONDS & INSURANCE	\$	11.50
TOTAL OF PROPOSAL	\$	1,161.50

G. Hyatt hereby agrees to perform the work outlined in this proposal per the amount specified and in accordance with the contract documents after the work is in an approved change order.

TIME EXTENSION REQUEST: 0

June 24, 2024

City of Elgin
Ms. Amy Miller
PO Box 591
Elgin, TX 78621



Re: Change Order Request #5

Project Name: Veterans Memorial Park
Project Address: 205 Depot Street, Elgin, TX 78621

Dear Ms. Miller:

This letter is to serve as backup documentation regarding the current construction Change Order #5, which consists of Change Proposals #16, #17 and #18 as issued by G. Hyatt Construction, Inc. on the Veterans Memorial Park project.

The Change Order presented was initiated to address changes in the General Contractor's scope of work due to owner requests. This change has impacted the project schedule and budget, and G. Hyatt has taken the necessary steps to ensure that the project proceeds smoothly after approval.

Change Order Request #5:

G. Hyatt Construction, Inc – Change Proposal #16

- **Water and Wastewater Connection to Drinking Fountain**
 - Cost – **\$3,202.02**
 - After the installation of the water line and wastewater lines by the City Public Works department, final connections to the water fountain were not provided. This change proposal includes all requires parts and fittings to complete the water fountain installation.

G. Hyatt Construction, Inc – Change Proposal #17

- **Art Wall CMU / Brick Add**
 - Cost – **\$5,226.75**
 - During installation of the art wall per the design provided by Ms. Sawyer it was recognized that additional height was necessary to complete the top cap. In order to allow for this additional course of brick, a half block of CMU is required to be added.
 - This Change proposal accounts for the material procurement and installation for the GC to complete the wall.

G. Hyatt Construction, Inc – Change Proposal #18

- **Irrigation Adjustments at CARTS site for fencing**
 - Cost – **\$1,161.50**
 - During installation of the fencing along the north property line of Block B at the CARTS building, it became apparent that there was existing irrigation located within the CAP METRO easement. In order to install the fencing per plan with mow curb, there is a small area of existing irrigation that required modification to allow for the installation.

Budget Summary:

On August 15th, 2023, the city council approved **\$1,854,611** in total funding for the project with the total over all project cost of **\$1,877,710** with an identified project deficit of \$23,099 that would be absorbed by current funding within the City Budget as explained during the council meeting.

The final conformed Issued For Construction (IFC) set based on contractor negotiations, final contract coordination, final owner purchased/ owner supplied items and previously approved contractor change orders result in a revised project cost of **\$1,978,695** which is an overall increase of the project budget by \$124,084.

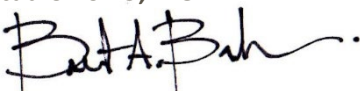
Next Steps:

Our recommendation would be to move forward with G. Hyatt's proposals as attached and construction methodology mentioned within. The City to move forward with items identified here-in for a total cost of **\$9,590.27** as presented by G. Hyatt.

Please feel free to contact me should you have any questions, comments, or require any additional information. You may reach me via e-mail at brent@studio1619.com or by phone at (512) 534.8680.

Respectfully submitted,

studio 16:19, LLC


managing principal + founder



cc : Client

Elizabeth Marzec, Program Manager – Parks and Recreation Department
Beau Perry, PE, City Engineer

Attachments (1):

- 1 - G. Hyatt Construction, Inc – Change Order 5



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH IMPERIUM EXTERIORS, FOR REPAIRS TO THE HISTORIC NOFSINGER HOUSE AND MAKING CERTAIN FINDINGS RELATED THERETO.

DEPARTMENT: Public Works

PROPOSED ACTION: Approval of an agreement for Repairs to City Hall.

BACKGROUND:

Staff and the City Council consider the repairs to the historic City hall a priority and directed staff to proceed with repairs. Funding for this project was included in the 2022-23 budget cycle.

BUDGET/FINANCIAL IMPACT:

Funding for this item was {X} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

Approval of an agreement for Repairs to City Hall.

ATTACHMENTS:

1. RESNewContractnofsinger
2. estimate_232 (1)

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{ } Staff will provide brief comments and answer questions on this item at the meeting.

{x} This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

RESOLUTION NO. 2024-07-02-

A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH IMPERIUM EXTERIORS, FOR REPAIRS TO THE HISTORIC NOFSINGER HOUSE AND MAKING CERTAIN FINDINGS RELATED THERETO.

WHEREAS, the Elgin Public Works Department has been tasked with leading certain repairs to the historic Nofsinger house at 310 N. Main Street that serves as Elgin's City Hall, and;

WHEREAS, among other projects strongly supported, the repairs to this historic building have been made a priority by council and some of the public and;

WHEREAS, the staff have sent out request for proposals and met with contractors and have found the proposal from Imperium Exteriors to be of fair value, and;

WHEREAS, staff now recommends awarding the repair project as proposed to Imperium Exteriors of Austin with the details specified in the attached documents.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ELGIN, BASTROP AND TRAVIS COUNTY, TEXAS THAT:

Section 1. Findings. The following recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Authorization. The City Manager is hereby authorized to execute an agreement with *Imperium Exteriors of Austin* in the amount of the proposal in the attached packet.

Section 3. Open Meetings. The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered, and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon passage.

PASSED AND ADOPTED this 2nd day of July 2024

THERESA Y. MCSHAN, Mayor
City of Elgin, Texas

ATTEST:

ESMERALDA RANGEL, Assistant City Secretary



Imperium Exteriors

7212 McNeil Drive | suite 201 | Austin, Texas 78729
7373765800 | Office@Imperiumexteriors.com | <https://imperiumexteriors.com/>

RECIPIENT:

City of Elgin

310 North Main Street
Elgin, Texas 78621

Estimate #232

Sent on

May 31, 2024

Total

\$94,147.00

Product/Service	Description	Qty.	Unit Price	Total
Exterior trim	-detach and reset of gutters -Remove and replace all fascia with matching James Hardie trim -repair rotten window trim and Cove molding -minor stucco repair -paint everything replaced and repaired to match	1	\$10,023.00	\$10,023.00
Windows	-remove window sash -replace the rotten wood frames around glass -replace glass with matching glass if needed -re pudy and pin glass -restain and paint window sash frames reinstall window sashes.	40	\$525.00	\$21,000.00
Columns	-repair columns with wood filler -replace wood bases with matching wood bases -replace wood capitals with matching wood capitals 3 -paint to match	13	\$921.00	\$11,973.00
Balustrade All	-Removal of rails and balusters -Install of matching balusters railing post and Oal to match existing. Custom turned off samples sent in to wood turner. Turned from treated pine. -paint to match	1	\$46,764.00	\$46,764.00
Gutter downspouts half round	-remove and replace downspouts with matching downspouts.	1	\$4,387.00	\$4,387.00

Total

\$94,147.00

KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW. THREE DAY RIGHT OF RESCISSION: I HAVE HEREBY BEEN NOTIFIED THAT I MAY CANCEL THIS AGREEMENT AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS AGREEMENT.

Lead Notice

Homeowner acknowledges the property was built after January 1st 1978 and has no actual or constructive knowledge of lead based paint and or lead based paint in the property.

Terms: 50% deposit due with signed contract and remainder of balance due upon completion of quality control inspection. Customer can hold back funds not to exceed 10% of total project cost until completion of any follow up items.

THIS CONTRACT AND ANY AGREEMENT PURSUANT HERETO BETWEEN

1 of 3 pages

Page 61 of 203



Imperium Exteriors

7212 McNeil Drive | suite 201 | Austin, Texas 78729

7373765800 | Office@Imperiumexteriors.com | <https://imperiumexteriors.com/>

Notes Continued...

IMPERIUM EXTERIORS AND THE CUSTOMER(S) NAMED HEREIN ON THE REVERSE SIDE WILL BE SUBJECT TO ALL APPROPRIATE LAWS, REGULATIONS, AND ORDINANCES OF THE STATE OF TEXAS AND THE FOLLOWING TERMS AND CONDITIONS:

General

Imperium Exteriors LLC agrees to perform the described work for the Customer in accordance with standard industry practices unless otherwise stated. If this agreement is not signed by responsible parties within 30 days from the proposal date, it will expire unless extended in writing. After 30 days, we reserve the right to revise the proposal in accordance with any price changes. The Customer grants Imperium Exteriors full access to entire perimeter of building and electricity for the execution of work unless otherwise agreed. Owner may make changes consisting of alterations, additions to, or omissions from work, and the total contract price will be adjusted accordingly. Contractor shall not be required to perform changed or additional work without written authorization. This agreement represents the entire understanding of the Parties. All leftover materials are the property of Imperium Exteriors. There are no oral agreements, understandings, or representations made by any party to this agreement that are not expressly stated herein. This agreement shall be governed by the laws of the state of Texas.

WINDOW WARRANTY

Imperium Exteriors warrants all windows and window install for 50 years on normally ware and tear. This includes all window components including glass. Excludes acts of god. Imperium Exteriors must be notified at time of discovery of any problems please contact your sales rep or the office.

MATERIAL WARRANTY ON SIDING, ROOFING & OTHER

Contractor shall provide owner with a copy of the materials manufacturer's product warranty. Customer shall have recourse only against the manufacturer of such material.

LABOR WARRANTY

No warranty given on repairs unless noted otherwise. For a period of 5 years, unless otherwise stated, Imperium Exteriors warrants that labor shall be furnished in accordance with normal industry standards and tolerances. Labor warranties are transferable. Imperium Exteriors, at its option, may repair or replace items covered under this warranty. Imperium Exteriors shall not be responsible or liable for incidental or consequential damages such as additional expenses or water damage whether claimed in contract, warranty or negligence. For a warranty to be valid the contract must be paid in Full

EXTENSION OF TIME

In the event that there become shortages in the supply chain, shortages in supply of labor, delay in availability of materials, site closure, or changes in site operating procedures, this will be deemed a relevant event in respect of delays to the project and Contractor will be entitled to a fair and reasonable extension of time to the completion date in relation to such relevant event(s).

ADDITIONAL COSTS

Building materials utilized in the construction can be subject to price variation based on local, regional, and national supply and demand issues, and, additionally, catastrophic events such as hurricanes, tornadoes, floods, earthquakes, epidemic or pandemic conditions, terrorism, wars, and similar events and conditions that can dramatically affect the price of delivered materials. Customer acknowledges and agrees that in the event that there is a price increase in such construction materials, the excess charges will be passed through to Customer, resulting in an increase in the total contract price.

FORCE MAJEURE

Contractor shall not be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control including (without limitation) acts of God or natural disaster, epidemic or pandemic, chemical or biological contamination, wars, strikes, riots, acts of domestic or international terrorism, or other similar events or conditions. In such circumstances the time for performance shall be extended by a period equal to the period during which performance of the obligation has been delayed or failed to be performed.

RESOLUTION OF DISPUTES

All claims or disputes between the Customer and Contractor arising out of or related to the work shall be decided by arbitration in accordance with the construction industry arbitration rules of the American Arbitration Association then obtained unless the parties mutually agree otherwise. The Customer and Contractor shall submit all disputes or claims, regardless of the extend of the work's progress, to the American Arbitration Association unless the parties mutually agree otherwise. Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and shall be made within a reasonable time after the dispute has arisen. The award rendered by the arbitration shall be final, and judgment may be entered upon it in accordance with the applicable law in any court having jurisdiction thereof.

PAYMENTS

Payment is due at 7212 Mcneail Dr Sute 201 Austin Texas, upon completion of work. Any portion remaining unpaid will bear interest at the rate of 1.5% per month, not to exceed the maximum rate allowed by law, beginning 21 days after completion. Invoices paid by credit card are subject to the statutorily authorized convenience fee of 4% of charges. Purchaser agrees to pay reasonable collection fees and/or legal fees needed in pursuit of collecting any unpaid portion beginning 45 days after installation. Payment for work completed will immediately



Imperium Exteriors

7212 McNeil Drive | suite 201 | Austin, Texas 78729

7373765800 | Office@Imperiumexteriors.com | <https://imperiumexteriors.com/>

Notes Continued...

become due should customer initiate a delay in work. Any person or company supplying labor or materials for the improvement to your property may file a lien against your property if that person or company is not paid for their services/materials.

EFFECTIVE September 01, 2019

Texas law requires a person insured under a property insurance policy to pay any deductible applicable to a claim made under the policy. It is a violation of Texas law for a seller of goods or services who reasonably expects to be paid wholly or partly from the proceeds of a property insurance claim to knowingly allow the insured person to fail to pay, or assist the insured person's failure to pay, the applicable insurance deductible.

IMPORTANT NOTICE: You and your contractor are responsible for meeting the terms and conditions of this contract. If you sign this contract and you fail to meet the terms and conditions of this contract, you may lose your legal ownership rights in your home.

Signature: _____ Date: _____



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDERS WITH TRC ENGINEERS, FOR VARIOUS CAPITAL PROJECTS AS PART OF TO THE 2021 CERTIFICATES OF OBLIGATION AND MAKING CERTAIN FINDINGS RELATED THERETO.

DEPARTMENT: Public Works

PROPOSED ACTION: Review and approve change orders.

BACKGROUND:

These are change orders for the design of various capital projects.

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

Review and approve change orders.

ATTACHMENTS:

1. RESTRCHANGEORDERS
2. Elgin County Line Road Phase I Contract Extension-20240610
3. Elgin TDA SCADA CDV21-0026-20240610
4. Elgin Water Well No. 17-20240610
5. Elgin WWTP Expansion-20240610

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{ } Staff will provide brief comments and answer questions on this item at the meeting.

{x} This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

RESOLUTION NO. 2024-07-02-

A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDERS WITH TRC ENGINEERS, FOR VARIOUS CAPITAL PROJECTS AS PART OF THE 2021 CERTIFICATES OF OBLIGATION AND MAKING CERTAIN FINDINGS RELATED THERETO.

WHEREAS, Several Capital projects are already underway that require design and engineering which TRC Engineers are providing services for, and;

WHEREAS, In response to the City's request TRC has made these change orders and added services to these projects described in the provided packet, and;

WHEREAS, Staff now present these changes and recommend executing them in support of each project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ELGIN, BASTROP AND TRAVIS COUNTY, TEXAS THAT:

Section 1. Findings. The following recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Authorization. The City Manager is hereby authorized to execute an agreement with *TRC Engineers* in the amount of the proposals and change orders in the attached packet.

Section 3. Open Meetings. The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered, and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon passage.

PASSED AND ADOPTED this 2nd day of July 2024

ATTEST:

THERESA Y. MCSHAN, Mayor
City of Elgin, Texas

ESMERALDA RANGEL, Assistant City Secretary



505 East Huntland Drive
Suite 250
Austin, Texas 78752

T 512.454.8716
TRCcompanies.com
T.B.P.E. #F-8632

June 24, 2024

Mr. Thomas Mattis, City Manager
City of Elgin
310 North Main
Elgin, Texas 78621

**RE: City of Elgin
County Line Road Phase I
Additional Engineering Services
Engineering Services Change Order No. 1**

Dear Mr. Mattis:

TRC Engineers, Inc. (TRC) has prepared this change order proposal for professional engineering services for the contract management services on the above-referenced project, described as follows:

SCOPE OF WORK

TRC will perform the following Scope of Work:

1. TRC will provide project management services for the construction project based on the delays from the contractor and franchise utilities for (eight (8) months maximum).
2. Continued support on submittals, RFI's, change orders, and integration of other project related work.
3. Working with the following franchise utilities and third parties to determine conflicts and ways to continue the work forward on the project:
 - a. Oncor
 - b. Centerpoint
 - c. AT&T
 - d. Spectrum/Charter
 - e. Aqua W.S.C.
 - f. Elgin ISD

- g. Harvest Ridge (Brohm Homes)
- h. Homestead (LGI Homes & Homeowners Association)

ASSUMPTIONS

As the basis for the preparation of this proposal and the associated cost of services, the following assumptions were made, which if found to be incorrect, may result in additional compensation to TRC:

- TRC's effort and costs for engineering services are based on a construction project duration extension of eight (8) consecutive months extending from the previous assumed project conclusion of November 30, 2023. If the construction period exceeds this time limit, TRC will provide an additional task order based on additional extension of time.

EXCLUSIONS

TRC will not control or have charge of, and shall not be responsible for:

- Construction means, methods, techniques, and sequences;
- Procedures of construction;
- Construction topographical surveying and staking, or post construction survey (as-built conditions);
- Quality assurance testing;
- Conflict resolution with private property owners;
- Investigations, analyses, studies or design for substitutions or materials, corrections of defective or deficient work of the contractor or other deviations from the construction contract documents;
- Health or safety programs or precautions connected with the work;
- Managing, supervising, or have charge of construction; and

COMPENSATION FOR SERVICES

TRC Engineers, Inc. will provide the professional engineering services as outlined in the Scope of Work and within the Master Services Agreement executed between the City and TRC. The lump sum costs to provide these services are identified in the Fee Schedule below.

Fee Schedule:

Task	Cost
Project Management:	\$29,800
Total:	\$29,800

TRC's lump sum fee above is based on a continuous flow of work. Any delays or restrictions, caused by customer or customer's sub consultants, which result in idle-time or inefficiencies, could be cause for additional compensation.

The payment schedule will be via progress billing (percent complete for each task).

Changes in scope, including additional scenarios or modification to the scenarios identified above will be evaluated for additional services and/or material cost through a formal change order process, which results in approval of the additional cost prior to excluding the additional work.

The services will be provided in Travis County.

Fees for service quoted in this Letter of Agreement are valid for a period of time not to exceed 60 days from the date of this letter.

We appreciate the opportunity to assist with this project and are available to proceed immediately with your written approval. Please review this Letter of Agreement and, upon acceptance, sign in the space provided below.

Sincerely,



Will Wachel, P.E.
Vice President

06/24/2024

Date

Thomas Mattis, City Manager
City of Elgin

Date



505 East Huntland Drive
Suite 250
Austin, Texas 78752

T 512.454.8716
TRCcompanies.com
T.B.P.E. #F-8632

June 24, 2024

Mr. Thomas Mattis, City Manager
City of Elgin
310 North Main
Elgin, Texas 78621

**RE: City of Elgin
TDA SCADA CDV21-0026
Additional Engineering Services
Engineering Services Change Order No. 1**

Dear Mr. Mattis:

TRC Engineers, Inc. (TRC) has prepared this change order for professional engineering services for the contract management services on the above-referenced project, described as follows:

SCOPE OF WORK

TRC will perform the following Scope of Work:

1. TRC will provide project management services for the construction project based providing additional services related to the Contractors delays on the project (twelve (12) months maximum).
2. Continued support on submittals, RFI's, change orders, and integration of other project related work offsite.

COMPENSATION FOR SERVICES

TRC Engineers, Inc. will provide the professional engineering services as outlined in the Scope of Work and within the Master Services Agreement executed between the City and TRC. The lump sum costs to provide these services are identified in the Fee Schedule below.

Fee Schedule:

Task	Cost
Project Management:	\$9,800
Total:	\$9,800

Mr. Thomas Mattis, City Manager
City of Elgin
June 24, 2024
Page 2 of 2

TRC's lump sum fee above is based on a continuous flow of work. Any delays or restrictions, caused by customer or customer's sub consultants, which result in idle-time or inefficiencies, could be cause for additional compensation.

The payment schedule will be via progress billing (percent complete for each task).

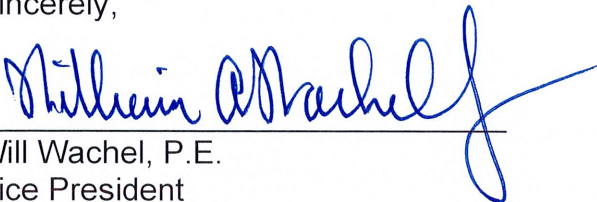
Changes in scope, including additional scenarios or modification to the scenarios identified above will be evaluated for additional services and/or material cost through a formal change order process, which results in approval of the additional cost prior to excluding the additional work.

The services will be provided in Bastrop County.

Fees for service quoted in this Letter of Agreement are valid for a period of time not to exceed 60 days from the date of this letter.

We appreciate the opportunity to assist with this project and are available to proceed immediately with your written approval. Please review this Letter of Agreement and, upon acceptance, sign in the space provided below.

Sincerely,



Will Wachel, P.E.
Vice President

06/24/2024

Date

Thomas Mattis, City Manager
City of Elgin

Date



505 East Huntland Drive
Suite 250
Austin, Texas 78752

T 512.454.8716
TRCcompanies.com
T.B.P.E. #F-8632

June 24, 2024

Mr. Thomas Mattis, City Manager
City of Elgin
310 North Main
Elgin, Texas 78621

**RE: City of Elgin
Water Well No. 17
Additional Engineering Services
Engineering Services Change Order No. 4**

Dear Mr. Mattis:

TRC Engineers, Inc. (TRC) has prepared this change order for professional engineering services for the contract management services on the above-referenced project, described as follows:

SCOPE OF WORK

TRC will perform the following Scope of Work:

1. TRC will provide correspondence with franchise utilities (Oncor) for power services to the site for operations.

COMPENSATION FOR SERVICES

TRC Engineers, Inc. will provide the professional engineering services as outlined in the Scope of Work and within the Master Services Agreement executed between the City and TRC. The lump sum costs to provide these services is identified in the Fee Schedule below.

Fee Schedule:

Task	Cost
Project Management:	\$2,000
Total:	\$2,000

TRC's lump sum fee above is based on a continuous flow of work. Any delays or restrictions, caused by customer or customer's sub consultants, which result in idle-time or inefficiencies, could be cause for additional compensation.

Mr. Thomas Mattis, City Manager
City of Elgin
June 24, 2024
Page 2 of 2

The payment schedule will be via progress billing (percent complete for each task).

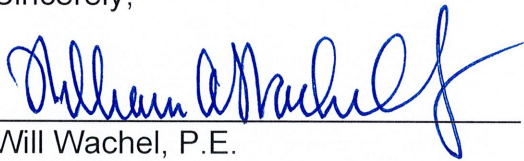
Changes in scope, including additional scenarios or modification to the scenarios identified above will be evaluated for additional services and/or material cost through a formal change order process, which results in approval of the additional cost prior to excluding the additional work.

The services will be provided in Bastrop County.

Fees for service quoted in this Letter of Agreement are valid for a period of time not to exceed 60 days from the date of this letter.

We appreciate the opportunity to assist with this project and are available to proceed immediately with your written approval. Please review this Letter of Agreement and, upon acceptance, sign in the space provided below.

Sincerely,



Will Wachel, P.E.
Vice President

06/24/2024

Date

Thomas Mattis, City Manager
City of Elgin

Date



505 East Huntland Drive
Suite 250
Austin, Texas 78752

T 512.454.8716
TRCcompanies.com
T.B.P.E. #F-8632

June 24, 2024

Mr. Thomas Mattis, City Manager
City of Elgin
310 North Main
Elgin, Texas 78621

**RE: City of Elgin
Waste Water Treatment Plant Expansion
Additional Engineering Services Proposal No. 5**

Dear Mr. Mattis:

TRC Engineers, Inc. (TRC) has prepared this change order for professional engineering services for the engineering services on the above-referenced project, described as follows:

SCOPE OF WORK

TRC will perform the following Scope of Work:

1. TRC will provide project management services for the construction project based providing monthly meetings and meeting minutes (nine (9) months maximum).
2. Continued support on submittals, RFI's, change orders, and integration of other project related work offsite.
3. Continued support with City staff on treatment plant operations.

ASSUMPTIONS

As the basis for the preparation of this proposal and the associated cost of services, the following assumptions were made, which if found to be incorrect, may result in additional compensation to TRC:

- Preparation of construction permits or associated fees.
- TRC's effort and costs for engineering services are based on a construction project duration extension of nine (9) consecutive months extending from the previous amendment conclusion of March 30, 2024. If the construction period exceeds this time limit, TRC will provide an additional task order based on additional extension of time.

EXCLUSIONS

TRC will not control or have charge of, and shall not be responsible for:

- Construction means, methods, techniques, and sequences;
- Procedures of construction;
- Construction topographical surveying and staking, or post construction survey (as-built conditions);
- Quality assurance testing;
- Conflict resolution with private property owners;
- Investigations, analyses, studies or design for substitutions or materials, corrections of defective or deficient work of the contractor or other deviations from the construction contract documents;
- Health or safety programs or precautions connected with the work;
- Managing, supervising, or have charge of construction; and
- Services related to contractor compliance with wage rate and DBE requirements of construction contract provisions, including field interviews of contractor employees.

COMPENSATION FOR SERVICES

TRC Engineers, Inc. will provide the professional engineering services as outlined in the Scope of Work and within the Master Services Agreement executed between the City and TRC. The lump sum costs to provide these services are identified in the Fee Schedule below.

Fee Schedule:

Task	Cost
Project Management:	\$70,800
Total:	\$70,800

TRC's lump sum fee above is based on a continuous flow of work. Any delays or restrictions, caused by customer or customer's sub consultants, which result in idle-time or inefficiencies, could be cause for additional compensation.

Mr. Thomas Mattis, City Manager
City of Elgin
June 24, 2024
Page 3 of 3

The payment schedule will be via progress billing (percent complete for each task).

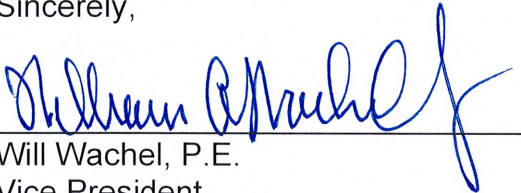
Changes in scope, including additional scenarios or modification to the scenarios identified above will be evaluated for additional services and/or material cost through a formal change order process, which results in approval of the additional cost prior to excluding the additional work.

The services will be provided in Bastrop County.

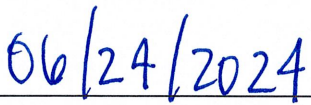
Fees for service quoted in this Letter of Agreement are valid for a period of time not to exceed 60 days from the date of this letter.

We appreciate the opportunity to assist with this project and are available to proceed immediately with your written approval. Please review this Letter of Agreement and, upon acceptance, sign in the space provided below.

Sincerely,



Will Wachel, P.E.
Vice President



Date

Thomas Mattis, City Manager
City of Elgin

Date



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: A RESOLUTION OF THE CITY OF ELGIN, TEXAS, APPOINTING ESMERALDA RANGEL AS ASSISTANT CITY SECRETARY OF THE CITY OF ELGIN IN ACCORDANCE WITH THE CITY CHARTER; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS

DEPARTMENT: Executive

PROPOSED ACTION: Consent to the City Manager's appointment of Esmeralda Rangel of Elgin, Texas as Assistant City Secretary of the City of Elgin.

BACKGROUND:

The Elgin City Charter requires the City Manager to "appoint the City Secretary and additional Assistant City Secretaries as may be necessary and advisable". Jennifer Stubbs has accepted a new position with the City of Garland, Texas, thereby creating a vacancy in the Elgin City Secretary position. To address this situation on an interim basis, the City Manager has appointed Esmeralda Rangel as Assistant City Secretary. The Elgin City Charter requires this appointment by the City Manager "with the consent of City Council".

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

Approval of the Resolution as presented.

ATTACHMENTS:

1. ResApptAssCSecretary724

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{X} Staff will provide brief comments and answer questions on this item at the meeting.

{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

RESOLUTION NO. 2024-07-02-

**A RESOLUTION OF THE CITY OF ELGIN, TEXAS,
APPOINTING ESMERALDA RANGEL AS ASSISTANT CITY
SECRETARY OF THE CITY OF ELGIN IN ACCORDANCE
WITH THE CITY CHARTER; MAKING FINDINGS OF
FACT; AND PROVIDING FOR RELATED MATTERS.**

WHEREAS, the Elgin City Charter Article 5, Section 5 requires the City Manager to appoint the City Secretary and additional Assistant City Secretaries as may be necessary and advisable; and,

WHEREAS, in accordance with the Elgin City Charter, the City Manager shall make such appointments with the consent of City Council; and,

WHEREAS the City Manager has appointed Esmeralda Rangel as Assistant City Secretary of the City of Elgin.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ELGIN, BASTROP AND TRAVIS COUNTY, TEXAS, THAT:

Section 1. Findings. The following recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Consent. The Mayor and City Council do hereby consent to the City Manager's appointment of Esmeralda Rangel of Elgin, Texas as Assistant City Secretary of the City of Elgin.

Section 3. Open Meetings. The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered, and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon passage.

PASSED AND ADOPTED this 2nd day of July, 2024

THERESA Y. MCSHAN, Mayor
City of Elgin, Texas

ATTEST:

ESMERALDA RANGEL, Assistant City Secretary



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: AN ORDINANCE OF THE CITY OF ELGIN, TEXAS, AMENDING CHAPTER 42, SECTION 42-319 et. seq. CODE OF ORDINANCES, BY ADOPTING NEW LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENT PLAN AND BY AMENDING THE WATER AND WASTEWATER IMPACT FEES, AND; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES OR RESOLUTIONS.

DEPARTMENT: Development Services

PROPOSED ACTION: Discussion, consideration, and action on an ordinance amending Chapter 42, Section 42-319 et. seq. by adopting new land use assumptions and capital improvement plan and amending the water and wastewater impact fees.

BACKGROUND:

As discussed at previous meetings, Chapter 395 of the Texas Local Government Code requires municipalities to periodically update the land use assumptions and the capital improvement plan. The City of Elgin Water and Wastewater Community Impact Fee report was generated by TRC in May 2024. That report has been reviewed by the Planning and Zoning Commission acting as the Advisory Committee and the updates contained in the report have been recommended for Council Approval. It is now time to adopt the ordinance.

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

The Planning and Zoning Commission has recommended adoption of the proposed land use assumptions and capital improvement plan as contained in the City of Elgin Water and Wastewater Community Impact Fee Development Update report. In addition, they recommended adoption of the maximum eligible impact fees of \$5,103.41 for water and \$5,850.86 for wastewater.

ATTACHMENTS:

1. 2024 Impact Fee Update Ordinance
2. Impact Fee Report 2024
3. Impact Fee Central Texas Comparisons

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{X} Staff will provide brief comments and answer questions on this item at the meeting.

{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

ORDINANCE NO. 2024-07-02-

AN ORDINANCE OF THE CITY OF ELGIN, TEXAS, AMENDING CHAPTER 42, SECTION 42-319 et. seq. CODE OF ORDINANCES, BY ADOPTING NEW LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENT PLAN AND BY AMENDING THE WATER AND WASTEWATER IMPACT FEES, AND; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES OR RESOLUTIONS.

WHEREAS, Sec. 395.052, Tex. Local Gov't Code, requires a municipality imposing impact fees to review and evaluate its current land use assumptions and capital improvements plan at least every five (5) years (dating from the day the initial capital improvements plan is adopted); and

WHEREAS, the last time such land use assumptions and capital improvements plan were reviewed, evaluated and updated was July 2019; and

WHEREAS, the City Council has reviewed, evaluated, and now wishes to adopt updated land use assumptions and a capital improvements plan in order to comply with said Texas Local Government Code requirements for same.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS, THAT:

Section 1. All of the above premises are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

Section 2. Pursuant to and under the authority granted in Chapter 395 et. seq. of the Texas Local Government Code and Chapter 42, Section 42.321, Code of Ordinances, City of Elgin, Texas, the following is hereby adopted:

"The updated capital improvements plan and land use assumptions plan for water and wastewater facilities dated July 2024, is adopted and incorporated in this section by reference and shall be kept on record in the office of the city secretary."

Section 3. Pursuant to and under the authority granted in Chapter 395 et. seq. of the Texas Local Government Code and Chapter 42, Section 42.321, Code of Ordinances, City of Elgin, Texas, the following is hereby adopted:

- A. Maximum Impact fees:
City Water: **\$5,103.41**
Wastewater: **\$5,850.86**
- B. Effective Impact fee to be appropriately charged beginning _____ :
City Water: _____
Wastewater: _____

Section 4. This Ordinance shall become effective immediately after its passage.

Section 5. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

Section 6. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

Section 7. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this ordinance and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meeting Act, Chapter 551, Texas Government Code, as amended.

READ, PASSED, and AMENDED on first reading this 2nd day of July 2024.

THERESA Y. MCSHAN, Mayor
City of Elgin, Texas

ATTEST:

ESMERALDA RANGEL, Assistant City Secretary

CITY OF ELGIN

WATER AND WASTEWATER COMMUNITY IMPACT FEE



DEVELOPMENT UPDATE



**T.B.P.E. #F-8632
505 EAST HUNTLAND DRIVE, SUITE 250
AUSTIN, TEXAS 78752
(512) 454-8716**

MAY 2024

DEVELOPMENT OF
WATER AND WASTEWATER IMPACT FEES
IN COMPLIANCE WITH
SENATE BILL 336, AS AMENDED BY CHAPTER 395 & H.B. 1199

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1.0 INTRODUCTION

1.1 General Constraints & Methodology

Senate Bill 336, House Bill 1786, Chapter 395 of the Texas Local Government Code, H.B. 1199, and interpretation from the Texas Municipal League, as well as the City's local attorney, suggest that certain legal constraints be considered in developing a Community Impact Fee. Those constraints were identified in order to develop a methodology for developing the Community Impact Fee. Those constraints are generally as follows:

1. A Community Impact Fee must relate to the protection of community health, safety, and general welfare.
2. A Community Impact Fee should be based on cost of service.
3. There must be equity to all users.
4. Deviations from equity must be based on a carefully defined public policy basis.
5. Those who pay a Community Impact Fee must have created a demand for the facilities which are being funded by the Fee.
6. Fees collected must be used for the benefit of those who have paid them.
7. Fees collected must be proportional to the cost of serving, and benefits provided to the fee payer.
8. Past and future rate/tax/facility contributions by fee payers must be acknowledged as a credit in fee calculations.
9. The City cannot impose punitive fees on any customer or class of customers.

1.2 Specific Requirements

1.2.1 Cost of Service Basis

The law is extensively devoted to specific requirements for performing technical studies by qualified professionals according to accepted engineering and planning standards. Those specifics are as follows:

- a. Service Area - There must be defined a clearly mapped service area which will be subject to the fee. The fee may be applied within the City and within its extra-territorial jurisdiction for water and sewer.

b. Land Use in the Service Area - In terms of land use character, density, intensity, and population must be projected within the next 10 years and for full build-out. Recent revisions to the legislation allows the water and wastewater utilities to use growth projections for their entire jurisdiction (as is usually presented in a city master plan), without performing projections for the precise utility service areas which may be different than the jurisdictional boundaries. This planning information is to be used in developing the Capital Improvements Plan to serve service area growth. It should be noted that service areas are likely to be different for each type of facility (water and sewer).

c. The Segregation of Costs for Existing and Future Customers - The current water and wastewater systems must be fully described, separating needs for existing customers from the excess capacity remaining for new customers. The Capital Improvements Plan must differentiate between future projects (or portions of projects) needed to meet existing needs and to upgrade service to existing customers, from future projects needed to serve new customers. In this manner, costs for existing customers are separated from cost of future customers.

d. Living Unit Equivalents - This study must identify a Unit of Measurement (Living Unit Equivalent or LUE) and determine how many units are required to serve various types of land use. The LUE is a derivative measurement intended to establish a common measurement unit for all types of land uses. An LUE is equivalent to the amount of demand typically produced by a single-family residence using a 5/8" x 3/4" water meter. Demand is directly calculated by population and translated into LUE's. Thus, an LUE is not a unit usage statistic per se, but rather a translation of such statistics into a common denominator. It is standard practice to use a LUE as a measurement in capacity analysis for impact fee studies and comprehensive plans. Usage figures must be calculated separately for at least residential, commercial and industrial uses.

e. Fee Calculation – The maximum fee which can be charged is the total cost of facilities specifically required for future customers divided by the unit usage for each future customer. This produces a fee which is the full capital cost with no consideration of future rate or tax payments by the fee payer. In addition to capital costs, the City is permitted to add the costs of the study to the fee amount, as is shown in Table 10.

f. System-Wide Versus Geographic Specific Fees – The legislation provides that the service analysis may be prepared on a system-wide basis. Geographic disaggregation is not required. This approach eliminates the need for a change in rates for a specific geographic area or different Impact Fees for specific geographic areas in the service area. A system wide approach will produce a fee that is the same for the entire service area, based on the assumption that rates will not change as a result of the Impact Fees. Section 395.0455 of the Impact Fee Act provides the following:

“In lieu of adopting land use assumptions for each service area, a political subdivision may, except for storm water, drainage, flood control, and roadway facilities, adopt system-wide land use assumptions, which cover all of the area subject to the jurisdiction of the political subdivision for the purpose of imposing impact fees under this chapter. ... After adoption of system-wide land use assumptions, a political subdivision is not required to adopt additional land use assumptions for a service area for water supply, treatment, and distribution facilities or wastewater collection and treatment facilities as a prerequisite to the adoption of a capital improvements plan or impact fee, provided the capital improvements plan and impact fee are consistent with the system-wide land use assumptions.”

g. Proportionality - The technical approach outlined in the legislation assures that fees paid must be proportional to the demand cost by the fee payer. The legislation also addresses “off-sets”, a situation in which a developer finances and constructs a facility which is normally funded in full or part by the fee process and either has his fee assessment reduced accordingly or receives reimbursement of the cost. The legislation stipulates that “no owner shall be required to construct or dedicate facilities and pay Impact Fees for the same facilities.”

h. Facilities That May Be Included – The legislation provides that only facilities in the associated Capital Improvement Plan can be funded by the fee. The requirement that fee-funded facilities must be in the Capital Improvement Plan also affixes the fee assessment to a comprehensive planning document, and thus implies a strong orientation to the City’s overall

approach to controlling land use for the purpose of public health, safety, and welfarei.e. the ultimate basis for the authority for such fee programs.

i. Rational Nexus – The technical study provisions of the Act ensure that fee payers will pay only for the demands they place on the system (averaged over service population). Chapter 395 contains numerous provisions to ensure that a fee payer receives the benefit of service for which the fee has been paid. Except for roadways, impact fees cannot be collected where utility services are not currently available except under specific conditions:

- The capital improvement for which the fee was collected is in the CIP, will begin construction within two years and will be completed in no more than five years; or
- The developer agrees to build/finance the facility for offset credit or reimbursement; or
- The landowner voluntarily asks to reserve future service, and the owner and political subdivision enter a written agreement

The law stipulates that the fee payer must receive permanent use of services for which the fee was paid and that the development must receive immediate service from any existing facilities with capacity to serve the development.

j. Timing of Fee Assessment and Collection: Grandfather Provisions – The Chapter distinguishes between the timing of fee assessment (when a determination is made about the fee amount per service unit which will be charged to a property) and the timing of actual fee collection.

- For land already subdivided and platted prior to the adoption of the fee, and for which a building permit is issued within one year after adoption of the City's impact fee: No fee can be collected.
- For land subdivided and platted subsequent to the adoption of the fee: Fees must be assessed before or at the time the subdivision plat is recorded.
- For property on which development will occur without platting: Fees can be assessed at any time during the development and approval process.

These provisions pertain to fee assessment; for the most part, the maximum fee per unit will be determined at the time of plat recordation. After that assessment is made, “no additional

impact fees or increases thereof shall be assessed against such tract for any reason, unless the number of service units to be developed on such tract increases”. Initially, the overall effect of this provision seems to be onerous for the City if a subdivided parcel were not developed in a timely manner, or if many years hence, a development expands its capacity demand. Regardless of the passage of time and increases in cost over time, the City may be effectively prohibited from charging the cost of service at the time the subdivision was platted, whether or not service was used at that time. Over time this may affect the real estate market since undeveloped properties with low fee assessments would become more valuable commodities. To avoid both the revenue loss and land speculation activities, the City may wish to carefully craft fees to account for the disparity between the cost of capital improvements at the time of assessment and that at the time of collection.

Actual collection of fees generally occurs at the time that a building permit is issued. However, when a municipality provides service in areas where it does not issue building permits, it may collect fees at the time of connection to the water or sewer system.

There are other provisions of the Chapter which serve to protect developers or builders from unexpected fee expenses. The institution of a new impact fee or the updating of an old fee requires a lengthy study and public hearing process; the City’s fee ordinance may not be passed as an emergency measure; and moratoria for the purpose of awaiting completion or updating of the fee ordinance is prohibited. Thus all developers should have ample notice and time to obtain subdivision approval and either avoid fee payment altogether (in the case of a new fee) or grandfather their fee assessment at an old, presumably lower, fee amount (in the case of fee updates). Therefore, any program to partially fund capital facilities with a fee program will take a period of time to effectively collect funds and will be unlikely to achieve significant immediate result. Nevertheless, over a longer period of time, impact fees should still be effective as one of several funding sources for capital improvements.

k. Use of Funds – Impact fees must be deposited in individual dedicated accounts (i.e., one each for water and sewer) with earned interest becoming a part of the dedicated funds. Expenditures may be made only for the uses for which the fees were collected. Expenditure of fee funds is specifically prohibited for:

-
- Either capital or interest payment for any facility not identified in the CIP (including, presumably, non-CIP approach mains or other major facilities not identified in the CIP);
 - Repair, operation or maintenance expenses; or
 - Upgrading, updating, expanding or replacing existing facilities to meet stricter standards or provide better service to existing customers.

These provisions are generally required as a part of meeting the rational nexus test to ensure that fee payers receive specific benefits from fee payment and that fee revenues are not diverted to pay for facilities or other purposes which do not benefit new customers. They also further tie fee funds to the adopted planning documents of the City (i.e., the CIP) by prohibiting expenditures on facilities not in the CIP.

1. Refunds – Chapter 395 also addresses refunds of unused or overcharged fees. All funds must be expended within 10 years of collection or the remaining fees, plus interest, must be refunded to the current property owner or to the political subdivision which paid the fee. This implies considerable recordkeeping efforts on the part of Cities. However, in practical terms, Cities typically spend all fee revenues in a timely manner. Also, many Texas cities choose to set fees at a level which is competitive with surrounding jurisdictions, thus tending to keep fees lower than the maximum allowable amount.

Another circumstance requiring a refund is if a fee payer is denied immediate service (when existing service is available) or if the City does not begin and complete construction within the time period stipulated above. In those instances, the fee payers may request and must receive a refund, plus interest.

2.0 POLICY DECISIONS

Several very important policy and technical decisions must be made in the course of developing an Impact Fee. These include the following:

2.1 Definition of Service Area

The boundaries of the conceptual service area in which the fee will be applied must be defined. The purpose of this potential service area designation is to define the conceptual area of

growth for which the fee is developed to estimate service demand arising from that particular growth and to develop a Capital Improvements Program to meet those growth needs. As a result, the development of a Capital Improvements Plan for a defined service area insures that the Community Impact Fee will be closely tied to the other planning and regulatory documents of the City. The Advisory Committee guides the definition of the service area, the unit of measurement determination with related parameters, and the formulation of the Capital Improvements Plan.

The decisions of the Advisory Committee and assumptions made during the determination of the fee to be imposed are based upon the fact that within five (5) years the City must decide if any of these factors should be changed substantially, and if so, whether a full up-date process will be needed. It is important to note that the service areas are conceptual in nature and do not necessarily represent a definitive commitment for service by the City; the service area boundaries also do not necessarily represent limits to service potential or fee assessment.

This report uses the City's existing Sewer CCN map and existing Water CCN map to define the service areas for Impact Fees as established with TCEQ and the Public Utility Commission (PUC).

2.2 System-Wide Approach

The law does not require that water and wastewater fees be segregated into service sub-areas, although geographically segregated fees are permissible. Thus the cost of the system may be specifically allocated to various regional service areas. In either case, the direct linkage between fee payer and fee amount and funded facilities must be maintained. Pooled costs can be justified from several perspectives. From the perspective of an individual customer, the location of a treatment facility and method of wastewater disposal, etc. are discretionary decisions made by the City. For example, whether an individual lives close to a treatment plant or several miles distant is determined more by discretionary decisions made by the City than by service demands of the customer. It is possible that two customers in generally identical geographic locations with similar system demands could have significantly different individual costs of service due to these discretionary siting design decisions. The water system of the City is designed with features to insure a system-wide reliability.

This is illustrated by the fact that a special main needed to be installed to allow elevated storage reservoirs and booster station facilities to serve all areas of the City. This "looped" special

main provides somewhat redundant transmission facilities. This system reliability aspect makes it difficult or impossible to assign certain costs by geographic area.

To summarize, 1) many siting and design decisions are discretionary rather than locational; 2) systems are often designed with redundant facilities for system reliability; and 3) some facilities have no geographic specific service area. It can be shown that the City's water system operates as a complete and integrated system. Therefore, any customer which receives service from such a system may reasonably be considered to be receiving sufficient benefit from the payment of the Community Impact Fee that is calculated on a system-wide basis.

2.3 Define Unit of Measurement (LUE)

Section 395.014(a)(4) of the Impact Fee Act requires: "...an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, and industrial"

Water meter size (expressed in the common units of LUE's) was determined to be the most appropriate measure for calculating the fees due from any individual customer. Water meter size was selected as the unit determinant for fee collection for the following reasons:

1. This standard includes both safe continuous flow and safe maximum flow which will thereby accommodate all requests for service.
2. These standards are those used by building owners, professional engineers and architects, and City staff for sizing meters and plumbing fixtures.
3. Meters are a physical element which can be maintained and controlled by the City, thus allowing the monitoring of the accuracy of meter sizing.
4. The City can require any necessary replacement of meters which can be shown to have been sized too small for a development and collect additional impact fees required by the change in meters.
5. Particularly in the larger meter sizes, the builder may have to pay for more capacity than needed for the development, thus resulting in a potential payment above actual costs. However, these large-meter customers will be able to use that excess capacity if later building expansions occur or if use patterns change. Moreover, the capacity purchased would be a marketable amenity which would add value to the property.

-
6. The use of water meter size allows equitable cost assignment to each of the three customer classes identified in Chapter 395 (residential, commercial, and industrial).
 7. It allows the use of an American Water Works Association (AWWA) Published Standard.

Since water meter size is the basis for calculation of both water and wastewater fees, the base fee should be applied to the smallest meter used by the City. The following policies are suggested:

1. The City's smallest water meter (5/8" x 3/4") should be the base unit for impact fee assessment.
2. The Impact Fee Ordinance should have the schedule published as shown in Table 1, which includes both compound and turbine meters.
3. The use of a turbine meter, in connection with displacement meters in a compound meter installation, would require the use of the turbine meter schedule.
4. The standard used for the ratio of continuous duty maximum flow rate would be derived from AWWA C700-C703 (in gpm – gallons per minute).
5. The ratio of each larger meter's continuous duty maximum flow rate to the rate of the base meter would determine the fee multiplier and the scale for other calculations relating to this fee.
6. The impact fee assessment should be adjusted when the City determines that unique water pressure conditions of the system result in a meter size which is not indicative of actual flow (as when pressure is unusually low or high). In this instance, the ordinance should provide for individual review.

Table 2 shows a conversion table for various types and sizes of water meters in the Elgin Water System. Because the fee calculation was based on water meter size, the LUE/meter conversion table applies equally to all land uses. Table 1 shows the current number of LUE's on the Elgin water system.

Typically, some concern is expressed that water meters are not always a reasonable means of calculating wastewater flows, particularly for certain consumptive types of commercial uses (car washes, restaurants) or industrial processes. Additionally, any land use might have a large meter for irrigation purposes, thus over representing its wastewater flows. However, experience has indicated that few such exceptional customers choose to have a separate wastewater meter

because of the installation and maintenance expense incurred. Because no alternative means for assessing flow is practical, it is recommend that the water meter also be adopted as the basis for wastewater impact fees.

However, given the potential that some consumptive commercial and industrial customers may be considerably overcharged for sewer capacity demand when water meter size is used for calculating wastewater impact fees, it is also recommended that the ordinance provide for exceptions. Specifically, the ordinance should permit individual wastewater customers to present data, prepared by a professional engineer, documenting expected wastewater flow below that which is indicated by meter-size determinations for a lower sewer fee. For irrigation-only water meters, the ordinance should provide for a water-only impact fee.

**TABLE 1
CURRENT METER COUNT AND ESTIMATION OF
LIVING UNITS EQUIVALENT**

METER SIZE	NUMBER OF METERS ^(a)	LUEs PER METER ^(b)	NUMBER OF LUEs
5/8" x 3/4"	4,314	1.0	4,314
3/4"	0	1.5	0
1"	18	2.5	45
1 1/2"	19	5.0	95
2"	73	8.0	584
3"	14	17.5	245
4"	5	30.0	150
6"	4	67.5	270
8"	1	90.0	90
Total	4,448		5,793
Water Service Population ^(c)			14,189
Population/LUE			2.45

(a) Source: City of Elgin (January 25, 2024)

(b) See Table 2

(c) Water service area population

TABLE 2
LUE EQUIVALENCIES FOR VARIOUS TYPES AND SIZES
OF WATER METERS

METER TYPES	METER SIZE	CONTINUOUS DUTY MAXIMUM RATE (gpm)	RATIO TO 5/8" x 3/4" METER
SIMPLE	5/8" x 3/4"	10	1.0
SIMPLE	3/4"	15	1.5
SIMPLE	1"	25	2.5
SIMPLE	1-1/2"	50	5.0
SIMPLE	2"	80	8.0
COMPOUND	2"	80	8.0
TURBINE	2"	160	16.0
COMPOUND	3"	175	17.5
TURBINE	3"	350	35.0
COMPOUND	4"	300	30.0
TURBINE	4"	650	65.0
COMPOUND	6"	675	67.5
TURBINE	6"	1400	140.0
COMPOUND	8"	900	90.0
TURBINE	8"	2400	240.0
COMPOUND	10"	1150	115.0
TURBINE	10"	3500	350.0
TURBINE	12"	4400	440.0

SOURCE: AWWA Standards C700, C701, C702, C703.

2.4 Eligibility and Application Considerations

A separate policy document shall be adopted simultaneously with the impact fee which will state whether all parties who purchase the water or wastewater tap will be assessed or whether exceptions will be made. The policy document will determine whether the full fee will be assessed to all customers or whether certain classes of customers such as commercial and industrial users will be discounted. In any case, the exempted fee revenues cannot be recovered by charging higher fees to other fee payers; rather tax or rate revenues or other sources must be used.

2.5 Level of Cost Recovery

The maximum legal fee has been calculated by this study. The maximum legal fee may or may not be assessed and collected. The City chooses to be conservative so as to avoid refunds at some future date if actual construction costs would have resulted in a fee which is more than 10% lower than the fee charged. The Advisory Committee and the City have chosen to assess and collect a fee which will be necessary to finance the first five (5) years of the 10 year Capital Improvements Plan. It is reasoned that the required five (5) year review will evaluate the current fee and make adjustments as necessary as a result of an updated study at that point and time.

3.0 PHILOSOPHY OF CALCULATION – EQUITY PURCHASE

The transfer of equity from existing customers to new customers provides that each new customer would contribute equity in the utility system comparable to that owned by existing customers. Once that equity payment is made through the Community Impact Fee, each new customer would pay the remainder of his capital-related cost of service through rate payments equal to the rate payments of existing customers. This minimizes one customer group paying for the cost of another and provides for full cost recovery of the existing excess capacities.

3.1 Determine Value of Existing Excess Capacity

The initial construction cost for each system component was identified. The total LUE capacity of each component was determined, and subsequently, a value per LUE of the initial construction costs for the component was determined.

3.2 Determine Value of Proposed Expansions

The estimated cost of proposed system components necessary to supply any remaining needed capacity, in addition to existing excess capacity, was determined. The total LUE capacity of any facilities proposed was calculated, and subsequently, a cost per LUE of the proposed facilities calculated.

3.3 Determine Weighted Average

The total cost of the remaining capacity plus the total cost of the needed capacity was summed and then divided by the total number of LUE's expected in the 10 year growth period being considered. The result is the weighted average of the existing excess capacity cost and the proposed facility cost per LUE.

4.0 FEE CALCULATION

4.1 Population Projection

The City of Elgin projects a current growth rate of 8% for the next 10 years. The current estimated population of 15,408 should grow to 33,265 by 2034 for the City Limits and ETJ (City of Elgin Community Growth Report, November 2023). The actual water and sewer service populations are less and are shown in Table 3.

4.2 Historical and Projected Land Use

The following land use analysis (Table 3) was prepared in 2008 for the City of Elgin's Comprehensive Plan Update. The City of Elgin still maintains this as its land use plan. The table quantifies existing and projected future land uses by various categories shown. Appendix A includes a map of existing land uses with the study area as well as a map of the proposed future land use plan from the City's Comprehensive Plan Update. The future land use plan identifies a general pattern of growth and development that the City desires to achieve through improved planning and enforcement procedures. The future land use plan was used with historical data to project the future land use composition of the study area in the next ten (10) years. The Advisory Committee and the City of Elgin recommended the proposed land use assumptions as shown in the following sub-section.

**TABLE 3
EXISTING LAND USES**

Total Land Area	2024		2034		Full Buildout	
	ACRES	%	ACRES	%	ACRES	%
Agriculture/Natural Areas	14,699.45	63.53	11,730.45	50.70	8,736.45	37.76
Single Family Residential	4,229.00	18.28	6,976.00	30.15	9,723.00	42.02
Multi-Family	291.00	1.26	530.00	2.29	769.00	3.32
Farm/Ranch	2,116.00	9.15	1,666.00	7.20	1,241.00	5.36
Commercial	1,588.00	6.86	1,820.00	7.87	2,052.00	8.87
Industrial	140.00	0.61	270.00	1.17	400.00	1.73
Utility	73.00	0.32	144.00	0.62	215.00	0.93
TOTAL ACREAGE	23,136.45	100.00%	23,136.45	100.00%	23,136.45	100.00%
Population (City Limits & E.T.J.)	15,408		33,265		46,700	
Water Service Population	14,189		26,635			
Sewer Service Population	12,770		27,570			
Water LUEs	5,793		10,874			
Sewer LUEs	5,214		11,256			
Population per Urban Acre	1.83		2.92		3.24	
Population per Acre (Total Acres)	0.67		1.44		2.02	

Source for ETJ population estimates and projections: City of Elgin Community Growth Report, November 2023.

Current water service population based on total households served (from City billing data) multiplied by average household size of 3.19 persons. (<https://www.elgintx.com/486/Population-Demographics>). Current sewer service population based on a ratio of 0.9 from sewer/water population from previous impact fee.

Current water LUEs taken from Table 1; current sewer LUEs based on 2.45 person per LUE (from water utility) applied to the sewer service population.

Future water service population assumes a 6.5% growth rate over the next 10 years. The growth rate is less than the overall growth rate to account for development which will occur outside the City's water service area. In addition, the growth rate is less as an increase in population service area is limited to redevelopment with greater density or development of the few remaining empty tracts of land.

Future sewer service population assumes an 8% growth rate over the next 10 years. The growth rate is equal to the overall growth rate since any development will be in the City's sewer service area.

Residential Density Assumptions: Low Density = 0.5 units/acre; Single Family = 4 units/acre; Medium Density = 12 units/acre

4.3 Capital Improvements Plan

4.3.1 Impact Fee Assumptions and Factors

The projected water population growth of 12,446 people produces an additional $(12,446 \div 2.45) = 5,081$ LUE's for a total of 10,874 in 2034. The peak water usage in the last two

(2) years was used to determine gallons per LUE per day peak usage as well as average usage. A similar procedure was used to determine usage per LUE for wastewater flows. The projected sewer population growth of 14,800 people produces an additional $(14,800 \div 2.45) = 6,042$ LUE's for a total of 11,256 in 2034. Table 8 and Table 9 show impact cost allocations which resulted from the needs assessment.

4.3.2 Projected Service Units for New Development

As required in the legislation, current and future LUE demand is shown for water and wastewater in the following tables. A water LUE was determined to be equivalent to 434 gallons per day by dividing peak day water consumption (from the last twenty-four month period) by the current number of LUE's. However, TCEQ standards dictate higher rates for some components and, those will be used for conservatism. The wastewater system was evaluated in the same fashion, except the sewer LUE was determined to be equivalent to 170 gallons per day, by averaging monthly discharge flows (from the last twenty-four month period) by the current number of LUE's. Based on engineering analysis and developments occurring 245 gallons per day per LUE was utilized for the study. Table 6 and Table 7 show current and projected service demand expressed in LUE's for water and wastewater respectively. As required by the legislation, projections are shown for both 2024 and 2034.

4.3.3 CIP Inventory & Costing – Water & Wastewater

Several steps were necessary in order to perform the required inventory of existing facilities, to develop the ten (10) year Capital Improvements Plan, and to allocate capacity and associated cost to the appropriate customer groups. First, as discussed previously, the projected service demands for each utility were expressed in LUE's. These demands were then used to project facility needs for both existing and future. Table 4 and Table 5 contain the design assumptions which were used to project needs for each type of facility in each utility. Table 6 and Table 7 show current needs and deficiencies for existing (if any) facilities and projected capacity needs for future growth. Then Table 8 and Table 9 perform the required allocation of existing and future CIP facility needs for existing development and future development within the next ten (10) years. For each generation of utility customers, these tables show facility needs which will be met by existing and future facilities.

Cost estimates for each facility were taken from actual cost of existing facilities (provided by City staff and TRC Engineers, Inc.). Costs of future facilities were estimated in a conservative manner by the Engineer to avoid potential over-estimation of costs and the consequent refund of fees at a future date. In addition, the legislation provides that the CIP facilities may include construction price, survey, and engineering fees, and acquisition costs (including “soft” costs), and the costs of consulting work to develop the fees.

The calculations then converted the facility costs into a weighted cost-of-service as required by the law. Facility costs were expressed on a per LUE basis. Finally, an appropriate cost share was attributed to the ten (10) year growth as determined from capacity allocations shown. The total capital costs for 2024 to 2034 were then summed for each utility in Table 10.

4.3.4 Categorization of Existing Debt – Water & Wastewater

H.B. 1199 amends Chapter 395 and requires “a credit for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvement plan OR in the alternative, a credit equal to 50% of the total projected cost of implementing the capital improvement plan”.

This analysis has used the alternative 50% reduction as done in previous impact fee studies.

TABLE 4
CAPACITY DEMAND FOR EACH NEW WATER LUE

FACILITY	BASIS	CAPACITY PER LUE
Wells (Supply) ^(a)	TCEQ Standards	864 gallons/day
Treatment ^(b)	TCEQ Standards	864 gallons/day
Booster Pumps ^(c)	TCEQ Standards	864 gallons/day
Ground Storage ^(d)	TCEQ Standards	100 gallons
Elevated Storage ^(e)	TCEQ Standards	100 gallons
Major Transmission	Engineering Analysis	1,440 gallons/day
Major Distribution	Engineering Analysis	2,160 gallons/day

(a) TCEQ requires 0.6 gpm per LUE for supply [TAC §290.45(b)(1)(D)(i)]

(b) TCEQ requires 0.6 gpm per LUE for treatment [TAC §290.45(b)(2)(B)]

(c) for systems with 200 gallons/LUE of elevated storage, TCEQ requires 0.6 gpm per LUE [TAC §290.45(b)(1)(D)(iii)]

(d) TCEQ requires 100 gallons of storage per LUE

(e) TCEQ requires 100 gallons of storage per LUE

TABLE 5
CAPACITY DEMAND FOR EACH NEW WASTEWATER LUE

FACILITY	BASIS	CAPACITY PER LUE	
		2024	2034
Treatment	Engineering Analysis	170	245 gallons/day
Pumping ^(a)	Engineering Analysis	510	735 gallons/day
Major Collection ^(a)	Engineering Analysis	510	735 gallons/day

(a) Capacity per LUE assumes a peak factor of 3.0

TABLE 6
ESTIMATED WATER SERVICE DEMAND BY FACILITY
TYPE

	VOLUME	
	2024	2034
LUEs ^(a)	5,793	10,874
WATER SUPPLY WELLS MGD:		
Estimated Demand	5.005	9.395
Existing Capacity	6.123	6.123
<i>Excess/(Deficiency)</i>	1.118	(3.272)
TREATMENT PLANT MGD:		
Estimated Demand	5.005	9.395
Existing Capacity	3.600	3.600
<i>Excess/(Deficiency)</i>	(1.405)	(5.795)
GROUND STORAGE MG:		
Estimated Demand	0.579	1.087
Existing Capacity	1.231	1.231
<i>Excess/(Deficiency)</i>	0.652	0.144
ELEVATED WATER STORAGE MG:		
Estimated Demand	0.579	1.087
Existing Capacity	1.050	1.050
<i>Excess/(Deficiency)</i>	0.471	(0.037)
HIGH SERVICE PUMPS AT WTP MGD:		
Estimated Demand	5.005	9.395
Existing Capacity	4.032	4.032
<i>Excess/(Deficiency)</i>	(0.973)	(5.363)
HIGH SERVICE PUMPS AT PISTOL HILL MGD:		
Estimated Demand	5.005	9.395
Existing Capacity	3.744	3.744
<i>Excess/(Deficiency)</i>	(1.261)	(5.651)
MAJOR TRANSMISSION LINES (Wells to WTP) MGD:		
Estimated Demand	8.342	15.659
Existing Capacity	9.237	9.237
<i>Excess/(Deficiency)</i>	0.895	(6.422)

(a) LUEs from Table 3

TABLE 6 (CONT.)
ESTIMATED WATER SERVICE DEMAND BY FACILITY
TYPE

	VOLUME	
	2024	2034
MAJOR TRANSMISSION LINES (WTP to Pistol Hill GSR) MGD:		
Estimated Demand	8.342	15.659
Existing Capacity	8.109	8.109
<i>Excess/(Deficiency)</i>	(0.233)	(7.550)
MAJOR TRANSMISSION LINES (Pistol Hill GSR to Elevated Tank) MGD:		
Estimated Demand	8.342	15.659
Existing Capacity	5.571	5.571
<i>Excess/(Deficiency)</i>	(2.771)	(10.088)
MAJOR DISTRIBUTION LINES MGD:		
Estimated Demand	12.513	23.488
Existing Capacity	27.918	27.918
<i>Excess/(Deficiency)</i>	15.405	4.430

TABLE 7
ESTIMATED WASTEWATER SERVICE DEMAND BY
FACILITY TYPE

FACILITY TYPE	VOLUME	
	2024	2034
LUE'S ^(a)	5,214	11,256
WASTEWATER TREATMENT MGD:		
Estimated Demand	0.886	2.758
Existing Capacity	1.950	1.950
<i>Excess/(Deficiency)</i>	1.064	(0.808)
MAJOR LIFT STATIONS MGD:		
Estimated Demand	2.659	8.273
Existing Capacity	8.539	8.539
<i>Excess/(Deficiency)</i>	5.880	0.266
MAJOR TRUNK SEWERS MGD:		
Estimated Demand	2.659	8.273
Existing Capacity	25.831	25.831
<i>Excess/(Deficiency)</i>	23.172	17.558

(a) LUEs from Table 3

**TABLE 8
WATER CIP INVENTORY AND COSTING**

FACILITY		CONSTRUCT COST	CONSTRUCT COST PLUS FINANCE	FACILITY CAPACITY (mgd or gals)				NEXT 10-YEAR CAPITAL COST TOTAL	NEXT 10-YEAR COST PER LUE (a)
TYPE	NAME			TOTAL	FOR CURRENT CUST.	EXCESS <10 YEARS	EXCESS >10 YEARS		
WELLS									
EXISTING FACILITIES			MGD						
	Well #14	\$320,000	\$560,000	1.440	1.252	0.188	0.000	\$73,111	\$14.39
	Well #15	\$625,000	\$1,093,750	1.685	1.251	0.434	0.000	\$281,714	\$55.44
	Well #16	\$714,262	\$1,249,959	1.313	1.251	0.062	0.000	\$59,023	\$11.62
	Well #17	\$1,945,057	\$3,403,850	1.685	1.251	0.434	0.000	\$876,719	\$172.54
	Subtotal Existing Wells	\$3,604,319	\$6,307,558	6.123	5.005	1.118	0.000	\$1,290,567	\$253.99
NEW FACILITIES			MGD						
	Well #18 (W-1)	\$2,500,000	\$4,375,000	1.728	0.000	1.636	0.092	\$4,142,072	\$815.17
	Well #19 (W-2)	\$2,500,000	\$4,375,000	1.728	0.000	1.636	0.092	\$4,142,072	\$815.17
	Subtotal New Wells	\$5,000,000	\$8,750,000	3.456	0.000	3.272	0.184	\$8,284,144	\$1,630.33
TOTAL WELLS		\$8,604,319	\$15,057,558	9.579	5.005	4.390	0.184	\$9,574,710	\$1,884.32
TREATMENT									
EXISTING FACILITIES			MGD						
	Old Water Treatment Plant	\$1,650,000	\$2,887,500	1.800	1.800	0.000	0.000	\$0	\$0.00
	New Water Treatment Plant	\$4,250,000	\$7,437,500	1.800	1.800	0.000	0.000	\$0	\$0.00
	Subtotal Existing Treatment	\$5,900,000	\$10,325,000	3.600	3.600	0.000	0.000	\$0	\$0.00
NEW FACILITIES			MGD						
	Expansion (W-3)	\$13,333,950	\$23,334,413	3.600	1.405	2.195	0.000	\$14,227,510	\$2,800.00
	Subtotal New Treatment	\$13,333,950	\$23,334,413	3.600	1.405	2.195	0.000	\$14,227,510	\$2,800.00
TOTAL WATER TREATMENT		\$19,233,950	\$33,659,413	7.200	5.005	2.195	0.000	\$14,227,510	\$2,800.00
GROUND STORAGE									
EXISTING FACILITIES			MGD						
	0.300 MG GSR	\$125,000	\$218,750	0.300	0.193	0.000	0.107	\$0	\$0.00
	0.431 MG GSR Pistol Hill	\$150,000	\$262,500	0.431	0.193	0.000	0.238	\$0	\$0.00
	0.500 MG GSR	\$284,434	\$497,760	0.500	0.193	0.000	0.307	\$0	\$0.00
	Subtotal Existing Ground Storage	\$559,434	\$979,010	1.231	0.579	0.000	0.652	\$0	\$0.00
NEW FACILITIES			MGD						
	1.000 MG GSR Pistol Hill (W-4)	\$3,681,971	\$6,443,449	1.000	0.000	0.463	0.537	\$2,983,317	\$587.12
	0.500 MG GSR at WTP (W-5)	\$1,000,000	\$1,750,000	0.500	0.000	0.045	0.455	\$157,500	\$31.00
	Subtotal New Ground Storage	\$4,681,971	\$8,193,449	1.500	0.000	0.508	0.992	\$3,140,817	\$618.12
TOTAL GROUND STORAGE		\$5,241,405	\$9,172,459	2.731	0.579	0.508	1.644	\$3,140,817	\$618.12

TABLE 8 (CONT)
WATER CIP INVENTORY AND COSTING

FACILITY		CONSTRUCT COST	CONSTRUCT COST PLUS FINANCE	FACILITY CAPACITY (mgd or gals)				NEXT 10-YEAR CAPITAL COST TOTAL	NEXT 10-YEAR COST PER LUE (a)
TYPE	NAME			TOTAL	FOR CURRENT CUST.	EXCESS <10 YEARS	EXCESS >10 YEARS		
ELEVATED STORAGE									
EXISTING FACILITIES			MG						
0.5 MG (#1)		\$61,807	\$108,162	0.500	0.264	0.000	0.236	\$0	\$0.00
0.5 MG (#2)		\$522,500	\$914,375	0.500	0.265	0.000	0.235	\$0	\$0.00
0.05 MG (Elgin Oaks)		\$578,200	\$1,011,850	0.050	0.050	0.000	0.000	\$0	\$0.00
Subtotal Existing Elevated Storage		\$1,162,507	\$2,034,387	1.050	0.579	0.000	0.471	\$0	\$0.00
NEW FACILITIES									
1.0 MG (#3) (W-6)		\$3,000,000	\$5,250,000	1.000	0.000	0.508	0.492	\$2,667,000	\$524.87
Subtotal New Elevated Storage		\$3,000,000	\$5,250,000	1.000	0.000	0.508	0.492	\$2,667,000	\$524.87
TOTAL ELEVATED STORAGE		\$4,162,507	\$7,284,387	2.050	0.579	0.508	0.963	\$2,667,000	\$524.87
HIGH SERVICE PUMPS AT WTP									
EXISTING FACILITIES			MGD						
@ Elgin Oaks		\$115,000	\$201,250	0.432	0.432	0.000	0.000	\$0	\$0.00
@ WTP		\$1,478,880	\$2,588,040	4.032	4.032	0.000	0.000	\$0	\$0.00
Subtotal Existing High Service Pumps		\$1,593,880	\$2,789,290	4.464	4.464	0.000	0.000	\$0	\$0.00
TOTAL HIGH SERVICE PUMPS AT WTP		\$1,593,880	\$2,789,290	4.464	4.464	0.000	0.000	\$0	\$0.00
HIGH SERVICE PUMPS AT PISTOL HILL									
EXISTING FACILITIES			MGD						
@ Pistol Hill		\$78,296	\$137,018	3.744	3.744	0.000	0.000	\$0	\$0.00
Subtotal Existing High Service Pumps		\$78,296	\$137,018	3.744	3.744	0.000	0.000	\$0	\$0.00
NEW FACILITIES									
@ Pistol Hill (W-7)		\$1,696,065	\$2,968,114	2.304	0.500	1.804	0.000	\$2,323,992	\$457.37
Subtotal New High Service Pumps		\$1,696,065	\$2,968,114	2.304	0.500	1.804	0.000	\$2,323,992	\$457.37
TOTAL HIGH SERVICE PUMPS AT PISTOL HILL		\$1,774,361	\$3,105,132	6.048	4.244	1.804	0.000	\$2,323,992	\$457.37

TABLE 8 (CONT)
WATER CIP INVENTORY AND COSTING

FACILITY		CONSTRUCT COST	CONSTRUCT COST PLUS FINANCE	FACILITY CAPACITY (mgd or gals)				NEXT 10-YEAR CAPITAL COST TOTAL	NEXT 10-YEAR COST PER LUE (a)
TYPE	NAME			TOTAL	FOR CURRENT CUST.	EXCESS <10 YEARS	EXCESS >10 YEARS		
TRANSMISSION LINES (Wells to WTP)									
EXISTING FACILITIES			MG						
12" Line		\$650,000	\$1,137,500	2.538	2.538	0.000	0.000	\$0	\$0.00
18" Line		\$2,437,622	\$4,265,838	5.571	4.676	0.324	0.571	\$248,094	\$48.83
8" Line		\$500,000	\$875,000	1.128	1.128	0.000	0.000	\$0	\$0.00
Subtotal Existing Transmission Lines		\$3,587,622	\$6,278,338	9.237	8.342	0.324	0.571	\$248,094	\$48.83
NEW FACILITIES			MG						
18" Line (W-8)		\$3,063,076	\$5,360,383	5.571	0.000	5.571	0.000	\$5,360,383	\$1,054.93
12" Line (W-9)		\$1,000,000	\$1,750,000	2.538	0.000	1.422	1.116	\$980,496	\$192.96
Subtotal New Transmission Lines		\$4,063,076	\$7,110,383	8.109	0.000	6.993	1.116	\$6,340,879	\$1,247.90
TOTAL TRANSMISSION LINES		\$7,650,698	\$13,388,721	17.346	8.342	7.317	1.687	\$6,588,973	\$1,296.72
TRANSMISSION LINES (WTP to Pistol Hill GSR)									
EXISTING FACILITIES			MG						
12" Line		\$180,000	\$315,000	2.538	2.538	0.000	0.000	\$0	\$0.00
18" Line		\$279,000	\$488,250	5.571	5.571	0.000	0.000	\$0	\$0.00
Subtotal Existing Transmission Lines		\$459,000	\$803,250	8.109	8.109	0.000	0.000	\$0	\$0.00
TOTAL TRANSMISSION LINES		\$459,000	\$803,250	8.109	8.109	0.000	0.000	\$0	\$0.00
TRANSMISSION LINES (Pistol Hill GSR to Elevated Tank)									
EXISTING FACILITIES			MG						
18" Line		\$1,423,477	\$2,491,085	5.571	5.571	0.000	0.000	\$0	\$0.00
Subtotal Existing Transmission Lines		\$1,423,477	\$2,491,085	5.571	5.571	0.000	0.000	\$0	\$0.00
NEW FACILITIES			MG						
18" Line (W-10)		\$3,190,704	\$5,583,732	5.571	1.000	4.571	0.000	\$4,581,446	\$901.64
Subtotal New Transmission Lines		\$3,190,704	\$5,583,732	5.571	1.000	4.571	0.000	\$4,581,446	\$901.64
TOTAL TRANSMISSION LINES		\$4,614,181	\$8,074,817	11.142	6.571	4.571	0.000	\$4,581,446	\$901.64

TABLE 8 (CONT)
WATER CIP INVENTORY AND COSTING

FACILITY		CONSTRUCT COST	CONSTRUCT COST PLUS FINANCE	FACILITY CAPACITY (mgd or gals)				NEXT 10-YEAR CAPITAL COST TOTAL	NEXT 10-YEAR COST PER LUE (a)
TYPE	NAME			TOTAL	FOR CURRENT CUST.	EXCESS <10 YEARS	EXCESS >10 YEARS		
DISTRIBUTION									
EXISTING FACILITIES			MGD						
	12" Loop Hwy 290	\$266,666	\$466,666	2.538	1.138	0.000	1.400	\$0	\$0.00
	12" Hwy 290 to Westwind	\$130,000	\$227,500	2.538	1.138	0.000	1.400	\$0	\$0.00
	12" County Line Rd (290 to FM 1100)	\$266,666	\$466,666	2.538	1.138	0.000	1.400	\$0	\$0.00
	12" County Line Rd (FM 1100 to Carlson Ln)	\$100,000	\$175,000	2.538	1.138	0.000	1.400	\$0	\$0.00
	12" FM 1100	\$266,666	\$466,666	2.538	1.138	0.000	1.400	\$0	\$0.00
	12" 2nd Street	\$250,000	\$437,500	2.538	1.138	0.000	1.400	\$0	\$0.00
	12" Kennedy Street	\$85,000	\$148,750	2.538	1.137	0.000	1.401	\$0	\$0.00
	12" McDade Road	\$125,000	\$218,750	2.538	1.137	0.000	1.401	\$0	\$0.00
	12" Carlson Lane	\$100,000	\$175,000	2.538	1.137	0.000	1.401	\$0	\$0.00
	12" Fisher St. to Monterrey Dr.	\$265,313	\$464,298	2.538	1.137	0.000	1.401	\$0	\$0.00
	12" Roy Rivers Rd. (Phase III)	\$849,524	\$1,486,667	2.538	1.137	0.000	1.401	\$0	\$0.00
	Subtotal Existing Facilities	\$2,704,835	\$4,733,461	27.918	12.513	0.000	15.405	\$0	\$0.00
NEW FACILITIES									
	12" Booster Station to Fisher St. (W-11)	\$1,094,411	\$1,915,220	2.538	0.000	0.512	2.026	\$386,364	\$76.04
	12" Monterrey Dr. to Kennedy St. (W-12)	\$1,887,301	\$3,302,777	2.538	0.000	0.512	2.026	\$666,281	\$131.13
	12" Kennedy St. to W. 10th St. (W-13)	\$1,234,802	\$2,160,904	2.538	0.000	0.512	2.026	\$435,927	\$85.79
	12" FM 3000 from Taylor to Westbrook (W-14)	\$406,815	\$711,926	2.538	0.000	0.512	2.026	\$143,619	\$28.26
	12" FM 3000 to Red Town Road (W-15)	\$1,316,165	\$2,303,289	2.538	0.000	0.512	2.026	\$464,651	\$91.44
	12" MLK to S. Avenue D (W-16)	\$837,560	\$1,465,730	2.538	0.000	0.512	2.026	\$295,687	\$58.19
	12" Red Town Rd to S.H. 95 (W-17)	\$1,150,249	\$2,012,935	2.538	0.000	0.512	2.026	\$406,077	\$79.92
	12" S.H. 95 Loop (W-18)	\$1,828,273	\$3,199,478	2.538	0.000	0.512	2.026	\$645,442	\$127.02
	12" FM 1100 to Carlson Lane (W-19)	\$1,081,649	\$1,892,885	2.538	0.000	2.000	0.538	\$1,491,635	\$293.56
	12" Western Sky to FM 1100 (W-20)	\$579,113	\$1,013,447	2.538	0.000	1.000	1.538	\$399,309	\$78.58
	12" Middle School to SH 95 Loop (W-21)	\$1,459,747	\$2,554,557	2.538	0.000	0.550	1.988	\$553,588	\$108.95
	12" Roy Rivers Rd. (Phase IV) (W-22)	\$417,155	\$730,021	2.538	0.000	0.400	2.138	\$115,055	\$22.64
	12" 290 to Roy Rivers Rd (W-23)	\$266,168	\$465,794	2.538	0.000	0.400	2.138	\$73,411	\$14.45
	12" Western Sky Blvd to Carlson Ln (W-24)	\$1,953,335	\$3,418,336	2.538	0.000	0.700	1.838	\$942,804	\$185.55
	12" Carlson Ln to Lund Rd (W-25)	\$1,671,749	\$2,925,561	2.538	0.000	0.700	1.838	\$806,892	\$158.80
	12" County Line Rd to Hwy 95 (W-26)	\$790,813	\$1,383,923	2.538	0.000	0.565	1.973	\$308,084	\$60.63
	12" Lund Rd to Marek Rd (W-27)	\$1,525,930	\$2,670,378	2.538	0.000	0.565	1.973	\$594,469	\$116.99
	Subtotal New Facilities	\$19,501,236	\$34,127,162	43.146	0.000	10.976	32.170	\$8,729,297	\$1,717.94
TOTAL MAJOR DISTRIBUTION LINES		\$22,206,071	\$38,860,624	71.064	12.513	10.976	47.575	\$8,729,297	\$1,717.94
FEE UPDATE COST								\$29,693	\$5.84
TOTALS		\$66,115,313	\$115,701,797					\$42,950,473	\$10,206.81

(a) Assumes the following gals to LUE conversion factor:

Wells:	864	gals/day
Treatment:	864	gals/day
Pumpage:	864	gals/day
Ground Storage:	100	gals
Elevated Storage:	100	gals
Transmission	1,440	gals/day
Distribution	2,160	gals/day

Note: Totals may not add due to rounding
Source: TRC Engineers, Inc.

**TABLE 9
WASTEWATER CIP INVENTORY AND COSTING**

FACILITY		CONSTRUCT COST	CONSTRUCT COST PLUS INTEREST	FACILITY CAPACITY (mgd or gals)				NEXT 10-YEAR CAPITAL COST TOTAL	NEXT 10-YEAR COST PER LUE (a)
TYPE	NAME			TOTAL	FOR CURRENT CUST.	EXCESS <10 YEARS	EXCESS >10 YEARS		
TREATMENT									
EXISTING FACILITIES			AVG MGD						
	Elgin WWTP	\$3,000,000	\$5,250,000	0.950	0.568	0.100	0.282	\$552,632	\$91.46
	Elgin WWTP Expansion	\$19,298,321	\$33,772,062	1.000	0.051	0.478	0.471	\$16,143,046	\$2,671.68
	Subtotal Existing Facilities	\$22,298,321	\$39,022,062	1.950	0.619	0.578	0.753	\$16,695,677	\$2,763.14
NEW FACILITIES			AVG MGD						
	WWTP No. 2 (S-1)	\$40,000,000	\$70,000,000	2.500	0.267	1.000	1.233	\$28,000,000	\$4,634.01
	Elgin WWTP Expansion (S-2)	\$15,000,000	\$26,250,000	1.000	0.000	0.293	0.707	\$7,691,250	\$1,272.90
	Subtotal New Facilities	\$55,000,000	\$96,250,000	3.500	0.267	1.293	1.940	\$35,691,250	\$5,906.91
TOTAL WASTEWATER TREATMENT		\$77,298,321	\$135,272,062	5.450	0.886	1.871	2.693	\$52,386,927	\$8,670.05
PUMPING									
EXISTING FACILITIES			PEAK MGD						
	Elm Creek Lift Station	\$1,501,367	\$2,627,392	5.040	1.050	1.853	2.137	\$965,984	\$159.87
	Westwind Lift Station	\$0	\$0	0.360	0.210	0.000	0.150	\$0	\$0.00
	Westbrook Lift Station	\$593,156	\$1,038,023	0.288	0.270	0.000	0.018	\$0	\$0.00
	Louise Lift Station	\$40,000	\$70,000	0.288	0.259	0.000	0.029	\$0	\$0.00
	Carver Lift Station	\$75,000	\$131,250	0.360	0.295	0.000	0.065	\$0	\$0.00
	Larson Lift Station	\$49,063	\$85,860	0.259	0.242	0.000	0.017	\$0	\$0.00
	Savannah Lift Station	\$0	\$0	0.072	0.072	0.000	0.000	\$0	\$0.00
	Saratoga Lift Station	\$0	\$0	0.485	0.068	0.140	0.277	\$0	\$0.00
	Central Lift Station	\$1,000,000	\$1,750,000	1.000	0.079	0.278	0.643	\$486,500	\$80.52
	FM 1704 Lift Station	\$2,388,101	\$4,179,177	0.387	0.114	0.273	0.000	\$2,948,101	\$487.91
	Subtotal Existing Facilities	\$5,646,687	\$9,881,702	8.539	2.659	2.544	3.336	\$4,400,585	\$728.30
NEW FACILITIES									
	Littig Road Lift Station (S-3)	\$1,276,282	\$2,233,493	0.360	0.000	0.360	0.000	\$2,233,493	\$369.64
	Little Sandy Creek Lift Station (S-4)	\$1,276,282	\$2,233,493	0.360	0.000	0.360	0.000	\$2,233,493	\$369.64
	Elm Creek Lift Station (maximize) (S-5)	\$2,000,000	\$3,500,000	4.464	0.000	2.000	2.464	\$1,568,100	\$259.52
	Carver Lift Station (S-6)	\$957,211	\$1,675,120	0.720	0.000	0.350	0.370	\$814,294	\$134.77
	Subtotal New Facilities	\$5,509,774	\$9,642,105	5.904	0.000	3.070	2.834	\$6,849,380	\$1,134
TOTAL WASTEWATER PUMPAGE		\$11,156,461	\$19,523,807	14.443	2.659	5.614	6.170	\$11,249,965	\$1,861.87

TABLE 9 (CONT)
WASTEWATER CIP INVENTORY AND COSTING

FACILITY		CONSTRUCT COST	CONSTRUCT COST PLUS INTEREST	FACILITY CAPACITY (mgd or gals)				NEXT 10-YEAR CAPITAL COST TOTAL	NEXT 10-YEAR COST PER LUE (a)
TYPE	NAME			TOTAL	FOR CURRENT CUST.	EXCESS <10 YEARS	EXCESS >10 YEARS		
MAJOR COLLECTION LINES									
EXISTING FACILITIES				MGD					
	18" & 24" Elm Creek Trunk	\$1,320,000	\$2,310,000	4.061	0.465	0.300	3.296	\$170,648	\$28.24
	12" Plant Sewer	\$100,000	\$175,000	1.015	0.429	0.105	0.481	\$18,103	\$3.00
	12" Neidig Sewer	\$120,000	\$210,000	1.015	0.429	0.105	0.481	\$21,724	\$3.60
	12" Eagles Landing Sewer	\$125,000	\$218,750	1.015	0.429	0.105	0.481	\$22,629	\$3.75
	12" Westwind Sewer	\$150,000	\$262,500	1.015	0.276	0.160	0.579	\$41,379	\$6.85
	8" Roy Rivers Rd.	\$547,200	\$957,600	0.451	0.429	0.022	0.000	\$46,712	\$7.73
	24" Elm Creek	\$615,625	\$1,077,344	4.061	0.068	0.080	3.913	\$21,223	\$3.51
	24" Elm Creek	\$735,938	\$1,287,891	4.061	0.068	0.080	3.913	\$25,371	\$4.20
	24" Altessa	\$500,000	\$875,000	4.061	0.066	0.130	3.865	\$28,010	\$4.64
	15" FM 1100 - Cnty Ln Rd to Elm Crk	\$500,000	\$875,000	1.015	0.000	0.105	0.910	\$90,517	\$14.98
	24" FM 1100 to Harvest Ridge Blvd	\$1,000,000	\$1,750,000	4.061	0.000	0.100	3.961	\$43,093	\$7.13
	Subtotal Existing Facilities	\$5,713,763	\$9,999,084	25.831	2.659	1.292	21.880	\$529,411	\$87.62
NEW FACILITIES									
	12" FM 1100 to S.H. 290 (S-7)	\$811,636	\$1,420,363	1.015	0.000	0.100	0.915	\$139,937	\$23.16
	42" Elm Creek (S-8)	\$8,009,707	\$14,016,987	12.435	0.000	0.990	11.445	\$1,115,948	\$184.69
	12" C.R. 76-C.R. 127 to Littig Rd (S-9)	\$1,208,479	\$2,114,838	1.015	0.000	0.254	0.761	\$529,231	\$87.59
	12" Cnty Ln Rd - C.R. 77 to Elm Crk (S-10)	\$518,489	\$907,356	1.015	0.000	0.235	0.780	\$210,078	\$34.77
	12" S.H. 290 to Sandy Creek L.S. (S-11)	\$699,961	\$1,224,932	1.015	0.000	0.150	0.865	\$181,024	\$29.96
	12" FM 1704 - C.R. 51 to Terra Dr. (S-12)	\$335,024	\$586,292	1.015	0.000	0.150	0.865	\$86,644	\$14.34
	36" US 290 to WWTP (S-13)	\$7,995,173	\$13,991,553	5.530	0.000	0.980	4.550	\$2,479,516	\$410.36
	42" Elm Creek to WWTP #2 (S-14)	\$9,769,935	\$17,097,387	12.435	0.000	0.987	11.448	\$1,357,066	\$224.59
	24" Westwind LS to Elm Creek LS (S-15)	\$1,423,649	\$2,491,386	4.061	0.000	0.100	3.961	\$61,349	\$10.15
	24" Western Sky Blvd to Carlson Ln (S-16)	\$2,710,728	\$4,743,774	4.061	0.000	0.276	3.785	\$322,404	\$53.36
	24" Harvest Ridge to Lund Farms (S-17)	\$1,290,138	\$2,257,742	4.061	0.000	0.100	3.961	\$55,596	\$9.20
	Subtotal	\$34,772,920	\$60,852,610	47.658	0.000	4.322	43.336	\$6,538,793	\$1,082.17
TOTAL COLLECTION LINES		\$40,486,683	\$70,851,695	73.489	2.659	5.614	65.216	\$7,068,203	\$1,169.79
TOTALS		\$128,941,465	\$225,647,564					\$70,705,096	\$11,701.71

(a) assumes the following gals to LUE conversion factors:
 (b) Fee-payers requiring construction of additional new lift stations will also be assessed cost of their prorata share of the facilities.

	2024	2034
Treatment:	170	245 gals daily
Pumpage:	510	735 gals daily
Collection:	510	735 gals daily

Note: Totals may not add due to rounding.
 Source: TRC Engineers, Inc.

TABLE 10
WATER AND WASTEWATER MAXIMUM IMPACT FEES

UTILITY FACILITY	COST/LUE	CREDIT/LUE	MAXIMUM FEE/LUE
WATER Wells	\$1,884.32	\$942.16	\$942.16
Treatment	\$2,800.00	\$1,400.00	\$1,400.00
Ground Storage	\$618.12	\$309.06	\$309.06
Elevated Storage	\$524.87	\$262.44	\$262.44
High Service Pumps at WTP	\$0.00	\$0.00	\$0.00
High Service Pumps at Pistol Hill	\$457.37	\$228.68	\$228.68
Transmission Lines (Wells to WTP)	\$1,296.72	\$648.36	\$648.36
Transmission Lines (WTP to City)	\$0.00	\$0.00	\$0.00
Transmission Lines (Booster to El. Tank)	\$901.64	\$450.82	\$450.82
Distribution	\$1,717.94	\$858.97	\$858.97
Fee Update Cost	\$5.84	\$2.92	\$2.92
TOTAL WATER	\$10,206.81	\$5,103.41	\$5,103.41
SEWER Treatment	\$8,670.05	\$4,335.02	\$4,335.02
Pumping	\$1,861.87	\$930.94	\$930.94
Major Collection	\$1,169.79	\$584.89	\$584.89
TOTAL SEWER	\$11,701.71	\$5,850.86	\$5,850.86
GRAND TOTAL	\$21,908.52	\$10,954.26	\$10,954.26

5.0 CONCLUSIONS AND RECOMMENDATIONS

5.1 Fee Amount

Table 10 itemizes the maximum eligible fee to be assessed.

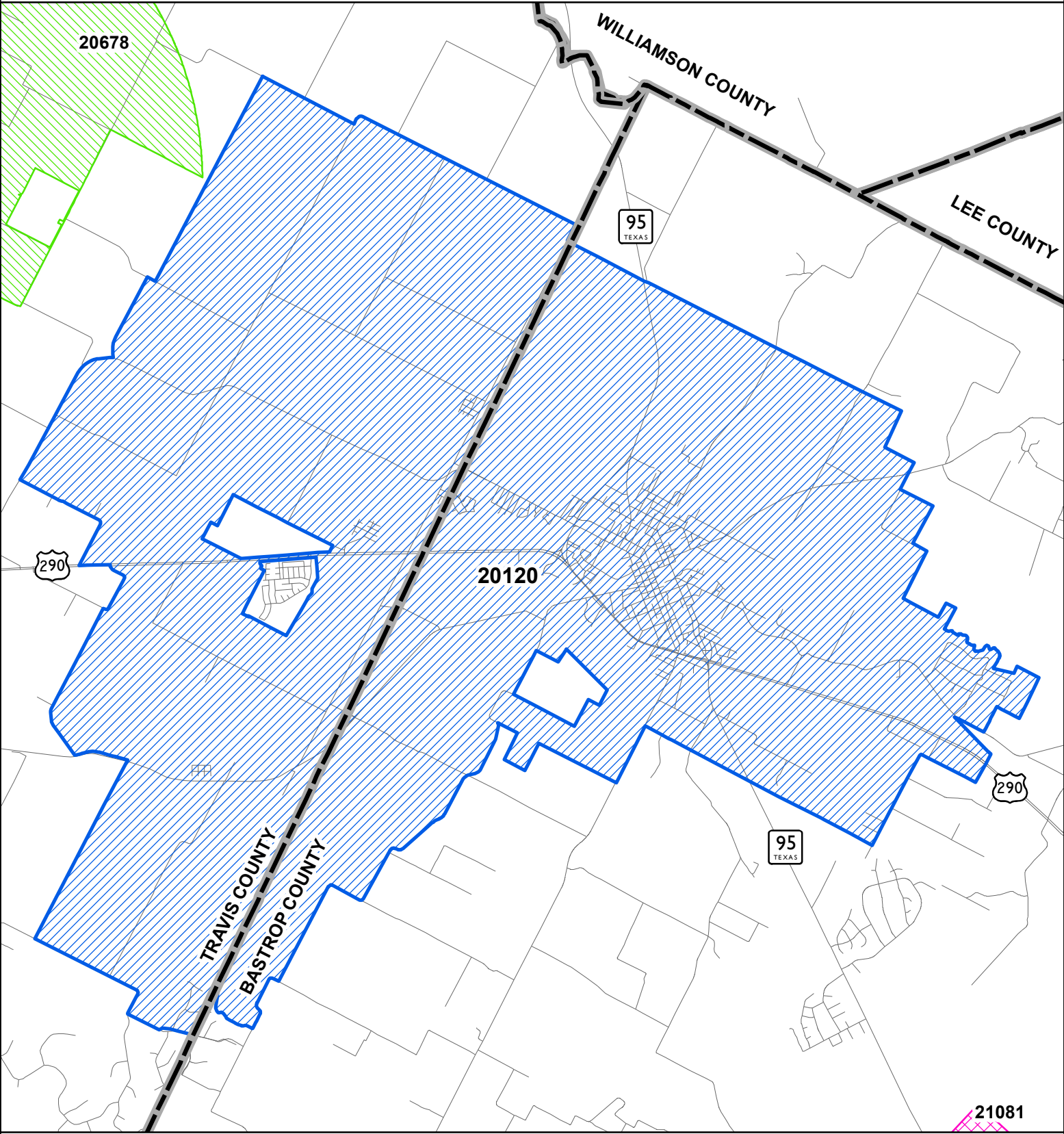
5.2 Reconvene as Needed

The Advisory Committee and the City should be vigilant and should pledge to quickly respond to any unforeseen unusual growth pattern(s).

Appendix A

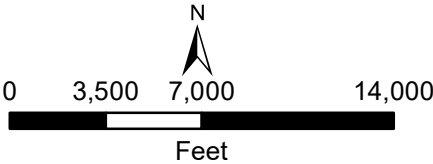
Maps

CITY OF ELGIN
SEWER SERVICE AREA
CCN NO. 20120
APPLICATION NO. 37372-C
CCN AMENDMENT IN BASTROP AND TRAVIS COUNTIES

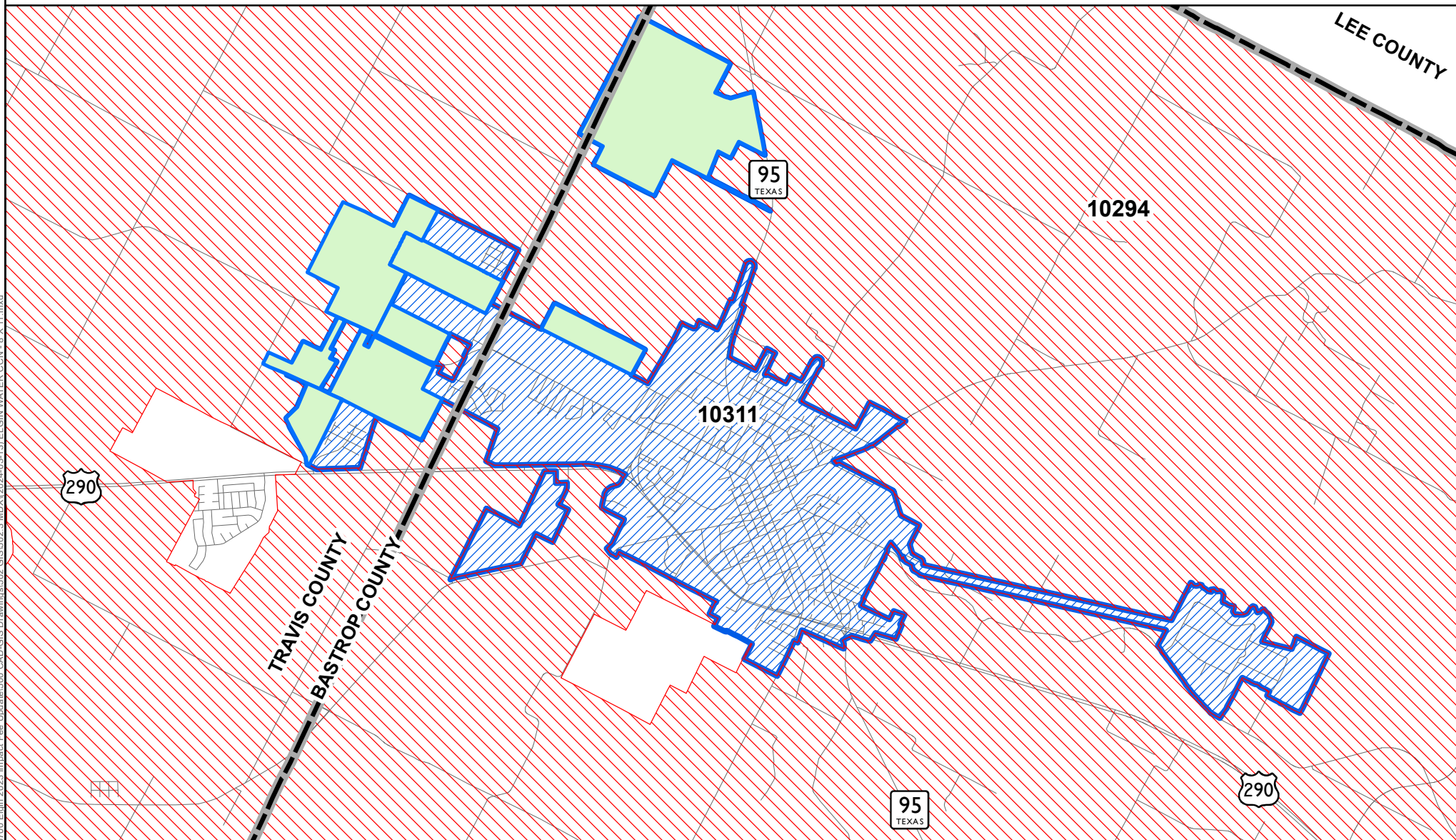


SEWER CCN SERVICE AREAS

-  20678 - CITY OF PFLUGERVILLE
-  21081 - CORIX UTILITIES TEXAS INC
-  20120 - CITY OF ELGIN



CITY OF ELGIN / AUQUA WATER SUPPLY CORPORATION
 WATER SERVICE AREAS
 APPLICATION NO. 37370-C
 13.248 CONTRACT SERVICE AGREEMENT BETWEEN THE CITY OF ELGIN, CCN NO. 10311
 AND AUQUA WATER SUPPLY CORPORATION, CCN NO. 10294
 IN BASTROP AND TRAVIS COUNTIES



- CCN Transfers in Progress
- 10311 - CITY OF ELGIN
- 10294 - AQUA WSC



0 2,500 5,000 10,000
 Feet



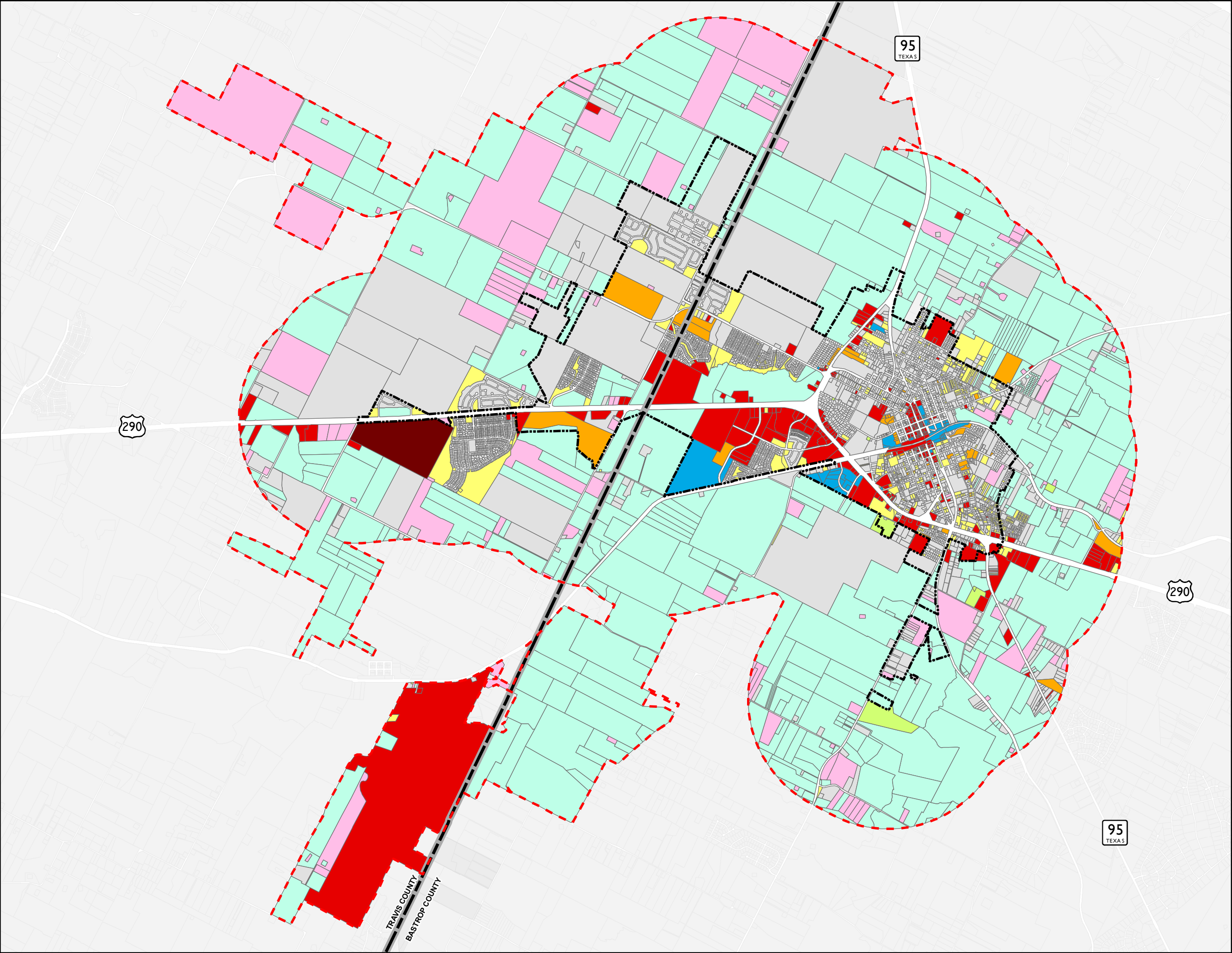
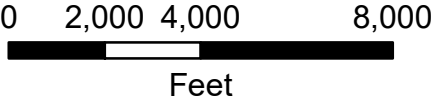
4/30/2024

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SERVICE AREA EXISTING
LAND USE: 2024

Land Use

- Elgin City Limits
- Elgin Planning Area
- No Data
- Agriculture
- Commercial
- Farm/Ranch
- Industrial
- Multi-Family
- Single-Family
- Utility
- Vacant
- Single, Multi-Family, & Industrial

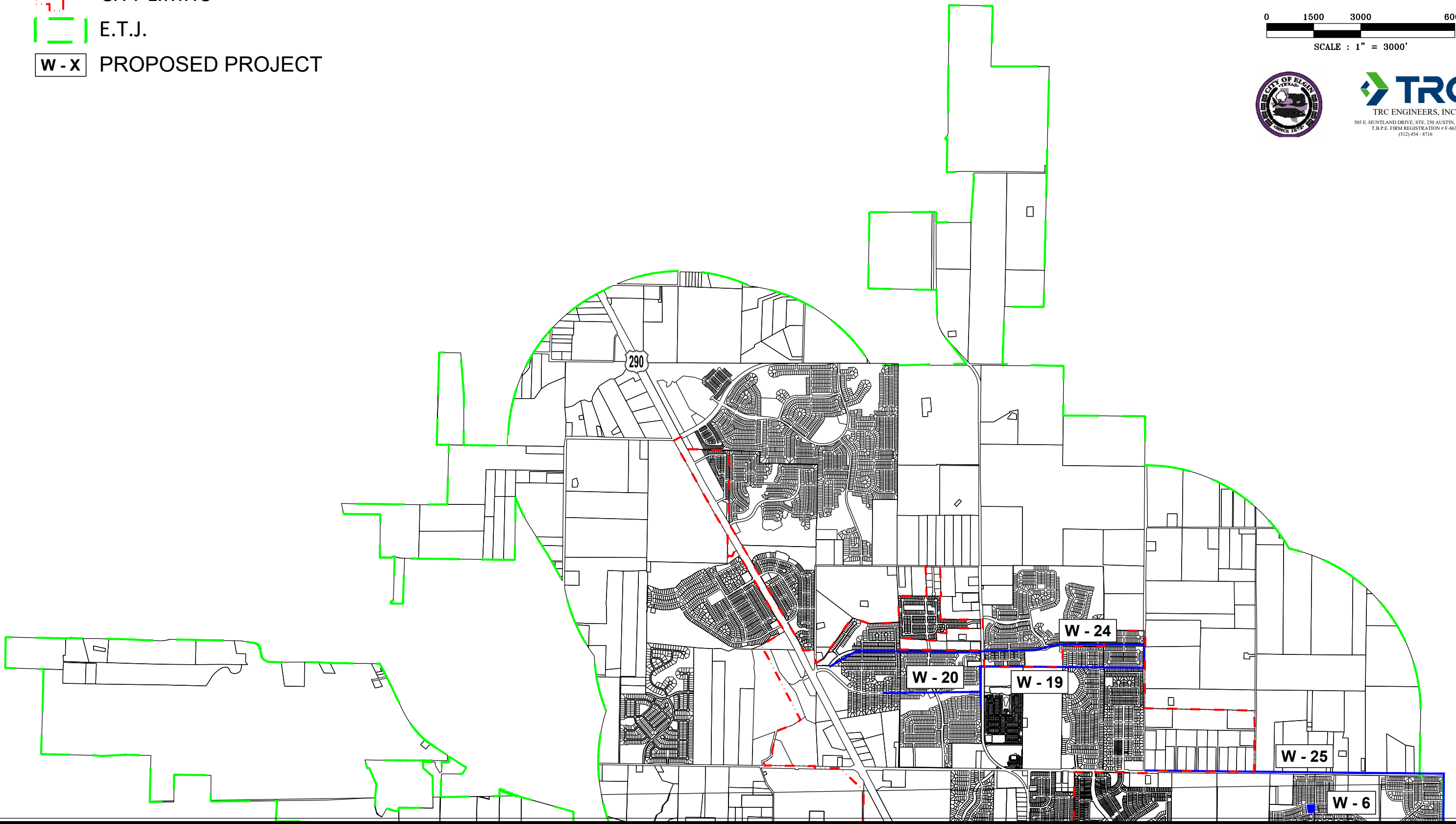
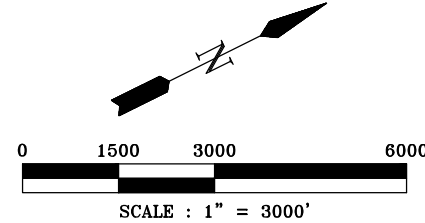


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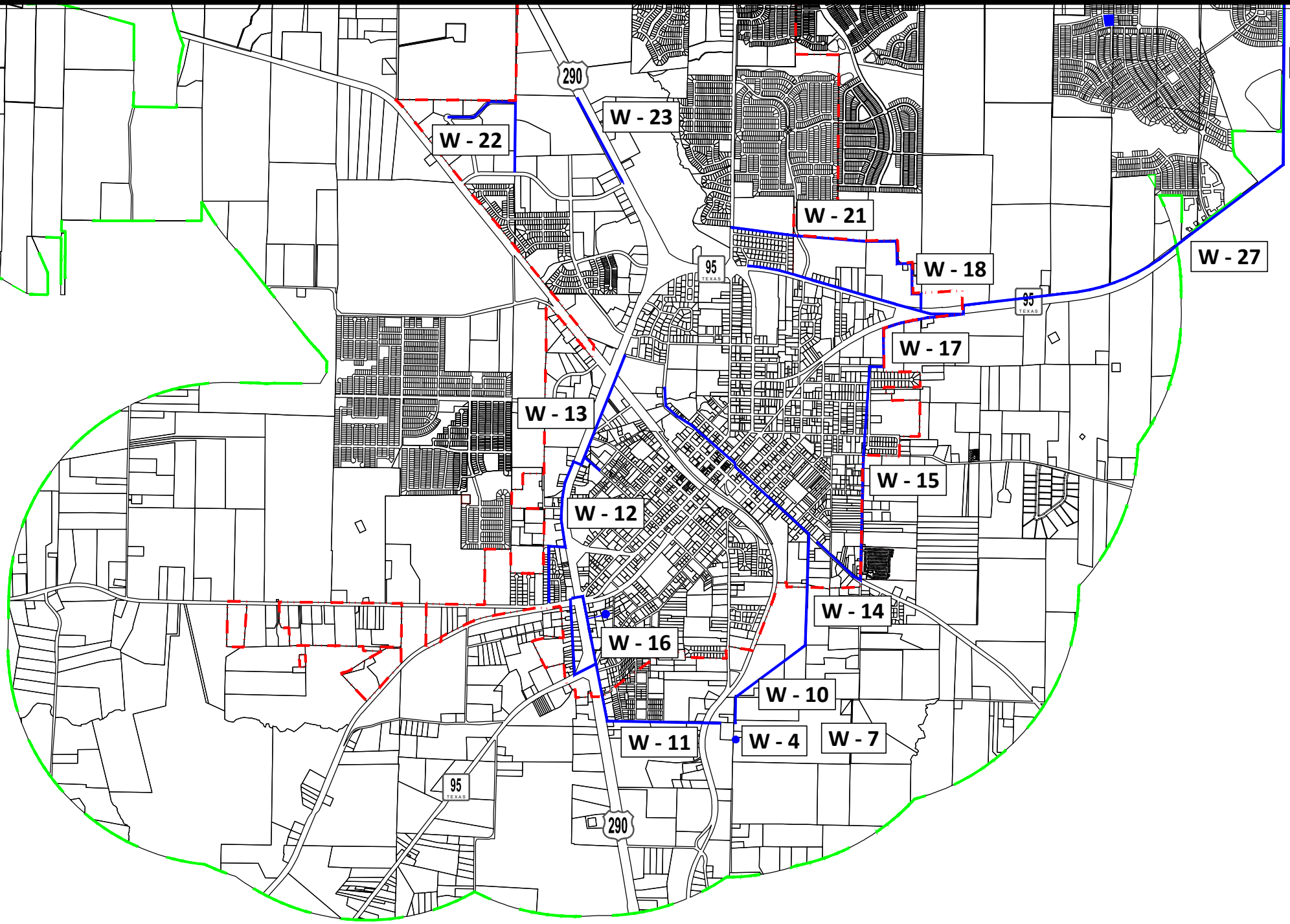
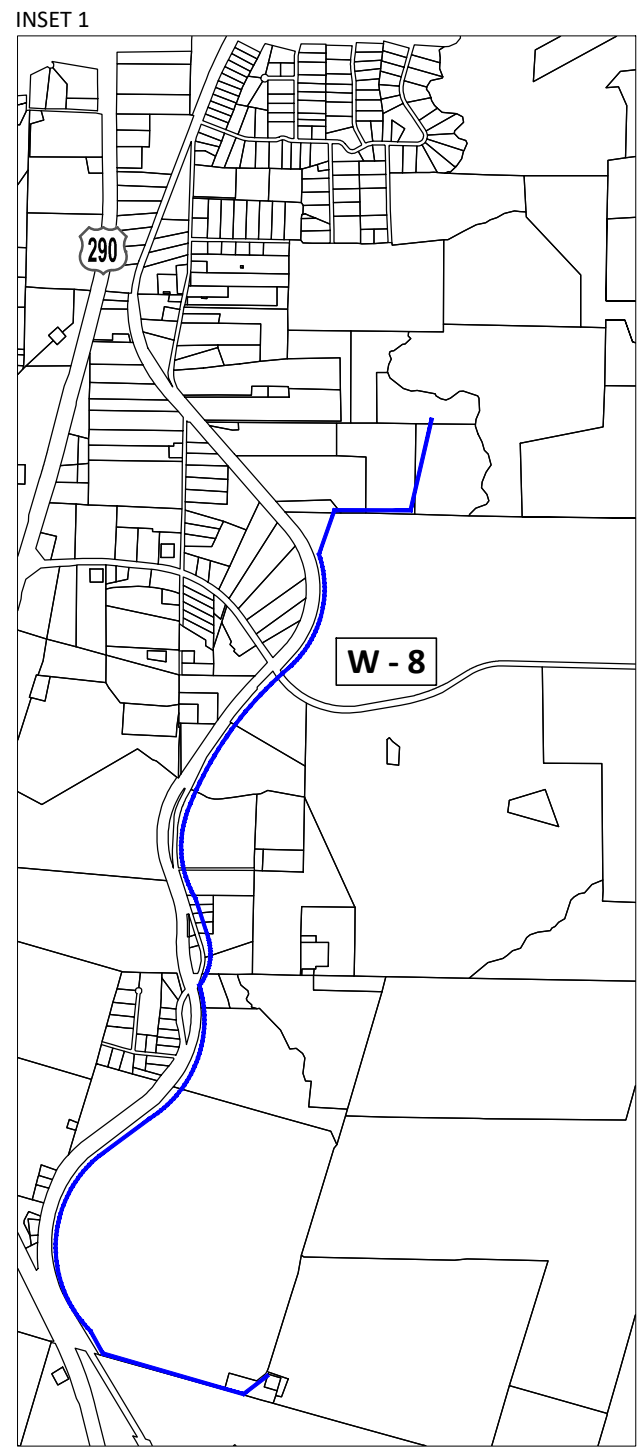
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-  CITY LIMITS
-  E.T.J.
-  W - X PROPOSED PROJECT

WATER - C.I.P.
ELGIN, TX



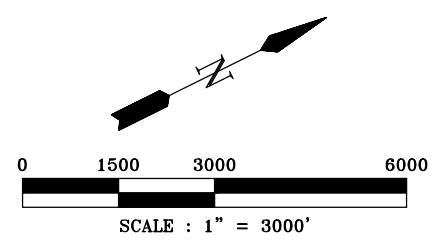
WATER - C.I.P.
ELGIN, TX



SEE INSET 1

Legend

- CITY LIMITS
- E.T.J.
- W - X PROPOSED PROJECT



TRC
TRC ENGINEERS, INC.
505 E. HUNTLAND DRIVE, STE. 250 AUSTIN, TX 78752
T.B.P.E. FIRM REGISTRATION # F-5632
(512) 454 - 8716

NOTE: PROPOSED WELLS, GROUND STORAGE TANKS, AND WTP NOT SHOWN

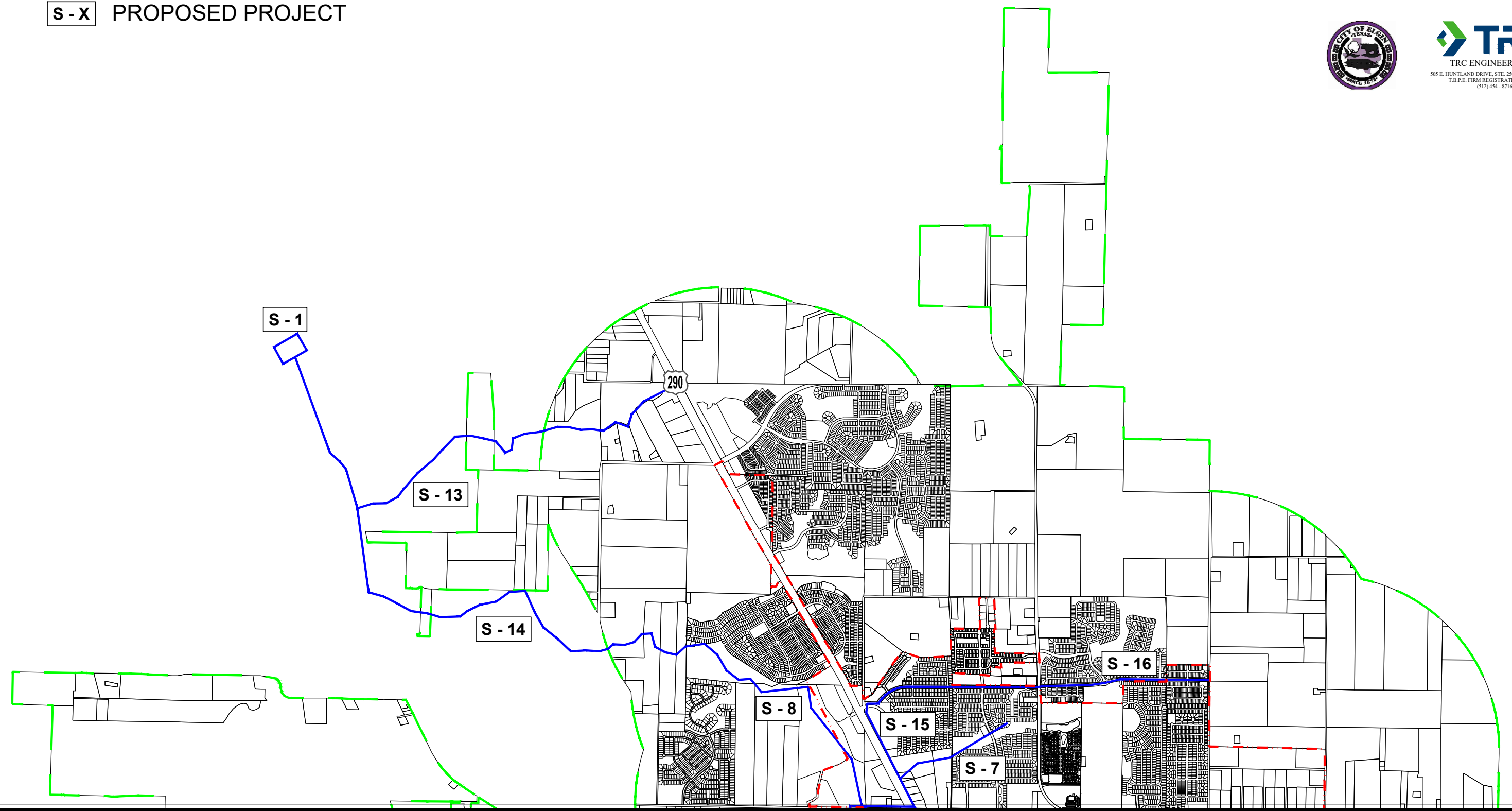
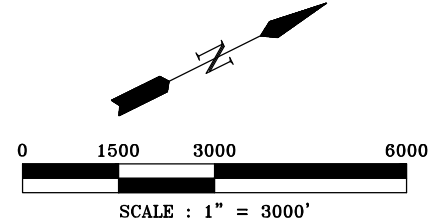
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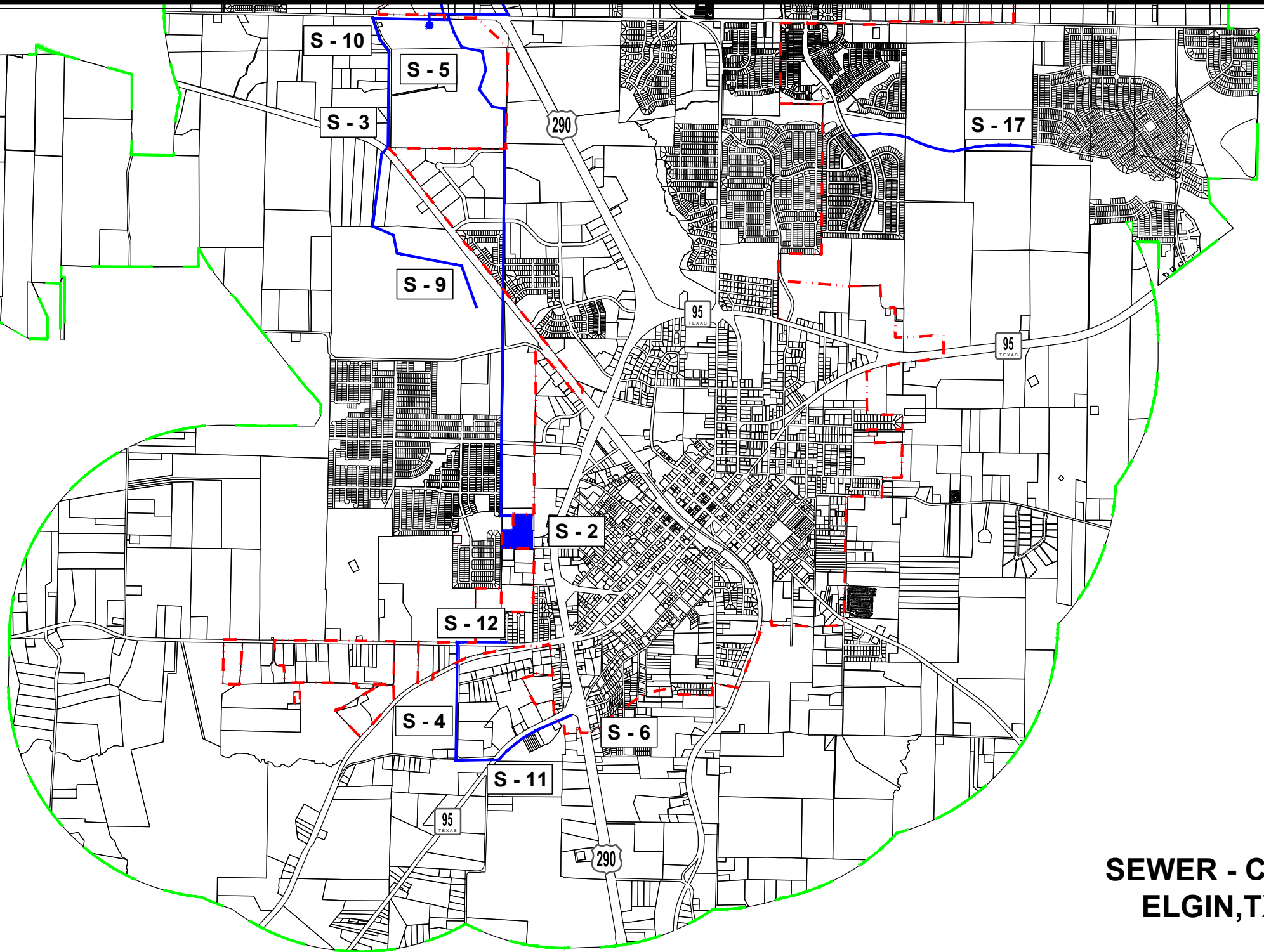
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-  CITY LIMITS
-  E.T.J.
-  PROPOSED PROJECT

SEWER - C.I.P.
ELGIN, TX



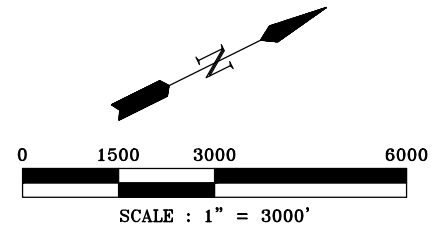
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**SEWER - C.I.P.
ELGIN, TX**

Legend

-  CITY LIMITS
-  E.T.J.
-  **S - X** PROPOSED PROJECT



Appendix B
Texas Local Government Code
Chapter 395
Financing Capital Improvements

LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE C. PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE
THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 395. FINANCING CAPITAL IMPROVEMENTS REQUIRED BY NEW
DEVELOPMENT IN MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL
GOVERNMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 395.001. DEFINITIONS. In this chapter:

(1) "Capital improvement" means any of the following facilities that have a life expectancy of three or more years and are owned and operated by or on behalf of a political subdivision:

(A) water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; and storm water, drainage, and flood control facilities; whether or not they are located within the service area; and

(B) roadway facilities.

(2) "Capital improvements plan" means a plan required by this chapter that identifies capital improvements or facility expansions for which impact fees may be assessed.

(3) "Facility expansion" means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

(4) "Impact fee" means a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term does not include:

(A) dedication of land for public parks or

payment in lieu of the dedication to serve park needs;

(B) dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development;

(C) lot or acreage fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or

(D) other pro rata fees for reimbursement of water or sewer mains or lines extended by the political subdivision.

However, an item included in the capital improvements plan may not be required to be constructed except in accordance with Section 395.019(2), and an owner may not be required to construct or dedicate facilities and to pay impact fees for those facilities.

(5) "Land use assumptions" includes a description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a 10-year period.

(6) "New development" means the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units.

(7) "Political subdivision" means a municipality, a district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, or, for the purposes set forth by Section 395.079, certain counties described by that section.

(8) "Roadway facilities" means arterial or collector streets or roads that have been designated on an officially adopted roadway plan of the political subdivision, together with all necessary appurtenances. The term includes the political subdivision's share of costs for roadways and associated improvements designated on the federal or Texas highway system,

including local matching funds and costs related to utility line relocation and the establishment of curbs, gutters, sidewalks, drainage appurtenances, and rights-of-way.

(9) "Service area" means the area within the corporate boundaries or extraterritorial jurisdiction, as determined under Chapter 42, of the political subdivision to be served by the capital improvements or facilities expansions specified in the capital improvements plan, except roadway facilities and storm water, drainage, and flood control facilities. The service area, for the purposes of this chapter, may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, except for roadway facilities and storm water, drainage, and flood control facilities. For roadway facilities, the service area is limited to an area within the corporate boundaries of the political subdivision and shall not exceed six miles. For storm water, drainage, and flood control facilities, the service area may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, but shall not exceed the area actually served by the storm water, drainage, and flood control facilities designated in the capital improvements plan and shall not extend across watershed boundaries.

(10) "Service unit" means a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards and based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous 10 years.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 566, Sec. 1(e), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 345, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER B. AUTHORIZATION OF IMPACT FEE

Sec. 395.011. AUTHORIZATION OF FEE. (a) Unless otherwise specifically authorized by state law or this chapter, a

governmental entity or political subdivision may not enact or impose an impact fee.

(b) Political subdivisions may enact or impose impact fees on land within their corporate boundaries or extraterritorial jurisdictions only by complying with this chapter, except that impact fees may not be enacted or imposed in the extraterritorial jurisdiction for roadway facilities.

(c) A municipality may contract to provide capital improvements, except roadway facilities, to an area outside its corporate boundaries and extraterritorial jurisdiction and may charge an impact fee under the contract, but if an impact fee is charged in that area, the municipality must comply with this chapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.012. ITEMS PAYABLE BY FEE. (a) An impact fee may be imposed only to pay the costs of constructing capital improvements or facility expansions, including and limited to the:

- (1) construction contract price;
- (2) surveying and engineering fees;
- (3) land acquisition costs, including land purchases, court awards and costs, attorney's fees, and expert witness fees; and
- (4) fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the political subdivision.

(b) Projected interest charges and other finance costs may be included in determining the amount of impact fees only if the impact fees are used for the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision to finance the capital improvements or facility expansions identified in the capital improvements plan and are not used to reimburse bond funds expended for facilities that are not identified in the capital improvements plan.

(c) Notwithstanding any other provision of this chapter,

the Edwards Underground Water District or a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may use impact fees to pay a staff engineer who prepares or updates a capital improvements plan under this chapter.

(d) A municipality may pledge an impact fee as security for the payment of debt service on a bond, note, or other obligation issued to finance a capital improvement or public facility expansion if:

(1) the improvement or expansion is identified in a capital improvements plan; and

(2) at the time of the pledge, the governing body of the municipality certifies in a written order, ordinance, or resolution that none of the impact fee will be used or expended for an improvement or expansion not identified in the plan.

(e) A certification under Subsection (d)(2) is sufficient evidence that an impact fee pledged will not be used or expended for an improvement or expansion that is not identified in the capital improvements plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 90, Sec. 1, eff. May 16, 1995.

Sec. 395.013. ITEMS NOT PAYABLE BY FEE. Impact fees may not be adopted or used to pay for:

(1) construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;

(2) repair, operation, or maintenance of existing or new capital improvements or facility expansions;

(3) upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;

(4) upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;

(5) administrative and operating costs of the

political subdivision, except the Edwards Underground Water District or a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may use impact fees to pay its administrative and operating costs;

(6) principal payments and interest or other finance charges on bonds or other indebtedness, except as allowed by Section 395.012.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.014. CAPITAL IMPROVEMENTS PLAN. (a) The political subdivision shall use qualified professionals to prepare the capital improvements plan and to calculate the impact fee. The capital improvements plan must contain specific enumeration of the following items:

(1) a description of the existing capital improvements within the service area and the costs to upgrade, update, improve, expand, or replace the improvements to meet existing needs and usage and stricter safety, efficiency, environmental, or regulatory standards, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(2) an analysis of the total capacity, the level of current usage, and commitments for usage of capacity of the existing capital improvements, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(3) a description of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(4) a definitive table establishing the specific level or quantity of use, consumption, generation, or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the

ratio of a service unit to various types of land uses, including residential, commercial, and industrial;

(5) the total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(6) the projected demand for capital improvements or facility expansions required by new service units projected over a reasonable period of time, not to exceed 10 years; and

(7) a plan for awarding:

(A) a credit for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan; or

(B) in the alternative, a credit equal to 50 percent of the total projected cost of implementing the capital improvements plan.

(b) The analysis required by Subsection (a)(3) may be prepared on a systemwide basis within the service area for each major category of capital improvement or facility expansion for the designated service area.

(c) The governing body of the political subdivision is responsible for supervising the implementation of the capital improvements plan in a timely manner.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 2, eff. Sept. 1, 2001.

Sec. 395.015. MAXIMUM FEE PER SERVICE UNIT. (a) The impact fee per service unit may not exceed the amount determined by subtracting the amount in Section 395.014(a)(7) from the costs of the capital improvements described by Section 395.014(a)(3) and dividing that amount by the total number of projected service units described by Section 395.014(a)(5).

(b) If the number of new service units projected over a

reasonable period of time is less than the total number of new service units shown by the approved land use assumptions at full development of the service area, the maximum impact fee per service unit shall be calculated by dividing the costs of the part of the capital improvements necessitated by and attributable to projected new service units described by Section 395.014(a)(6) by the projected new service units described in that section.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 3, eff. Sept. 1, 2001.

Sec. 395.016. TIME FOR ASSESSMENT AND COLLECTION OF FEE.

(a) This subsection applies only to impact fees adopted and land platted before June 20, 1987. For land that has been platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision before June 20, 1987, or land on which new development occurs or is proposed without platting, the political subdivision may assess the impact fees at any time during the development approval and building process. Except as provided by Section 395.019, the political subdivision may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(b) This subsection applies only to impact fees adopted before June 20, 1987, and land platted after that date. For new development which is platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision after June 20, 1987, the political subdivision may assess the impact fees before or at the time of recordation. Except as provided by Section 395.019, the political subdivision may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(c) This subsection applies only to impact fees adopted

after June 20, 1987. For new development which is platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision before the adoption of an impact fee, an impact fee may not be collected on any service unit for which a valid building permit is issued within one year after the date of adoption of the impact fee.

(d) This subsection applies only to land platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision after adoption of an impact fee adopted after June 20, 1987. The political subdivision shall assess the impact fees before or at the time of recordation of a subdivision plat or other plat under Subchapter A, Chapter 212, or the subdivision or platting ordinance or procedures of any political subdivision in the official records of the county clerk of the county in which the tract is located. Except as provided by Section 395.019, if the political subdivision has water and wastewater capacity available:

(1) the political subdivision shall collect the fees at the time the political subdivision issues a building permit;

(2) for land platted outside the corporate boundaries of a municipality, the municipality shall collect the fees at the time an application for an individual meter connection to the municipality's water or wastewater system is filed; or

(3) a political subdivision that lacks authority to issue building permits in the area where the impact fee applies shall collect the fees at the time an application is filed for an individual meter connection to the political subdivision's water or wastewater system.

(e) For land on which new development occurs or is proposed to occur without platting, the political subdivision may assess the impact fees at any time during the development and building process and may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(f) An "assessment" means a determination of the amount of the impact fee in effect on the date or occurrence provided in this

section and is the maximum amount that can be charged per service unit of such development. No specific act by the political subdivision is required.

(g) Notwithstanding Subsections (a)-(e) and Section 395.017, the political subdivision may reduce or waive an impact fee for any service unit that would qualify as affordable housing under 42 U.S.C. Section 12745, as amended, once the service unit is constructed. If affordable housing as defined by 42 U.S.C. Section 12745, as amended, is not constructed, the political subdivision may reverse its decision to waive or reduce the impact fee, and the political subdivision may assess an impact fee at any time during the development approval or building process or after the building process if an impact fee was not already assessed.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 52, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 345, Sec. 4, eff. Sept. 1, 2001.

Sec. 395.017. ADDITIONAL FEE PROHIBITED; EXCEPTION. After assessment of the impact fees attributable to the new development or execution of an agreement for payment of impact fees, additional impact fees or increases in fees may not be assessed against the tract for any reason unless the number of service units to be developed on the tract increases. In the event of the increase in the number of service units, the impact fees to be imposed are limited to the amount attributable to the additional service units. Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.018. AGREEMENT WITH OWNER REGARDING PAYMENT. A political subdivision is authorized to enter into an agreement with the owner of a tract of land for which the plat has been recorded providing for the time and method of payment of the impact fees. Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.019. COLLECTION OF FEES IF SERVICES NOT AVAILABLE. Except for roadway facilities, impact fees may be assessed but may

not be collected in areas where services are not currently available unless:

(1) the collection is made to pay for a capital improvement or facility expansion that has been identified in the capital improvements plan and the political subdivision commits to commence construction within two years, under duly awarded and executed contracts or commitments of staff time covering substantially all of the work required to provide service, and to have the service available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in no event longer than five years;

(2) the political subdivision agrees that the owner of a new development may construct or finance the capital improvements or facility expansions and agrees that the costs incurred or funds advanced will be credited against the impact fees otherwise due from the new development or agrees to reimburse the owner for such costs from impact fees paid from other new developments that will use such capital improvements or facility expansions, which fees shall be collected and reimbursed to the owner at the time the other new development records its plat; or

(3) an owner voluntarily requests the political subdivision to reserve capacity to serve future development, and the political subdivision and owner enter into a valid written agreement.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.020. ENTITLEMENT TO SERVICES. Any new development for which an impact fee has been paid is entitled to the permanent use and benefit of the services for which the fee was exacted and is entitled to receive immediate service from any existing facilities with actual capacity to serve the new service units, subject to compliance with other valid regulations.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.021. AUTHORITY OF POLITICAL SUBDIVISIONS TO SPEND

FUNDS TO REDUCE FEES. Political subdivisions may spend funds from any lawful source to pay for all or a part of the capital improvements or facility expansions to reduce the amount of impact fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.022. AUTHORITY OF POLITICAL SUBDIVISION TO PAY FEES. (a) Political subdivisions and other governmental entities may pay impact fees imposed under this chapter.

(b) A school district is not required to pay impact fees imposed under this chapter unless the board of trustees of the district consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees. The contract may contain terms the board of trustees considers advisable to provide for the payment of the fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 250 (S.B. [883](#)), Sec. 1, eff. May 25, 2007.

Sec. 395.023. CREDITS AGAINST ROADWAY FACILITIES FEES. Any construction of, contributions to, or dedications of off-site roadway facilities agreed to or required by a political subdivision as a condition of development approval shall be credited against roadway facilities impact fees otherwise due from the development.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.024. ACCOUNTING FOR FEES AND INTEREST. (a) The order, ordinance, or resolution levying an impact fee must provide that all funds collected through the adoption of an impact fee shall be deposited in interest-bearing accounts clearly identifying the category of capital improvements or facility expansions within the service area for which the fee was adopted.

(b) Interest earned on impact fees is considered funds of

the account on which it is earned and is subject to all restrictions placed on use of impact fees under this chapter.

(c) Impact fee funds may be spent only for the purposes for which the impact fee was imposed as shown by the capital improvements plan and as authorized by this chapter.

(d) The records of the accounts into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.025. REFUNDS. (a) On the request of an owner of the property on which an impact fee has been paid, the political subdivision shall refund the impact fee if existing facilities are available and service is denied or the political subdivision has, after collecting the fee when service was not available, failed to commence construction within two years or service is not available within a reasonable period considering the type of capital improvement or facility expansion to be constructed, but in no event later than five years from the date of payment under Section [395.019](#)(1).

(b) Repealed by Acts 2001, 77th Leg., ch. 345, Sec. 9, eff. Sept. 1, 2001.

(c) The political subdivision shall refund any impact fee or part of it that is not spent as authorized by this chapter within 10 years after the date of payment.

(d) Any refund shall bear interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section [302.002](#), Finance Code, or its successor statute.

(e) All refunds shall be made to the record owner of the property at the time the refund is paid. However, if the impact fees were paid by another political subdivision or governmental entity, payment shall be made to the political subdivision or governmental entity.

(f) The owner of the property on which an impact fee has been paid or another political subdivision or governmental entity that paid the impact fee has standing to sue for a refund under this

section.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 1396, Sec. 37, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.82, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 345, Sec. 9, eff. Sept. 1, 2001.

SUBCHAPTER C. PROCEDURES FOR ADOPTION OF IMPACT FEE

Sec. 395.041. COMPLIANCE WITH PROCEDURES REQUIRED. Except as otherwise provided by this chapter, a political subdivision must comply with this subchapter to levy an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.0411. CAPITAL IMPROVEMENTS PLAN. The political subdivision shall provide for a capital improvements plan to be developed by qualified professionals using generally accepted engineering and planning practices in accordance with Section [395.014](#).

Added by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.042. HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. To impose an impact fee, a political subdivision must adopt an order, ordinance, or resolution establishing a public hearing date to consider the land use assumptions and capital improvements plan for the designated service area.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.043. INFORMATION ABOUT LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN AVAILABLE TO PUBLIC. On or before the date of the first publication of the notice of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall make available to the public its land use assumptions, the time period of the projections, and a description

of the capital improvement facilities that may be proposed.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.044. NOTICE OF HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. (a) Before the 30th day before the date of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order, ordinance, or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies.

(c) The notice must contain:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN RELATING TO POSSIBLE ADOPTION OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the land use assumptions and capital improvements plan under which an impact fee may be imposed; and

(4) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the land use assumptions and capital improvements plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.045. APPROVAL OF LAND USE ASSUMPTIONS AND CAPITAL

IMPROVEMENTS PLAN REQUIRED. (a) After the public hearing on the land use assumptions and capital improvements plan, the political subdivision shall determine whether to adopt or reject an ordinance, order, or resolution approving the land use assumptions and capital improvements plan.

(b) The political subdivision, within 30 days after the date of the public hearing, shall approve or disapprove the land use assumptions and capital improvements plan.

(c) An ordinance, order, or resolution approving the land use assumptions and capital improvements plan may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.0455. SYSTEMWIDE LAND USE ASSUMPTIONS. (a) In lieu of adopting land use assumptions for each service area, a political subdivision may, except for storm water, drainage, flood control, and roadway facilities, adopt systemwide land use assumptions, which cover all of the area subject to the jurisdiction of the political subdivision for the purpose of imposing impact fees under this chapter.

(b) Prior to adopting systemwide land use assumptions, a political subdivision shall follow the public notice, hearing, and other requirements for adopting land use assumptions.

(c) After adoption of systemwide land use assumptions, a political subdivision is not required to adopt additional land use assumptions for a service area for water supply, treatment, and distribution facilities or wastewater collection and treatment facilities as a prerequisite to the adoption of a capital improvements plan or impact fee, provided the capital improvements plan and impact fee are consistent with the systemwide land use assumptions.

Added by Acts 1989, 71st Leg., ch. 566, Sec. 1(b), eff. Aug. 28, 1989.

Sec. 395.047. HEARING ON IMPACT FEE. On adoption of the

land use assumptions and capital improvements plan, the governing body shall adopt an order or resolution setting a public hearing to discuss the imposition of the impact fee. The public hearing must be held by the governing body of the political subdivision to discuss the proposed ordinance, order, or resolution imposing an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.049. NOTICE OF HEARING ON IMPACT FEE. (a) Before the 30th day before the date of the hearing on the imposition of an impact fee, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies.

(c) The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON ADOPTION OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the adoption of an impact fee;

(4) the amount of the proposed impact fee per service unit; and

(5) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the plan and proposed fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28,

1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.050. ADVISORY COMMITTEE COMMENTS ON IMPACT FEES. The advisory committee created under Section 395.058 shall file its written comments on the proposed impact fees before the fifth business day before the date of the public hearing on the imposition of the fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.051. APPROVAL OF IMPACT FEE REQUIRED. (a) The political subdivision, within 30 days after the date of the public hearing on the imposition of an impact fee, shall approve or disapprove the imposition of an impact fee.

(b) An ordinance, order, or resolution approving the imposition of an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.052. PERIODIC UPDATE OF LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN REQUIRED. (a) A political subdivision imposing an impact fee shall update the land use assumptions and capital improvements plan at least every five years. The initial five-year period begins on the day the capital improvements plan is adopted.

(b) The political subdivision shall review and evaluate its current land use assumptions and shall cause an update of the capital improvements plan to be prepared in accordance with Subchapter B.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 6, eff. Sept. 1, 2001.

Sec. 395.053. HEARING ON UPDATED LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. The governing body of the political subdivision shall, within 60 days after the date it receives the update of the land use assumptions and the capital improvements plan, adopt an order setting a public hearing to discuss and review the update and shall determine whether to amend the plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.054. HEARING ON AMENDMENTS TO LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEE. A public hearing must be held by the governing body of the political subdivision to discuss the proposed ordinance, order, or resolution amending land use assumptions, the capital improvements plan, or the impact fee. On or before the date of the first publication of the notice of the hearing on the amendments, the land use assumptions and the capital improvements plan, including the amount of any proposed amended impact fee per service unit, shall be made available to the public.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.055. NOTICE OF HEARING ON AMENDMENTS TO LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEE. (a) The notice and hearing procedures prescribed by Sections [395.044\(a\)](#) and (b) apply to a hearing on the amendment of land use assumptions, a capital improvements plan, or an impact fee.

(b) The notice of a hearing under this section must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON AMENDMENT OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the amendment of land use assumptions and a capital improvements plan and the imposition of an impact fee; and

(4) a statement that any member of the public has the right to appear at the hearing and present evidence for or against

the update.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 7, eff. Sept. 1, 2001.

Sec. 395.056. ADVISORY COMMITTEE COMMENTS ON AMENDMENTS. The advisory committee created under Section [395.058](#) shall file its written comments on the proposed amendments to the land use assumptions, capital improvements plan, and impact fee before the fifth business day before the date of the public hearing on the amendments.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.057. APPROVAL OF AMENDMENTS REQUIRED. (a) The political subdivision, within 30 days after the date of the public hearing on the amendments, shall approve or disapprove the amendments of the land use assumptions and the capital improvements plan and modification of an impact fee.

(b) An ordinance, order, or resolution approving the amendments to the land use assumptions, the capital improvements plan, and imposition of an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.0575. DETERMINATION THAT NO UPDATE OF LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN OR IMPACT FEES IS NEEDED.

(a) If, at the time an update under Section [395.052](#) is required, the governing body determines that no change to the land use assumptions, capital improvements plan, or impact fee is needed, it may, as an alternative to the updating requirements of Sections 395.052-395.057, do the following:

(1) The governing body of the political subdivision shall, upon determining that an update is unnecessary and 60 days before publishing the final notice under this section, send notice of its determination not to update the land use assumptions,

capital improvements plan, and impact fee by certified mail to any person who has, within two years preceding the date that the final notice of this matter is to be published, give written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of hearings related to impact fees. The notice must contain the information in Subsections (b)(2)-(5).

(2) The political subdivision shall publish notice of its determination once a week for three consecutive weeks in one or more newspapers with general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies. The notice of public hearing may not be in the part of the paper in which legal notices and classified ads appear and may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type.

(b) The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF DETERMINATION NOT TO UPDATE
LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS
PLAN, OR IMPACT FEES";

(2) a statement that the governing body of the political subdivision has determined that no change to the land use assumptions, capital improvements plan, or impact fee is necessary;

(3) an easily understandable description and a map of the service area in which the updating has been determined to be unnecessary;

(4) a statement that if, within a specified date, which date shall be at least 60 days after publication of the first notice, a person makes a written request to the designated official of the political subdivision requesting that the land use assumptions, capital improvements plan, or impact fee be updated, the governing body must comply with the request by following the requirements of Sections 395.052-395.057; and

(5) a statement identifying the name and mailing

address of the official of the political subdivision to whom a request for an update should be sent.

(c) The advisory committee shall file its written comments on the need for updating the land use assumptions, capital improvements plans, and impact fee before the fifth business day before the earliest notice of the government's decision that no update is necessary is mailed or published.

(d) If, by the date specified in Subsection (b)(4), a person requests in writing that the land use assumptions, capital improvements plan, or impact fee be updated, the governing body shall cause an update of the land use assumptions and capital improvements plan to be prepared in accordance with Sections 395.052-395.057.

(e) An ordinance, order, or resolution determining the need for updating land use assumptions, a capital improvements plan, or an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 566, Sec. 1(d), eff. Aug. 28, 1989.

Sec. 395.058. ADVISORY COMMITTEE. (a) On or before the date on which the order, ordinance, or resolution is adopted under Section [395.042](#), the political subdivision shall appoint a capital improvements advisory committee.

(b) The advisory committee is composed of not less than five members who shall be appointed by a majority vote of the governing body of the political subdivision. Not less than 40 percent of the membership of the advisory committee must be representatives of the real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity. If the political subdivision has a planning and zoning commission, the commission may act as the advisory committee if the commission includes at least one representative of the real estate, development, or building industry who is not an employee or official of a political subdivision or governmental entity. If no such representative is a member of the planning and zoning commission, the commission may still act as the advisory committee if at least one such representative is appointed by the political

subdivision as an ad hoc voting member of the planning and zoning commission when it acts as the advisory committee. If the impact fee is to be applied in the extraterritorial jurisdiction of the political subdivision, the membership must include a representative from that area.

(c) The advisory committee serves in an advisory capacity and is established to:

(1) advise and assist the political subdivision in adopting land use assumptions;

(2) review the capital improvements plan and file written comments;

(3) monitor and evaluate implementation of the capital improvements plan;

(4) file semiannual reports with respect to the progress of the capital improvements plan and report to the political subdivision any perceived inequities in implementing the plan or imposing the impact fee; and

(5) advise the political subdivision of the need to update or revise the land use assumptions, capital improvements plan, and impact fee.

(d) The political subdivision shall make available to the advisory committee any professional reports with respect to developing and implementing the capital improvements plan.

(e) The governing body of the political subdivision shall adopt procedural rules for the advisory committee to follow in carrying out its duties.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

SUBCHAPTER D. OTHER PROVISIONS

Sec. 395.071. DUTIES TO BE PERFORMED WITHIN TIME LIMITS. If the governing body of the political subdivision does not perform a duty imposed under this chapter within the prescribed period, a person who has paid an impact fee or an owner of land on which an impact fee has been paid has the right to present a written request to the governing body of the political subdivision stating the

nature of the unperformed duty and requesting that it be performed within 60 days after the date of the request. If the governing body of the political subdivision finds that the duty is required under this chapter and is late in being performed, it shall cause the duty to commence within 60 days after the date of the request and continue until completion.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.072. RECORDS OF HEARINGS. A record must be made of any public hearing provided for by this chapter. The record shall be maintained and be made available for public inspection by the political subdivision for at least 10 years after the date of the hearing.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.073. CUMULATIVE EFFECT OF STATE AND LOCAL RESTRICTIONS. Any state or local restrictions that apply to the imposition of an impact fee in a political subdivision where an impact fee is proposed are cumulative with the restrictions in this chapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.074. PRIOR IMPACT FEES REPLACED BY FEES UNDER THIS CHAPTER. An impact fee that is in place on June 20, 1987, must be replaced by an impact fee made under this chapter on or before June 20, 1990. However, any political subdivision having an impact fee that has not been replaced under this chapter on or before June 20, 1988, is liable to any party who, after June 20, 1988, pays an impact fee that exceeds the maximum permitted under Subchapter B by more than 10 percent for an amount equal to two times the difference between the maximum impact fee allowed and the actual impact fee imposed, plus reasonable attorney's fees and court costs.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.075. NO EFFECT ON TAXES OR OTHER CHARGES. This chapter does not prohibit, affect, or regulate any tax, fee, charge, or assessment specifically authorized by state law. Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.076. MORATORIUM ON DEVELOPMENT PROHIBITED. A moratorium may not be placed on new development for the purpose of awaiting the completion of all or any part of the process necessary to develop, adopt, or update land use assumptions, a capital improvements plan, or an impact fee. Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 441, Sec. 2, eff. Sept. 1, 2001.

Sec. 395.077. APPEALS. (a) A person who has exhausted all administrative remedies within the political subdivision and who is aggrieved by a final decision is entitled to trial de novo under this chapter.

(b) A suit to contest an impact fee must be filed within 90 days after the date of adoption of the ordinance, order, or resolution establishing the impact fee.

(c) Except for roadway facilities, a person who has paid an impact fee or an owner of property on which an impact fee has been paid is entitled to specific performance of the services by the political subdivision for which the fee was paid.

(d) This section does not require construction of a specific facility to provide the services.

(e) Any suit must be filed in the county in which the major part of the land area of the political subdivision is located. A successful litigant shall be entitled to recover reasonable attorney's fees and court costs.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.078. SUBSTANTIAL COMPLIANCE WITH NOTICE

REQUIREMENTS. An impact fee may not be held invalid because the public notice requirements were not complied with if compliance was substantial and in good faith.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.079. IMPACT FEE FOR STORM WATER, DRAINAGE, AND FLOOD CONTROL IN POPULOUS COUNTY. (a) Any county that has a population of 3.3 million or more or that borders a county with a population of 3.3 million or more, and any district or authority created under Article XVI, Section 59, of the Texas Constitution within any such county that is authorized to provide storm water, drainage, and flood control facilities, is authorized to impose impact fees to provide storm water, drainage, and flood control improvements necessary to accommodate new development.

(b) The imposition of impact fees authorized by Subsection (a) is exempt from the requirements of Sections 395.025, 395.052-395.057, and 395.074 unless the political subdivision proposes to increase the impact fee.

(c) Any political subdivision described by Subsection (a) is authorized to pledge or otherwise contractually obligate all or part of the impact fees to the payment of principal and interest on bonds, notes, or other obligations issued or incurred by or on behalf of the political subdivision and to the payment of any other contractual obligations.

(d) An impact fee adopted by a political subdivision under Subsection (a) may not be reduced if:

(1) the political subdivision has pledged or otherwise contractually obligated all or part of the impact fees to the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision; and

(2) the political subdivision agrees in the pledge or contract not to reduce the impact fees during the term of the bonds, notes, or other contractual obligations.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 107, eff.

Sept. 1, 2001.

Sec. 395.080. CHAPTER NOT APPLICABLE TO CERTAIN WATER-RELATED SPECIAL DISTRICTS. (a) This chapter does not apply to impact fees, charges, fees, assessments, or contributions:

(1) paid by or charged to a district created under Article XVI, Section 59, of the Texas Constitution to another district created under that constitutional provision if both districts are required by law to obtain approval of their bonds by the Texas Natural Resource Conservation Commission; or

(2) charged by an entity if the impact fees, charges, fees, assessments, or contributions are approved by the Texas Natural Resource Conservation Commission.

(b) Any district created under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution may petition the Texas Natural Resource Conservation Commission for approval of any proposed impact fees, charges, fees, assessments, or contributions. The commission shall adopt rules for reviewing the petition and may charge the petitioner fees adequate to cover the cost of processing and considering the petition. The rules shall require notice substantially the same as that required by this chapter for the adoption of impact fees and shall afford opportunity for all affected parties to participate.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.257, eff. Sept. 1, 1995.

Sec. 395.081. FEES FOR ADJOINING LANDOWNERS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality with a population of 115,000 or less that constitutes more than three-fourths of the population of the county in which the majority of the area of the municipality is located.

(b) A municipality that has not adopted an impact fee under this chapter that is constructing a capital improvement, including sewer or waterline or drainage or roadway facilities, from the municipality to a development located within or outside the municipality's boundaries, in its discretion, may allow a landowner

whose land adjoins the capital improvement or is within a specified distance from the capital improvement, as determined by the governing body of the municipality, to connect to the capital improvement if:

(1) the governing body of the municipality has adopted a finding under Subsection (c); and

(2) the landowner agrees to pay a proportional share of the cost of the capital improvement as determined by the governing body of the municipality and agreed to by the landowner.

(c) Before a municipality may allow a landowner to connect to a capital improvement under Subsection (b), the municipality shall adopt a finding that the municipality will benefit from allowing the landowner to connect to the capital improvement. The finding shall describe the benefit to be received by the municipality.

(d) A determination of the governing body of a municipality, or its officers or employees, under this section is a discretionary function of the municipality and the municipality and its officers or employees are not liable for a determination made under this section.

Added by Acts 1997, 75th Leg., ch. 1150, Sec. 1, eff. June 19, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1043 (H.B. [3111](#)), Sec. 5, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 100, eff. September 1, 2011.

Appendix C

H.B. 1199

A BILL TO BE ENTITLED

AN ACT

relating to financing capital improvements and facility expansions through the assessment of impact fees; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 395.001(4), (8), (9), and (10), Local Government Code, are amended to read as follows:

(4) "Impact fee" means a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term does not include:

(A) dedication of land for public parks or payment in lieu of the dedication to serve park needs;

(B) dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development; ~~[or]~~

(C) lot or acreage fees to be placed in trust funds

for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or

(D) other pro rata fees for reimbursement of water or sewer mains or lines extended by the political subdivision.

However, an item included in the capital improvements plan may not be required to be constructed except in accordance with Section 395.019(2), and an owner may not be required to construct or dedicate facilities and to pay impact fees for those facilities.

(8) "Roadway facilities" means arterial or collector streets or roads that have been designated on an officially adopted roadway plan of the political subdivision, together with all necessary appurtenances. The term includes the political subdivision's share of costs for ~~[does not include any]~~ roadways and ~~[or]~~ associated improvements designated on the federal or Texas highway system, including local matching funds and costs related to utility line relocation and the establishment of curbs, gutters, sidewalks, drainage appurtenances, and rights-of-way.

(9) "Service area" means the area within the corporate boundaries or extraterritorial jurisdiction, as determined under Chapter 42, of the political subdivision to be served by the capital improvements or facilities expansions specified in the capital improvements plan, except roadway facilities and storm water, drainage, and flood control facilities. The service area, for the purposes of this chapter, may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, except for roadway facilities and storm water, drainage, and flood control facilities. For roadway facilities, the service area is limited to an area within the corporate boundaries of the political subdivision and shall not exceed six ~~[a distance equal to the average trip length from the new development, but in~~

~~no event more than three~~] miles~~[, which service area shall be served by the roadway facilities designated in the capital improvements plan]~~. For storm water, drainage, and flood control facilities, the service area may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, but shall not exceed the area actually served by the storm water, drainage, and flood control facilities designated in the capital improvements plan and shall not extend across watershed boundaries.

(10) "Service unit" means a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards and based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous 10 years ~~[for a particular category of capital improvements or facility expansions]~~.

SECTION 2. Section 395.014(a), Local Government Code, is amended to read as follows:

(a) The political subdivision shall use qualified professionals to prepare the capital improvements plan and to calculate the impact fee. The capital improvements plan must contain specific enumeration of the following items:

(1) a description of the existing capital improvements within the service area and the costs to upgrade, update, improve, expand, or replace the improvements to meet existing needs and usage and stricter safety, efficiency, environmental, or regulatory standards, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(2) an analysis of the total capacity, the level of current

usage, and commitments for usage of capacity of the existing capital improvements, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(3) a description of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(4) a definitive table establishing the specific level or quantity of use, consumption, generation, or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, and industrial;

(5) the total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria; ~~and~~

(6) the projected demand for capital improvements or facility expansions required by new service units projected over a reasonable period of time, not to exceed 10 years; and

(7) a plan for awarding:

(A) a credit for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for

the payment of improvements, including the payment of debt, that are included in the capital improvement plan; or

(B) in the alternative, a credit equal to 50 percent of the total projected cost of implementing the capital improvement plan.

SECTION 3. Section 395.015(a), Local Government Code, is amended to read as follows:

(a) The impact fee per service unit may not exceed the amount determined by subtracting the amount in Section 395.014(a)(7) from ~~[dividing]~~ the costs of the capital improvements described by Section 395.014(a)(3) and dividing that amount by the total number of projected service units described by Section 395.014(a)(5).

SECTION 4. Section 395.016(d), Local Government Code, is amended to read as follows:

(d) This subsection applies only to land platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision after adoption of an impact fee adopted after June 20, 1987. The political subdivision shall assess the impact fees before or at the time of recordation of a subdivision plat or other plat under Subchapter A, Chapter 212, or the subdivision or platting ordinance or procedures of any political subdivision in the official records of the county clerk of the county in which the tract is located. Except as provided by Section 395.019, if water and wastewater capacity is available, the political subdivision may collect the fees ~~[at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or]~~ at the time the political subdivision issues a ~~[either the]~~ building permit ~~[or the certificate of occupancy]~~.

SECTION 5. Subchapter C, Chapter 395, Local Government Code, is

amended by adding Section 395.0411 and amending Sections 395.042-395.045, 395.047, and 395.049-395.051 to read as follows:

Sec. 395.0411. CAPITAL IMPROVEMENTS PLAN. The political subdivision shall provide for a capital improvements plan to be developed by qualified professionals using generally accepted engineering and planning practices in accordance with Section 395.014.

Sec. 395.042. Hearing on Land Use Assumptions AND CAPITAL IMPROVEMENTS PLAN. To impose an impact fee, a political subdivision must adopt an order, ordinance, or resolution establishing a public hearing date to consider the land use assumptions and capital improvements plan for ~~[within]~~ the designated service area ~~[that will be used to develop the capital improvements plan]~~.

Sec. 395.043. INFORMATION ABOUT LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN AVAILABLE TO PUBLIC. On or before the date of the first publication of the notice of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall make available to the public its land use assumptions, the time period of the projections, and a description of ~~[the general nature of]~~ the capital improvement facilities that may be proposed.

Sec. 395.044. Notice of Hearing on Land Use Assumptions AND CAPITAL IMPROVEMENTS PLAN. (a) Before the 30th day before the date of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order,

ordinance, or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing ~~[once a week for three consecutive weeks, the first notice to appear]~~ before the 30th day ~~[but on or after the 60th day]~~ before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies. ~~[The notice of public hearing may not be in the part of the paper in which legal notices and classified ads appear and may not be smaller than one quarter page of a standard size or tabloid size newspaper, and the headline on the notice must be in 18 point or larger type.]~~

(c) The notice must contain:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON LAND USE
ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN RELATING
TO POSSIBLE ADOPTION OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the land use assumptions and ~~[that will be used to develop a]~~ capital improvements plan under which an impact fee may be imposed; and

(4) ~~[an easily understandable map of the service area to which the land use assumptions apply; and~~

~~[(5)]~~ a statement that any member of the public has the right to appear at the hearing and present evidence for or against the land use assumptions and capital

improvements plan.

Sec. 395.045. Approval of Land Use Assumptions AND CAPITAL IMPROVEMENTS PLAN REQUIRED. (a) After the public hearing on the land use assumptions and capital improvements plan, the political subdivision shall determine whether to adopt or reject an ordinance, order, or resolution approving the land use assumptions and capital improvements plan.

(b) The political subdivision, within 30 days after the date of the public hearing, shall approve or disapprove the land use assumptions and capital improvements plan.

(c) An ordinance, order, or resolution approving the land use assumptions and capital improvements plan may not be adopted as an emergency measure.

Sec. 395.047. HEARING ON [~~CAPITAL IMPROVEMENTS PLAN~~ ~~AND~~] IMPACT FEE. On adoption of the land use assumptions and [~~completion of the~~] capital improvements plan, the governing body shall adopt an order or resolution setting a public hearing to discuss the [~~adoption of the plan and~~] imposition of the impact fee. The public hearing must be held by the governing body of the political subdivision to discuss the proposed ordinance, order, or resolution [~~adopting a capital improvements plan and~~] imposing an impact fee.

Sec. 395.049. NOTICE OF HEARING ON [~~CAPITAL IMPROVEMENTS PLAN~~ ~~AND~~] IMPACT FEE. (a) Before the 30th day before the date of the hearing on the imposition of an [~~capital improvements plan and~~] impact fee, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated

official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing ~~[once a week for three consecutive weeks, the first notice to appear]~~ before the 30th day ~~[but on or after the 60th day]~~ before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies. ~~[The notice of public hearing may not be in the part of the paper in which legal notices and classified ads appear and may not be smaller than one quarter page of a standard size or tabloid size newspaper, and the headline on the notice must be in 18 point or larger type.]~~

(c) The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON ADOPTION OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the adoption of an impact fee;

(4) ~~[an easily understandable map of the service area on which the proposed fee will be levied;~~

~~[(5)]~~ the amount of the proposed impact fee per service unit; and

(5) ~~[(6)]~~ a statement that any member of the public has the right to appear at the hearing and present evidence for or against the plan and proposed fee.

Sec. 395.050. ADVISORY COMMITTEE COMMENTS ON ~~[CAPITAL IMPROVEMENTS PLAN AND]~~ IMPACT FEES. The advisory committee created under Section 395.058 shall file its written comments on the proposed ~~[capital improvements plan and]~~ impact fees before the fifth business day before the date of the public hearing on the imposition of the ~~[plan and]~~ fees.

Sec. 395.051. APPROVAL OF ~~[CAPITAL IMPROVEMENTS PLAN AND]~~ IMPACT FEE REQUIRED. (a) The political subdivision, within 30 days after the date of the public hearing on the imposition of an ~~[capital improvements plan and]~~ impact fee, shall approve or disapprove the ~~[adoption of the capital improvements plan and]~~ imposition of an impact fee.

(b) An ordinance, order, or resolution approving the ~~[capital improvements plan and]~~ imposition of an impact fee may not be adopted as an emergency measure.

SECTION 6. Section 395.052(a), Local Government Code, is amended to read as follows:

(a) A political subdivision imposing an impact fee shall update the land use assumptions and capital improvements plan at least every five ~~[three]~~ years. The initial five-year ~~[three-year]~~ period begins on the day the capital improvements plan is adopted.

SECTION 7. Subchapter D, Chapter 395, Local Government Code, is amended by adding Section 395.082 to read as follows:

Sec. 395.082. CERTIFICATION OF COMPLIANCE REQUIRED.

(a) A political subdivision that imposes an impact fee shall submit a written certification verifying compliance with this chapter to the attorney general each year not later than the last

day of the political subdivision's fiscal year.

(b) The certification must be signed by the presiding officer of the governing body of a political subdivision and include a statement that reads substantially similar to the following: "This statement certifies compliance with Chapter 395, Local Government Code."

(c) A political subdivision that fails to submit a certification as required by this section is liable to the state for a civil penalty in an amount equal to 10 percent of the amount of the impact fees erroneously charged. The attorney general shall collect the civil penalty and deposit the amount collected to the credit of the housing trust fund.

SECTION 8. Sections 395.025(b), 395.046, 395.048, and 395.0515, Local Government Code, are repealed.

SECTION 9. This Act takes effect September 1, 2001.

Comparison of other Central Texas Impact Fees

Entity	Water Impact Fee	WW Impact Fee	Source	Notes
Aqua WSC	\$7,300.00	N/A	https://www.aquawsc.com/member-services/rates-and-fees/connection-fees/	Called "System Development Fee," added to Meter Setting Fee to calculate their "Tap Fee"
City of Bastrop	\$6,835.00	\$5,089.00	https://www.cityofbastrop.org/upload/common/WWW%20Documents/ORDINANCE%20NO.%202022-18%20UPDATING%20AND%20AMENDING%20IMPACT%20FEES%20Effective%207.26.22.pdf	Page 10
City of Lockhart	\$4,562.36	\$5,792.42	https://library.municode.com/tx/lockhart/codes/code_of_ordinances?nodeId=PTIICOOR_CH31IMFE_APXISC1IMFEBEAS	
City of Manor	\$2,022.00	\$7,193.50	https://www.cityofmanor.org/upload/page/0120/docs/Impact_Fees_v8.pdf	
City of Smithville	\$3,000.00	\$4,500.00	Called utility department at 512-237-3282	
City of Taylor	\$2,919.00	\$2,799.00	https://library.municode.com/tx/taylor/ordinances/code_of_ordinances?nodeId=1212278	Page 25



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: AN ORDINANCE OF THE CITY OF ELGIN, TEXAS ADOPTING CHAPTER 214, SUBCHAPTER A, OF THE TEXAS LOCAL GOVERNMENT CODE, REPEALING ARTICLE III. UNSAFE BUILDING ABATEMENT OF THE ELGIN CITY CODE AND REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; CONTAINING PENALTIES NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE EXCEPT WHERE A DIFFERENT PENALTY HAS BEEN ESTABLISHED BY STATE LAW AND EACH AND EVERY DAY SAID VIOLATION IS CONTINUED SHALL CONSTITUTE A SEPARATE OFFENSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALED CLAUSE; AND PROVIDING FOR PUBLICATION.

DEPARTMENT: Executive

PROPOSED ACTION: Consideration of an Ordinance to enhance efforts and streamline processes for addressing unsafe and abandoned buildings.

BACKGROUND:

In response to concerns raised by the Council and the general public, city staff is increasing its focus on addressing unsafe and abandoned buildings throughout the City. The proposed Ordinance will support that effort and streamline the administrative/legal process regarding same. For additional information, see the attached opinion letter from the City Attorney.

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

Approval of an Ordinance to enhance efforts and streamline processes for addressing unsafe and abandoned buildings; and direction to staff, if any, regarding same.

ATTACHMENTS:

1. ORDunsafebldgs624
2. City Atty Opinion Letter 214 Adoption

- { } Staff will be making a detailed presentation on this agenda item at the meeting.
{X} Staff will provide brief comments and answer questions on this item at the meeting.
{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

ORDINANCE NO. 2024-07-02-

AN ORDINANCE OF THE CITY OF ELGIN, TEXAS ADOPTING CHAPTER 214, SUBCHAPTER A, OF THE TEXAS LOCAL GOVERNMENT CODE, REPEALING ARTICLE III. UNSAFE BUILDING ABATEMENT OF THE ELGIN CITY CODE AND REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; CONTAINING PENALTIES NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE EXCEPT WHERE A DIFFERENT PENALTY HAS BEEN ESTABLISHED BY STATE LAW AND EACH AND EVERY DAY SAID VIOLATION IS CONTINUED SHALL CONSTITUTE A SEPARATE OFFENSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALED CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City of Elgin City Charter stipulates and provides for the powers, duties, and obligations of the Elgin Mayor and City Council; and,

WHEREAS, it is deemed in the best interest of the City of Elgin for the health, safety, and welfare of its citizens that an ordinance be established to regulate substandard structures within the City of Elgin; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ELGIN, BASTROP AND TRAVIS COUNTY, TEXAS THAT:

Section 1. The forgoing recitals are incorporated into this Ordinance as true and correct findings of fact.

Section 2. There is hereby adopted, provisions of Chapter 214, Subchapter A, of the Texas Local Government Code, as amended from time to time, relating to dangerous structures.

Section 3. The 2021 International Building Code or the most recently adopted version of the International Building Code is adopted as the minimum standard for the continued use and occupancy of all buildings regardless of the date of construction.

Section 4. There is hereby repealed, Article III, sections 6-56 to 6-70 of the Elgin City Code, relating to unsafe building abatement.

Section 5. That if any provision of this ordinance or its application to any person or circumstances is held invalid for any reason, the invalidity does not affect any other provision or applications of this ordinance which can be given effect without the invalid provision or application, and to this extent the provisions of this ordinance are declared to be severable.

Section 6. All other ordinances, parts of ordinances or resolutions in conflict with this ordinance are hereby repealed to the extent of any such conflict.

Section 7. A person who violates any provision of this ordinance or who fails to perform an act required by this ordinance that governs health and sanitation commits an offense and shall be guilty of a class "C" misdemeanor for each day or portion thereof during which the violation is continued. An offense under this ordinance is punishable by a fine not to exceed two thousand dollars (\$2,000), or the amount fixed by State law if the violation is one for which the State has fixed a fine.

Section 8. The City Secretary is hereby authorized and directed to publish the caption of this ordinance, together with the penalty provision contained herein, in the manner and for the length of time prescribed by law.

Section 9. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof was discussed and formally acted upon, all as required by the Open Meeting Act.

Section 10. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED, AND ADOPTED this 2nd day of July, 2024

ATTEST:

THERESA Y. MCSHAN, Mayor
City of Elgin, Texas

ESMERALDA RANGEL, Assistant City Secretary

HEJL & SCHROEDER, P.C.
ATTORNEYS AT LAW
P.O. BOX 192
311 TALBOT STREET
TAYLOR, TEXAS 76574

TED W. HEJL
ted@hejllawfirm.com
MARK J. SCHROEDER
mark@hejllawfirm.com

(512) 365-6348
(512) 365-2226 FAX
www.hejllawfirm.com

June 13, 2024

City of Elgin
310 Main Street
Elgin, Texas 78621

RE: Potential Adoption of Chapter 214 of the Texas Local Government
Code

Dear Tom:

You asked me to summarize Chapter 214 of the Texas Local Government (“Chapter 214”) and provide my recommendation regarding city adoption of the state. It is my recommendation that the city adopt Chapter 214 and designate the municipal judge as the fact finder for the required hearing.

Chapter 214 is an essential tool for cities dealing with structures that abandoned and/or are dilapidated, substandard and unfit for human habitation, **especially when the owner cannot be located or is unresponsive.**

The statute allows the city to make diligent efforts to determine the current owner and/or lienholder of the property at issue. The owner and lienholder of the property is then given notice of a hearing. At the hearing the owner can argue the building is not dilapidated or that additional time is needed to make the necessary repairs.

If is determined the building(s) are substandard, dilapidated or unfit for human habitation, then the owner can be ordered by the judge to repair or demolish the building in as little as thirty days, although the judge may give the owner up to 180 days to make the necessary repairs. The statute also allows the judge to order that

the property be secured if it is abandoned or unsecured. Any order by the city may be appealed by the owner to Bastrop County District Court.

If the repairs are not made or the building is not demolished within the allowed time, then the city may demolish or secure the building and charge the owner for the costs. If the owner does not pay the costs, then the city may place a lien on the property for the demolition costs.

This statute is invaluable because the judge may enter the order even if the owner does not appear at the hearing or if the owner cannot be located. This includes properties that are owned by an estate, as is often the case with abandoned properties. It also allows the city abate the issue and recover its costs when the property is sold or transferred.

In summary, it is my recommendation that the city adopt Chapter 214 of the Texas Local Government Code and designate the municipal judge to act as the fact finder. I have drafted a proposed ordinance for your review and provided an outline for city staff to follow to ensure compliance with the ordinance.

If you have any additional questions, please let me know.

Very truly yours,

HEJL & SCHROEDER, P.C.

Mark J. Schroeder



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS (“CITY”) DESIGNATING CERTAIN AREAS OF THE CITY’S EXTRATERRITORIAL JURISDICTION AS INDUSTRIAL DISTRICT AREAS; REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING FOR A PENALTY; AND DECLARING AN EFFECTIVE DATE.

DEPARTMENT: EDC

PROPOSED ACTION: Approve the ordinance.

BACKGROUND:

Section 42.044 of the Texas Local Government Code prescribes that the governing body of a municipality may designate any part of its extraterritorial jurisdiction as an industrial district and may treat the designated area in a manner considered by the governing body to be in the best interests of the municipality. In line with this section of state law, this ordinance would designate four areas of Elgin as Industrial Districts where industrial uses are likely within the ETJ. The four areas are shown in the attached exhibit. The designation of these industrial districts does not serve as an expectation or guarantee of that type of use in these areas, and in some instances, future plans may describe a different use altogether. However, it is in the City’s best interest to designate Industrial Districts where those uses generally exist already or may exist in the future due to the significant impact industrial uses can have on the community.

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

Approve the ordinance as presented.

ATTACHMENTS:

1. Elgin Ind Dist Ordinance
2. Elgin ETJ Map 6-12-2024.pdf (3)

- { } Staff will be making a detailed presentation on this agenda item at the meeting.
{X} Staff will provide brief comments and answer questions on this item at the meeting.
{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

ORDINANCE NO. 2024-07-02-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS (“CITY”) DESIGNATING CERTAIN AREAS OF THE CITY’S EXTRATERRITORIAL JURISDICTION AS INDUSTRIAL DISTRICT AREAS; REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING FOR A PENALTY; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, Section 42.044 of the Texas Local Government Code provides for the City to create industrial districts within its extraterritorial jurisdiction and to treat those areas in a manner considered by the City Council to be in the best interest of the City;

WHEREAS, the designation of industrial districts is done in areas where industrial activity already exists within the extraterritorial jurisdiction or where those activities are likely to happen in the future;

WHEREAS, the City Council finds it in the best interest of the City of Elgin to designate additional areas within its extraterritorial jurisdiction as industrial districts

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS THAT:

Section 1. The facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim.

Section 2. Industrial Districts 1, 2, 3 and 4 are hereby designated as shown on Exhibit A attached hereto.

Section 3. All ordinances or resolutions that are in conflict with the provisions of this ordinance are, and the same are hereby, repealed and all other ordinances or resolutions of the City not in conflict with the provisions of this ordinance shall remain in full force and effect

Section 4. Any person, firm, or corporation found in violation of the provisions or terms of this Ordinance, or any of the rules, regulations, requirements, procedures, standards, guidelines, or other mandatory provisions of any of the manuals, standards, or policies adopted herein, as heretofore amended, shall constitute a misdemeanor subject to the penalties prescribed under the Code of Ordinances of the City of Elgin, as may be amended from time to time.

Section 5. If any provision of this ordinance, or application thereof, to any person or circumstance, shall be held invalid, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are hereby declared to be severable.

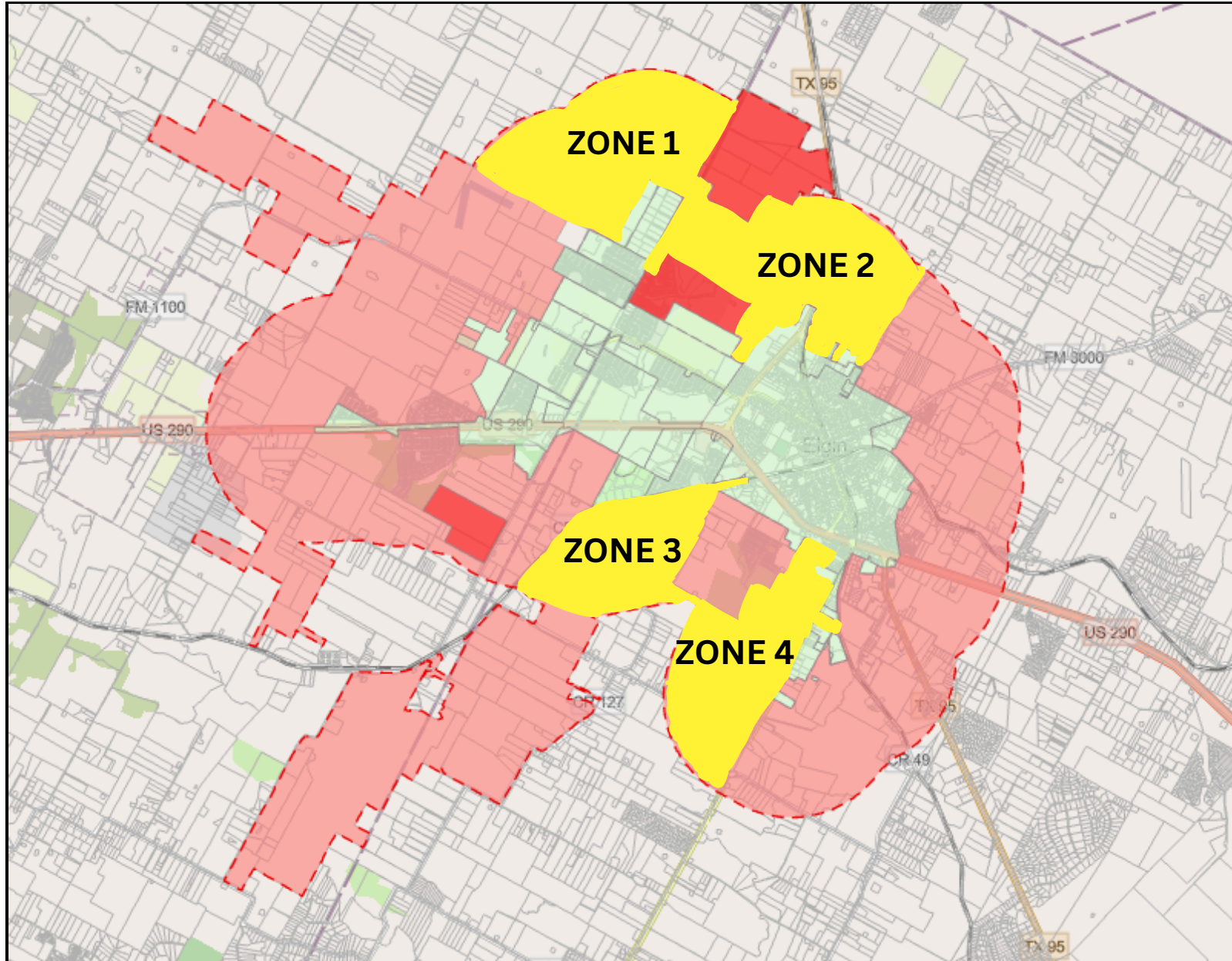
Section 6. The Mayor is hereby authorized to sign this ordinance and the City Secretary to attest. This Ordinance shall become effective and be in full force and effect in accordance with the provisions of the City Charter of the City of Elgin.

PASSED AND APPROVED on this 2nd day of July, 2024.

THERESA Y. MCSHAN, Mayor
CITY OF ELGIN, TEXAS

ATTEST:

ESMERALDA RANGEL, Assistant City Secretary



Legend

Elgin Development Services
Department

Elgin City Limits

 FULL PURPOSE

 LIMITED PURPOSE

Elgin ETJ Outline



Elgin ETJ



Bastrop Parcels January 2024



Travis Parcels March 2024



Notes

Created by:

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This map is a user generated static output from an Internet mapping site and is for reference only.

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Map data © OpenStreetMap contributors, Microsoft, Facebook, Inc. and its affiliates, Esri Community Maps contributors, Map layer by Esri



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: AN ORDINANCE AMENDING THE OFFICIAL MAP OF THE CITY OF ELGIN, TEXAS ADOPTED IN CHAPTER 46, SECTION 46-3, REVISED CODE OF ORDINANCES, CITY OF ELGIN, TEXAS, 2013 AND MAKING THIS AMENDMENT A PART OF SAID OFFICIAL ZONING MAP, TO WIT: TO REZONE APPROXIMATELY 59.987 ACRES OF LAND FROM "C-3" HIGHWAY COMMERCIAL DISTRICT TO "PDD" PLANNED DEVELOPMENT DISTRICT, LOCATED ON A PARCELS OF LAND KNOWN BY THE BASTROP COUNTY APPRAISAL DISTRICT AS PARCEL NUMBERS 11945 AND 8731878 LYING IN AND BEING SITUATED OUT OF THE ELIZABETH STANDIFER SURVEY, ABSTRACT 59, IN BASTROP COUNTY, TEXAS, SAID TRACT BEING MORE DESCRIBED IN EXHIBIT "A"; AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

DEPARTMENT: Development Services

PROPOSED ACTION: Discussion, consideration and action on an ordinance amending the official zoning map of the City of Elgin, Texas adopted in Chapter 46, Section 46-3, revised code of ordinances, City of Elgin, Texas.

BACKGROUND:

See attached staff report.

BUDGET/FINANCIAL IMPACT:

Funding for this item was {} included {} not included in the current-year budget {X} N/A

RECOMMENDATION:

The Planning and Zoning Commission held a workshop on March 25, 2024, where they reviewed, discussed, and provided input on the proposed Planned Development District. The Commission was generally in favor of the proposed zoning change from "C-3" Highway Commercial to "PDD" Planned Development District for the Rhode Tract.

ATTACHMENTS:

1. Rhode Tract PDD Ordinance
2. Rhode Tract Staff Report
3. Rhode Tract PDD_PDD Rezoning Application
4. Rhode Tract Map
5. Rhode Tract PDD_Final_Owner Signature

- { Staff will be making a detailed presentation on this agenda item at the meeting.
- {X} Staff will provide brief comments and answer questions on this item at the meeting.
- { This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

ORDINANCE NO. 2024-07-02-

AN ORDINANCE AMENDING THE OFFICIAL MAP OF THE CITY OF ELGIN, TEXAS ADOPTED IN CHAPTER 46, SECTION 46-3, REVISED CODE OF ORDINANCES, CITY OF ELGIN, TEXAS, 2013 AND MAKING THIS AMENDMENT A PART OF SAID OFFICIAL ZONING MAP, TO WIT: TO REZONE APPROXIMATELY 59.987 ACRES OF LAND FROM “C-3” HIGHWAY COMMERCIAL DISTRICT TO “PDD” PLANNED DEVELOPMENT DISTRICT, LOCATED ON A PARCELS OF LAND KNOWN BY THE BASTROP COUNTY APPRAISAL DISTRICT AS PARCEL NUMBERS 11945 AND 8731878 LYING IN AND BEING SITUATED OUT OF THE ELIZABETH STANDIFER SURVEY, ABSTRACT 59, IN BASTROP COUNTY, TEXAS, SAID TRACT BEING MORE DESCRIBED IN EXHIBIT “A”; AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

WHEREAS, an application has been made to the City Council of Elgin, Texas to amend the Official Zoning Map to rezone the property described in Exhibit “A” attached hereto and incorporated herein, from C-3 Highway Commercial District, and

WHEREAS, the City Council has submitted the requested change in the Official Zoning Map to the Planning and Zoning Commission for its input, and

WHEREAS, the Planning and Zoning Commission held a workshop concerning the requested change on March 25, 2024, and

WHEREAS, the Planning and Zoning Commission has offered their input on the proposed change to the Official Zoning Map, and

WHEREAS, on July 2, 2024, after proper notification, the City Council held a public hearing on the requested change, and

WHEREAS, the City Council determines that the zoning provided for herein promote the health, safety, morals and protects and preserves the general welfare of the community, and

WHEREAS, each and every requirement set forth in Chapter 211, Sub-Chapter A, Texas Local Government Code, and Chapter 46, City of Elgin Ordinances, concerning public notices, hearings, and other procedural matters has been fully complied with,

NOW THEREFORE, BE IT ORDANED BY THE COUNCIL OF THE CITY OF ELGIN, BASTROP AND TRAVIS COUNTY, TEXAS THAT:

I.

The Official Zoning Map adopted in Chapter 46, Section 46-3, City of Elgin, Texas is hereby amended so that the zoning classification of the property described in Exhibit “A” is classified as PDD Planned Development District.

II.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this Ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

READ, PASSED, AND ADOPTED on first reading this 2nd day of July 2024.

THERESA Y. MCSHAN, Mayor
City of Elgin, Texas

ATTEST:

ESMERALDA RANGEL, Assistant City Secretary



Development Services Department

STAFF REPORT

Rezoning from C-3 to PDD

Project Number: 202400023

Date: June 21, 2024
Applicant: AV Elgin 46 QOF LP & AV Elgin 46 LP & MRRM QOZP LP
Representative: Erin Welch – BGE, Inc.
Hearing Dates: Planning and Zoning Commission – March 25, 2024
City Council – July 2, 2024
Location: BCAD Parcel 11945 & 8731878, located south of Highway 290 and west of Roy Rivers Road

APPLICATION SUMMARY

Consideration of a Planned Development District Zoning Change on an approximately 59.987-acre parcel of land in Bastrop County. The development will consist of a commercial center with pad sites, hotel, anchors, and junior anchors.

DEPARTMENT COMMENTS

The Planning and Zoning Commission reviewed and discussed the proposed development plan and was in general agreement with the plan which sets lot development standards regarding setbacks, maximum building height and maximum impervious cover, parking ratios, as well as lists prohibited land uses. The PDD document contains street standards which will include an Arterial 80 feet of right-of-way starting at the current terminus of Lee Dildy Blvd., extending through the project and connecting to the property to the south.

ATTACHMENTS

1. Proposed PDD Ordinance
2. Application
3. Map showing location of the area
4. PDD Document

PDD REZONING APPLICATION

Date: 3/8/2024

New ☒ Modification ☐

Modification of _____

SITE INFORMATION

Project Address: US 290 Frontage, Elgin, TX 78621 (~860' west of Roy Rivers Road)

Parcel Identification Number (if no address): 11945 8731878

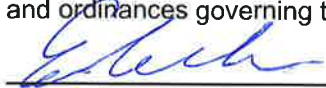
APPLICANT

Name: Erin Welch - BGE, Inc.

Postal Address: 1701 Directors Boulevard, Suite 1000, Austin, TX 78744

E-Mail Address: ewelch@bgeinc.com; Phone Number: (512) 879-0431

The information given on this application is accurate to the best of my knowledge. All provisions of laws and ordinances governing this work will be complied with, whether specified on this application or not.

 Erin Welch 3/8/2024

Signature

Printed Name

Date

Project Description:

Commercial center with pad sites, hotel, anchors, junior anchors



802 N. Ave. C
P.O. Box 591
Elgin, Texas, 78621



(512) 281-0119



www.elgintexas.gov



March 8, 2024

Beau Perry, P.E.
Planning & Development Review
City of Elgin
802 N. Avenue C
Elgin, Texas 78621

RE: Rhode Tract PDD

Dear Beau:

BGE, Inc. is pleased to submit the Rhode Tract Planned Development District for review. The following information provides a general framework of the proposed commercial development.

The Property

The subject property consists of approximately 60 acres, located on the south side of US 290. Lee Dildy Boulevard right-of-way currently terminates at the property's eastern boundary. The Elgin Business Park is located adjacent to the southern boundary of the property. The site is in Elgin's full-purpose jurisdiction and is currently zoned C-3 (Commercial Highway).

The Development

The proposed Rhode Tract commercial center will be comprised of anchors, junior anchors, pad sites, and a hotel, with associated parking, utilities, access, and circulation. Access will be provided by multiple new public roadways. The project proposes two (2) new public connections along the northern property boundary from US 290 for ingress and egress. Offsite transportation improvements may be required and will be detailed in the Traffic Impact Analysis to be submitted subsequently to this application. Lee Dildy Boulevard is proposed to extend through the site from the current terminus on the eastern property boundary (matching the existing 80' right-of-way), then bending southward and widening slightly to connect to the newly replatted right-of-way in the Elgin Business Park (matching the platted 90' right-of-way). Access to the southeastern parcel within the commercial center will be provided via a private drive, to be designed and constructed to public roadway standards, and contained within an associated access easement. The City of Elgin will provide both retail water and wastewater service to the property. It is assumed that the project will be removed from Aqua WSC's CCN and added to the City of Elgin's CCN for water service to the site. The proposed development will meet the commercial needs of this growing area of Elgin.

The PDD

The Rhode Tract PDD includes multiple modifications to the City of Elgin's Code of Ordinances. These modifications are detailed within the PDD document as Exhibit "C", and include elements such as setbacks, building height, impervious cover, prohibited land uses, parking, street standards, utilities, drainage and storm sewers, stormwater quality, and landscaping.

Rhode Tract Narrative Description
March 7, 2024
Page 2

We look forward to your review of the Rhode Tract PDD and are available to answer any questions or comments you may have.

Sincerely,

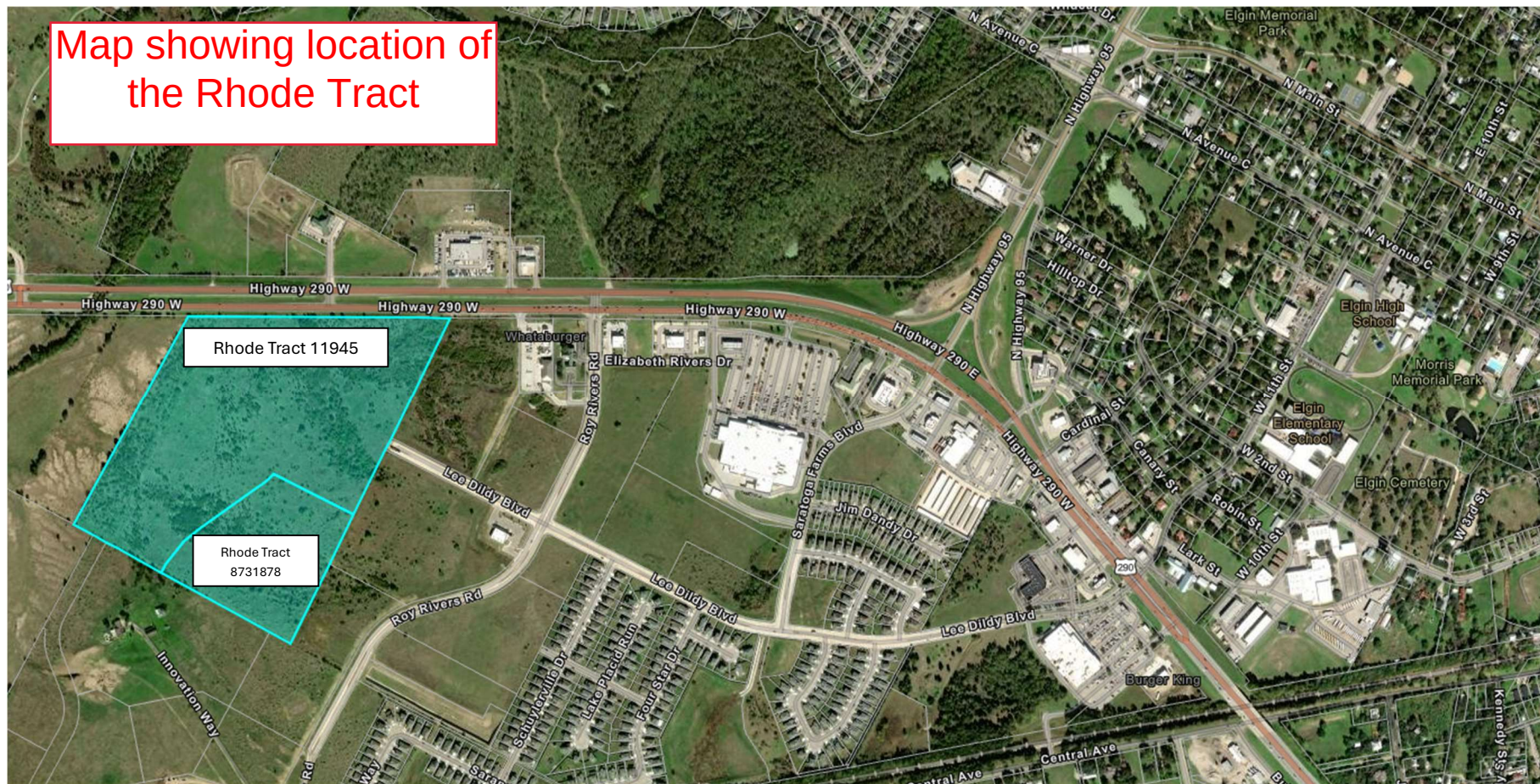


Erin Welch
Project Manager, Site Development

Attachments

cc: John Kaschak, William Little, Shravan Parsi
(AV Elgin Investors, 46 / AF Elgin 46 QOF Investors / MRRM QOZP)
Nathan Siems, Bailey Sullivan, Patrick Weber – MarketSquare Architects
Thomas Pharr, P.E. – BGE, Inc.

Map showing location of
the Rhode Tract



**AGREEMENT AND DEVELOPMENT PLAN RHODE TRACT
PLANNED DEVELOPMENT DISTRICT (“PDD”)**

THE STATE OF TEXAS §

COUNTY OF BASTROP §

THIS AGREEMENT AND DEVELOPMENT PLAN (this “Agreement”) is made and entered by and between the CITY OF ELGIN, TEXAS, a Texas municipal corporation, (hereinafter referred to as the “City”), and AVElgin Investors 46, LLC, a Texas limited liability company, and AVElgin 46 QOF Investors, LLC, a Texas limited liability company, and MRRM QOZP, LP, a Texas limited partnership, their successors and assigns, (hereafter referred to as the “Owner”); provided, however, upon sale, transfer or conveyance of portions of the hereinafter described property, the duties and obligations of the Owner, as it relates to the respective property, shall be assumed by the new owner, and the Owner shall have no further liability relating to their respective property.

WHEREAS, the Owner is the owner of certain real property consisting of approximately 59.987 acres, as more particularly described in **Exhibit “A”**, (hereinafter referred to as the “Property”) attached hereto and made a part hereof.

WHEREAS, the Owner has submitted a request to the City to zone the Property as a Planned Development District (the “PDD”), and those portions of the Property currently lie within City Limits.

WHEREAS, pursuant to Chapter 46, Article IV, Division 10, Code of Ordinances, City of Elgin, Texas, the Owner has submitted a Development Plan setting forth the development conditions and requirements within the PDD, which Development Plan is contained in **Exhibit “C”** of this Agreement; and

WHEREAS, on March 25th, 2024, the City’s Planning and Zoning Commission recommended approval of the Owner’s application for a PDD; and

WHEREAS, the City Council has reviewed the proposed Development Plan and determined that it promotes the health, safety, and general welfare of the citizens of Elgin and that it complies with the intent of the Planned Development District Ordinance of the City;

NOW THEREFORE BY THIS AGREEMENT WITNESSETH that, in consideration of the covenants and conditions set forth herein, the City and the Owner agree as follows:

I.

GENERAL PROVISIONS

1. CONFORMITY WITH DEVELOPMENT PLAN

All uses and development within the Property shall conform to the Development Plan included in **Exhibit “C”** herein the “Plan”.

2. ANNEXATION AND REZONING

The property was previously annexed into the City of Elgin. The Owner, as part of the City’s consideration for the PDD, voluntarily requests that the Property’s zoning be changed from C-3 (Highway Commercial) to PDD (Planned Development District). The Property will retain C-3 as the base zoning district.

3. CHANGES AND MODIFICATIONS

No changes or modifications will be made to this Development Plan unless all provisions pertaining to changes or modifications as stated herein are followed.

4. ZONING VIOLATION

The Owner, its successors and assigns understand that any person, firm, corporation or other entity violating any conditions or terms of the Development Plan shall be subject to any and all penalties for the violation of any zoning ordinance provisions as stated in the Code of Ordinances, City of Elgin, Texas, as amended. This Plan will be filed in the Official Public Records of Bastrop County, thereby placing future purchasers of the property on notice of all of the terms and conditions of this Plan.

5. MISCELLANEOUS PROVISIONS

5.1 ASSIGNMENT.

Neither party may assign its rights and obligations under this Agreement without having first obtained the prior written consent of the other which consent shall not be unreasonably withheld. This section shall not prevent the Owner from selling the Property or portions of the Property, together with all development rights and obligations contained in this Development Plan, and no consent shall be required in connection with any sale provided the purchaser assumes Owner’s obligations in writing as to such portions of the Property.

5.2 NECESSARY DOCUMENTS AND ACTIONS.

Each party agrees to execute and deliver all such other and further instruments and undertake such actions as are or may become necessary or convenient to effectuate the purposes and intent of this Agreement.

5.3 SEVERABILITY.

In case one or more provisions contained herein are deemed invalid, illegal or unenforceable in any respect such invalidity, illegality or unenforceability shall not affect any other provisions hereof and in such event, this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

5.4 ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement of the parties and supersedes any prior or contemporaneous oral or written understandings or representations of the parties respecting the subject matter hereof.

5.5 APPLICABLE LAW.

This Agreement shall be construed under and in accordance with the laws of the State of Texas.

5.6 VENUE.

All obligations of the parties created hereunder are performable in Bastrop County, Texas and venue for any action arising hereunder shall be in Bastrop County.

5.7 NO THIRD-PARTY BENEFICIARIES.

Nothing in this Agreement, express or implied, is intended to confer upon any person or entity, other than the parties hereto (and their respective successors and assigns), any rights, benefits or remedies under or by reason of this Agreement.

5.8 DUPLICATE ORIGINALS.

This Agreement may be executed in duplicate original, each of equal dignity.

5.9 NOTICES.

Until changed by written notice thereof any notice required under this Agreement may be given to the respective parties, by certified mail, postage prepaid or by hand delivery to the address of the other part shown below:

OWNER:
American Ventures
1801 Lavaca Street, Suite 116
Austin, Texas 78701
Attn: John Kaschak

CITY OF ELGIN, TEXAS
City of Elgin, Texas
P.O. Box 591
Elgin, Texas 78621
Attn: City Manager

5.10 EFFECTIVE DATE.

This Agreement shall be effective from and after the date of due execution hereof by all parties.

5.11 APPEAL OF ADMINISTRATIVE DECISIONS.

Administrative decisions provided for in this Agreement may be appealed to the City Council in writing within 30 days following receipt by the Owner of the written confirmation of the decision.

5.12 BINDING EFFECT.

This Agreement and the Development Plan binds and benefits the Owner and its successors and assigns.

5.13 SUNSET PROVISION.

In the event that this Planned Development Plan is not recorded within five (5) years from the date the Planned Development Plan is approved by the City Council, then the Planned Development Plan shall be automatically voided and the zoning shall revert to C-3 (the zoning ordinances in effect at the time of approval of this PDD).

II

DEVELOPMENT PLAN “Plan”

1. **DEFINITIONS**

Words and terms used herein shall have their usual force and meaning, or as defined in the Code of Ordinances, as amended, City of Elgin, Texas, hereinafter referred to as “The Code”.

2. **PROPERTY**

This Development Plan (hereinafter referred to as “Plan”) covers approximately 59.987 acres of land, all of which is located within the city limits of Elgin, Texas, and more particularly described by metes and bounds in **Exhibit “A”**, attached hereto.

3. **PURPOSE**

The purpose of this Plan is to insure a PDD that 1) is equal to or superior to development that would occur under the standard ordinance requirements, 2) does not have an undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utilities or any other matters affecting the public health, safety and welfare, 3) is adequately provisioned by essential public facilities and services, and 4) will be developed and maintained so as not to dominate, by scale or massing of structures, the immediate neighboring properties or interfere with their development or use in accordance with any existing zoning district.

4. **APPLICABILITY OF CITY ORDINANCES**

4.1 **ZONING AND SUBDIVISION ORDINANCES**

The Property shall be regulated for purposes of zoning and subdivision by this Plan. All aspects not specifically covered by this Plan shall be regulated by applicable sections of the Code. This PDD serves to augment and/or modify the standards for development outlined in the Code to implement the vision for the Property and ensure a quality development not otherwise achieved solely by the underlying base zoning district. Refer to **Exhibit “C”, Development Plan**, for additional design standards set forth in the PDD document. If there is a conflict between this Agreement and Plan and the Code, this Agreement and Plan shall supersede the specific conflicting provisions of the Code. If there is a conflict between this Agreement and **Exhibit “C”**, this Agreement shall supersede the specific conflicting provisions of the **Exhibit “C”**.

4.2 OTHER ORDINANCES

All other Ordinances within the Code shall apply to the Property, except as clearly modified by this Plan.

5. PERMITTED USES

The Property shall be used and developed as shown in the Concept Plan, **Exhibit “B”** attached hereto and incorporated herein. The Concept Plan depicts the Development Plan (**Exhibit “C”**) for the property. Minor alterations to the Concept Plan may be made administratively as part of the Final Plat and/or Construction Plan application processing.

Exhibit “C”, Development Plan, depicts the development standards for the Commercial parcels within the Property.

6. TREE PRESERVATION PLAN

A tree preservation plan per Section 36-30(n) will be provided with the preliminary plat application for the project.

7. ROADWAY IMPACTS

7.1 CITY PARTICIPATION

City agrees the developer will not be responsible for costs associated and related to the design and construction of adjacent roadway improvements, including but not limited to improvements to Innovation Way (“Adjacent Roadway Project” or “Adjacent Roadway Project Costs”) in accordance with the design plans as provided by the City, unless improvements are required by TxDOT per the driveway permit.

7.2 DEVELOPER PARTICIPATION

Developer agrees to pay for all costs related to the design and construction of all roadway improvements with the Project, which includes a new east and west Major Arterial with a Right of Way dedication of approximately two thousand five hundred feet (2,500’) linear feet that will connect Lee Dildy Boulevard and Innovation Way at the eastern and southern property lines respectively. Developer’s contribution of the project costs shall be in lieu of, and Developer shall not be subject to providing a Traffic Impact Analysis to the City of Elgin for review and approval or any other City roadway projects in mitigation of project generated traffic.

7.3 DEVELOPER PARTICIPATION SCHEDULE

As noted above, as consideration for the roadway project, Developer shall not be required to participate in any adjacent roadway projects or required to pay any impact fees for offsite roadway projects to the City.

7.4 TRAFFIC IMPACT ANALYSIS FOR STATE

The Owner will pay for and will provide the City a free copy of a Traffic Impact Analysis (TIA, see **Exhibit “E”**) as it relates to the direct impact of projected new traffic created by this Project. Any recommendation for improvements to City roadways will be evaluated and negotiated with the City, separate from this Agreement, however any such improvements that involve costs to the Owner will be prorated based on the direct impact of this Project. Any recommendation for improvement to TxDOT roadways will be evaluated and negotiated with TxDOT, separate from this Agreement, however any such improvements that involve costs to the Owner will be prorated based on the direct impact of this Project.

The Owner will also provide a copy of the TIA to the State, however the State is not a party to this Agreement. The City agrees to not withhold or delay the Owner in the City entitlement process for the Project for any offsite State roadway improvement recommendations.

7.5 PERIMETER IMPROVEMENTS

No perimeter or offsite improvements are required for this Project, except those required for existing utility connections, connections to existing roadways, and signage for the subdivision.

8. UTILITY LOCATION

All utility lines must be underground to connection points provided by the utility service provider. All transformers must be visually screened. Utilities within the right-of-way may be located beneath pavement when necessary. Otherwise, utility locations will comply with Sec. 36-79(C).

9. SIGNS

The Project will comply with signage regulations in Chapter 32.

10. WATER AND WASTEWATER

10.1 CCN TERRITORY

The Project as shown in **Exhibit “C”** is wholly within the City of Elgin’s sewer CCN territory as regulated by the Public Utility Commission (PUC). The Project as shown in **Exhibit “C”** is wholly within the Aqua Water Supply Corporation CCN territory as regulated by the Public Utility Commission (PUC). Developer agrees to pay for fees associated with transferring the water CCN from Aqua WSC to the City of Elgin. The Developer at the time of final plat shall pay the City of Elgin \$4,485 per acre for the 59.987-acre area within the PDD. Total costs shall not exceed \$269,041.70 for the entirety of the development as shown in **Exhibit “C”**. Developer is responsible for any requirements and costs necessary from Aqua such as abandonment of existing facilities (if applicable), new easements, etc. per the agreement with the City.

10.2 WATER

The proposed water service improvements include installing a twelve-inch (12") waterline extending from the 12" waterline in the Elgin Business Park property to the south and connecting to the 12" waterline in Lee Dildy Boulevard to the east, to provide a loop system to serve the Property. All other required water line loops required to serve specific development shall be private lines and at the expense of the Developer. The City will provide no specific improvements to serve the area for a specific development.

10.3 WASTEWATER

The City will be the retail wastewater provider. The proposed wastewater service improvements, including the offsite wastewater improvements from the Property to the Elm Creek Interceptor, shall be the Owner's responsibility for design and construction. Design of the offsite wastewater infrastructure includes utilizing the existing easement containing a sixteen-inch (16") force main along the Property's southern boundary within the Elgin Business Park and installing a new wastewater line to connect to the Elm Creek Interceptor to the west. Construction easements or new easements, if required, will be the responsibility of the Owner.

10.4 INFRASTRUCTURES COST-SHARING

The City will share costs in the event it chooses to upsize the proposed infrastructures.

11. WATER QUALITY, DETENTION, AND IMPERVIOUS COVER

The Project will follow the City's Code and specifically will be required to provide stormwater runoff controls (detention), erosion control measures, permanent BMP's, grading, and related infrastructure to prevent increased or adverse affects downstream of the Project. Water quality will not be required for this project.

The Project will be designed utilizing Atlas 14 rainfall intensities relative to the Project area. There is no existing FEMA floodplain reflected on the Property and therefore the Project will include grading, re-grading, channelization, and modification as needed to accommodate existing offsite upland flows passing through the Property, onsite drainage ways, and overall stormwater conveyance leaving the Property.

Impervious cover will be limited to eighty (80%) of the total gross acreage for the Project. Decomposed granite trails, mulch, or other pervious surfaces will not be counted as impervious cover.

12. CHANGES TO AGREEMENT AND DEVELOPMENT PLAN

12.1 MINOR CHANGES

Minor changes to this Agreement or Plan, which do not substantially alter the proposed street circulation, increase the lot count above the limit set in **Exhibit “B”** or alter the Commercial Development Standards in **Exhibit “C”**, may be approved administratively, if approved in writing by the City Engineer, the Director of Planning, the Director of Public Works, and the City Attorney. Minor alterations to the Concept Plan may be made administratively as part of the Final Plat and/or Construction Plan application processing.

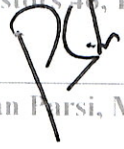
12.2 MAJOR CHANGES

All changes not permitted under Section 8.1 above shall be resubmitted following the same procedure required by the original PDD application; provided, however, that nothing herein or otherwise shall require an owner of a portion of the Property (the “Rezoning Owner”) to obtain the consent or approval of any other owner of a portion of the Property for a change in zoning (including amending this Agreement) as it applies to the land of the Rezoning Owner.

OWNER:

AV Elgin Investors 46, LLC, a Texas limited liability company

By:


Shravan Parsi, Manager

AV Elgin 46 QOF Investors, LLC, a Texas limited liability company

By:


Shravan Parsi, Manager

MRRM QOZP, LP, a Texas limited partnership

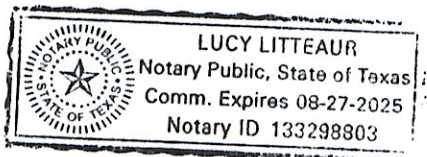
By:

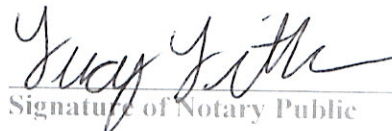

Shravan Parsi, Manager

STATE OF TEXAS

BASTROP COUNTY

Sworn and subscribed before me this the 19th day of June, 2024 by Shravan Parsi, Manager of AV Elgin Investors 46, LLC, a Texas limited liability company.

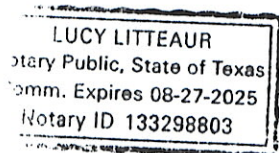


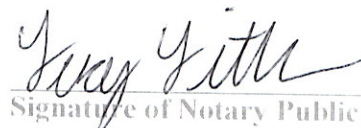

Signature of Notary Public

STATE OF TEXAS

BASTROP COUNTY

Sworn and subscribed before me this the 19th day of June, 2024 by Shravan Parsi, Manager of AV Elgin 46 QOF Investors, LLC, a Texas limited liability company.

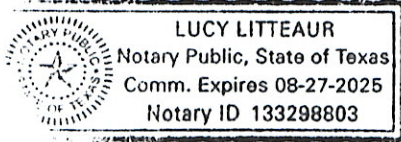



Signature of Notary Public

STATE OF TEXAS

BASTROP COUNTY

Sworn and subscribed before me this the 14th day of June, 2024 by Shravan Parsi, Manager of MRRM QOZP, LP, a Texas limited partnership.



Lucy Litteaur
Signature of Notary Public

CITY OF ELGIN:

By: _____
Theresa McShan, Mayor ATTEST:

By: _____
Jennifer Stubbs, City Secretary

STATE OF TEXAS

BASTROP COUNTY

Sworn and subscribed before me this the _____ day of _____, 2024 by Theresa McShan, Mayor, City of Elgin, Texas.

Signature of Notary Public

STATE OF TEXAS

BASTROP COUNTY

Sworn and subscribed before me this the _____ day of _____, 2024 by Jennifer Stubbs, City Secretary, City of Elgin, Texas.

Signature of Notary Public

LIST OF EXHIBITS

Exhibit “A” – Metes and Bounds Description

Exhibit “B” – Concept Plan

Exhibit “C” – Development Plan (the “Plan”)

Exhibit “D” – Proposed Lotting & Access Scenario with ROW Details & Sections

Exhibit “E” – Traffic Impact Analysis

EXHIBIT “A”
METES AND BOUNDS DESCRIPTION

METES & BOUNDS DESCRIPTION

FIELD NOTES FOR A 59.987 ACRE TRACT OF LAND OUT OF THE ELIZABETH STANDIFER SURVEY, ABSTRACT NO. 59, AND THE JONATHAN BURLESON SURVEY, ABSTRACT NO. 18, BOTH OF BASTROP COUNTY, TEXAS; BEING ALL OF A CALLED 45.555 ACRE TRACT OF LAND AS CONVEYED TO AV ELGIN 46 QOF LP and AV ELGIN 46 LP BY SPECIAL WARRANTY DEED WITH VENDOR'S LIEN RECORDED IN DOCUMENT NUMBER 202309924 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS AND BEING ALL OF A 14.432 ACRE TRACT OF LAND AS CONVEYED TO TRIDENT INFRA LLC BY SPECIAL WARRANTY DEED RECORDED IN DOCUMENT NUMBER 202311153 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS; SAID 59.987 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod found on the south right-of-way line of U.S. Highway 290 (240 feet wide) as shown on the State of Texas State Department of Highways and Public Transportation map Control No. 114-4-37, at the northeast corner of the above described 45.555 acre tract and at the northwest corner of Lot 2, Block A of Elgin Business Park II, a subdivision as recorded in Cabinet 6, Page 116A of the Plat Records of Bastrop County, Texas, for the northeast corner and POINT OF BEGINNING of the herein described tract;

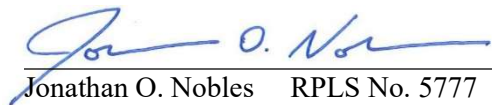
THENCE, partially with the east line of said 45.555 acre tract, partially with the east line of the above described 14.432 acre tract and with the west line of said Elgin Business Park II, S 24°45'58" W, pass a 1/2-inch iron rod with cap stamped "Sherwood Survey" found at the north corner of the westerly terminus of Lee Dildy Boulevard (80 feet wide) as dedicated by said plat of Elgin Business Park II, and at the southeast corner of said Lot 2, Block A at a distance of 805.54 feet, pass a 1/2-inch iron rod with cap stamped "Sherwood Survey" found at the south corner of the westerly terminus of said Lee Dildy Boulevard and at the northwest corner of Lot 3, Block B of said Elgin Business Park II at a distance of 885.64, pass a 1/2-inch iron rod found at the southwest corner of said Lot 3, Block B and at the northwest corner of Lot 4, Block B of said Elgin Business Park II at a distance of 1,647.49 feet, and continuing on for a total distance of 2,178.49 feet to a 1/2-inch iron rod found on the north line of Lot 1, Block A of Elgin Business Park III, a subdivision as recorded in Cabinet 6, Page 116B of the Plat Records of Bastrop County, Texas, at the southeast corner of said 14.432 acre tract and at the southwest corner of said Lot 4, Block B, for the southeast corner of the herein described tract;

THENCE, partially with the south line of said 14.432 acre tract, partially with the south line of said 45.555 acre tract, partially with the north line of said Lot 1, Block A of Elgin Business Park III and partially with the north line of Elgin Business Park III Phase III, a subdivision as recorded in Cabinet 7, Page 150A of the Plat Records of Bastrop County, Texas, N 62°52'11" W, pass a 5/8-inch iron rod found at a distance of 1,184.48 feet, pass a 1/2-inch iron rod found at the northwest corner of said Elgin Business Park III Phase III and at the northeast corner of a called 206.8 acre tract of land as conveyed to PRN Properties, LP by General Warranty Deed recorded in Document Number 2012016371 of the Official Public Records of Travis County, Texas, at a distance of 1,354.69 feet and continuing on with the north line of said PRN 206.8 acre tract for a total distance of 1,490.06 feet to a punch mark in concrete found on the north line of said PRN 206.8 acre tract, at the southwest corner of said 45.555 acre tract and at the southeast corner of a called 109.36 acre tract of land as conveyed to Elsie E. Neidig Family Partnership by Warranty Deed recorded in Volume 530, Page 558 of the Official Records of Bastrop County, Texas, for the southwest corner of the herein described tract;

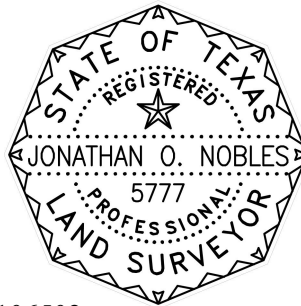
THENCE, with the west line of said 45.555 acre tract and the east line of said Neidig 109.36 acre tract, N 27°31'55" E a distance of 1,431.71 feet to a 1/2-inch iron rod with cap stamped "BGE INC" set on the south right-of-way line of said U.S. Highway 290, at the northwest corner of said 45.555 acre tract and at the northeast corner of said Neidig 109.36 acre tract, for the northwest corner of the herein described tract, from which a TXDOT Type I concrete right-of-way monument found bears S 88°56'39" W a distance of 1,120.37 feet, also from which a 1/2-inch iron rod found bears N 55°22'15" E a distance of 2.72 feet;

THENCE, with the south right-of-way line of said U.S. Highway 290 and the north line of said 45.555 acre tract, N 88°56'39" E, pass a TXDOT Type I concrete right-of-way monument found at a distance of 1,378.47 feet, and continuing on for a total distance of 1,577.19 feet to the POINT OF BEGINNING and containing 59.987 acres of land, more or less.

I hereby certify that these notes were prepared from a survey made on the ground by BGE Inc., under my supervision on February 18, 2023 and are true and correct to the best of my knowledge. Bearing orientation is based on the Texas State Plane Coordinate System, NAD 83, Texas Central Zone 4203. This document was prepared under 22 Texas Administrative Code §138.95, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.


Jonathan O. Nobles RPLS No. 5777
BGE, Inc.

101 West Louis Henna Blvd, Suite 400
Austin, Texas 78728
Telephone: (512) 879-0400
TBPLS Licensed Surveying Firm No. 10106502



3 / 6 / 2024

Date

Client: American Ventures
Date: March 6, 2024
Job No: 12515-00, 11387-00

EXHIBIT “B”
CONCEPT PLAN

SITE INFORMATION

60 ACRES IN ELGIN, TX

NEW STREET LINEAR FOOTAGE:
LEE DILDY BLVD.: 2,446 LF
PUBLIC STREET A: 401 LF
PUBLIC STREET B: 577 LF

ACCESS EASEMENT ROAD A: 272 LF
ACCESS EASEMENT ROAD B: 37 LF
ACCESS EASEMENT ROAD C: 1,723 LF

LOT	ACRES	PARKING REQUIRED	PARKING PROVIDED	ACCESSIBLE REQUIRED
1 - RETAIL	1.51	N/A	N/A	N/A
2 - RETAIL	0.83	N/A	N/A	N/A
3 - RETAIL	0.84	N/A	N/A	N/A
4 - DETENTION	2.64	N/A	N/A	N/A
5 - DETENTION	1.31	N/A	N/A	N/A
6 - RETAIL	0.89	N/A	N/A	N/A
7 - RETAIL	1.11	N/A	N/A	N/A
8 - RETAIL	7.20	200	219	7
9 - RETAIL	0.42	N/A	N/A	N/A
10 - RETAIL	1.17	N/A	N/A	N/A
11 - HOTEL	4.20	246	246	7
12 - RETAIL	18.45	910	910	19
13 - RETAIL	13.47	665	665	14

TOTAL PARKING IN LOT	REQ. MIN. # OF ACCESSIBLE SPACES
1 TO 25	1
26 TO 50	2
51 TO 75	3
76 TO 100	4
101 TO 150	5
151 TO 200	6
201 TO 300	7
301 TO 400	8
401 TO 500	9
501 TO 1000	2 PERCENT OF TOTAL
1001 AND OVER	20, PLUS 1 FOR EACH 100 OVER 1000

PARKING REQUIREMENTS ELGIN DIVISION 4 SEC 46-635

RETAIL = 200 SQ. FT. / SPACE
OFFICE = 300 SQ. FT. / SPACE
HOTEL = 1.5 x PER ROOM

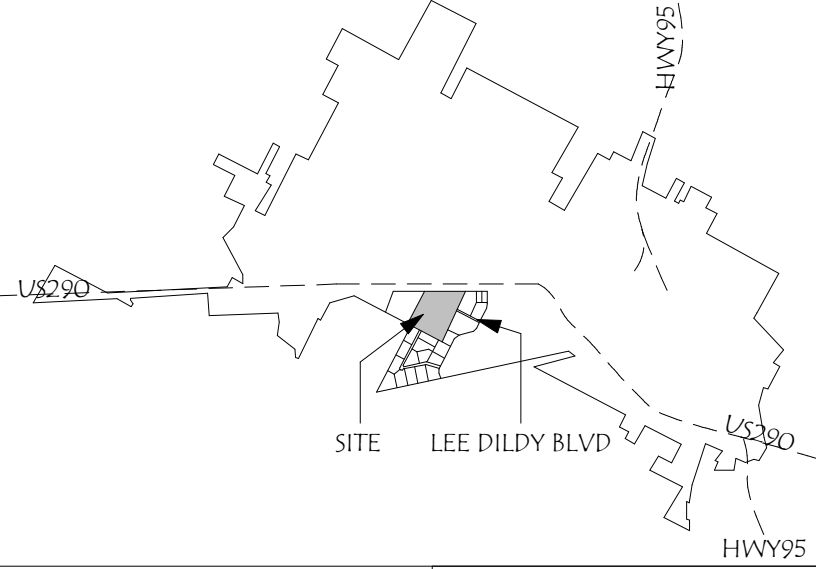
RETAIL BUILDING	SQ. FT.
A	5,000
B	5,000
C	10,000
D	10,000
E	5,000
F	5,000
G	5,000
H	5,000
I	6,475
J	10,000
K	9,250
L	91,550
M	10,000
N	18,300
O	7,760
P	5,000
Q	5,000
R	5,000
S	17,030
T	16,170
U	20,000
V	17,170
W	20,000
X	20,000
Y	20,000
APPROXIMATE TOTAL	349,000

HOTEL	SQ. FT.
Z	31,400
TOTAL	31,400

PLAN LEGEND	
	RETAIL OUTPARCEL
	SITE LANDSCAPE
	HOTEL
	HOTEL POOL
	RETAIL BUILDING
	DRIVE AISLES & PARKING LOTS
	LOT BOUNDARY



VICINITY MAP



OWNER:
John Kaschak
American Ventures
1801 Lavaca St.
STE 116
Austin, TX 78701
PH: 512.256.9447

ARCHITECT:
Nathan Siems
MSA
5121 Bee Cave Road
STE 106
Austin, TX 78746
PH: 512.350.0350

CIVIL ENGINEER:
Thomas Pharr, PE, CFM
BGE, Inc.
101 W Louis Henna Blvd.
STE. 400
Austin, TX 78728
PH: 512.852.1666

SURVEYOR:
Jonathan Nobles
BGE, Inc.
101 West Louis Henna Blvd
STE 400
Austin, TX 78728
PH: 512.879.0441

RHODE TRACT - ELGIN TX

ELGIN, TX

NOT FOR
CONSTRUCTION

Revisions:	Date
As Indicated	BS
Drawn By:	NS
Checked By:	2023025
Project No.:	05/22/24
SCHEMATIC DESIGN	

Scale:	As Indicated
Drawn By:	BS
Checked By:	NS
Project No.:	2023025
SCHEMATIC DESIGN	

Title:	CONCEPT SITE PLAN
SC1.00	

EXHIBIT “C”

DEVELOPMENT PLAN (The “Plan”)

A. **Applicability and Base Zoning**

The base zoning district of the Project is C-3 (Commercial Highway). All aspects regarding the development of this Property shall comply with the City of Elgin Code of Ordinances in effect on the effective date of this PDD except as established in this exhibit, title **Exhibit “C”** and described in this Agreement.

All development within the Property will comply with the modified development standards of **Exhibit “C”**. In the case that this exhibit does not address a specific City requirement, the Elgin Code of Ordinances shall apply. In the event of a conflict between this exhibit and the Code of Ordinance on the effective date of this PDD, this PDD shall control.

B. **Commercial Lot Design Standards**

All lots within the Property shall be developed in compliance with **Table B.1**. Lot standards not shown in **Table B.1** will comply with the Elgin Code of Ordinances.

Table B.1 Lot Development Standards	
Minimum Setbacks	
Front	15’
Street Side	15’
Interior Side	15’
Rear	15’
Maximum Building Height	50’ (60’ for hotel use)
Maximum Impervious Cover *	80%

** Impervious cover shall be calculated on a per-lot basis using gross site area.*

C. **Prohibited Land Uses**

The land uses permitted under C-3 (Commercial Highway) zoning are permitted for the Project, except the following land uses, which are prohibited:

Auto parking lot	Bus terminal
Cleaning plant/Commercial laundry	Golf course (mini/practice)
Ice storage locker plant	Labs (testing/experimental)
New/Use auto sales and service	Pawn shop
Research labs	Storage warehouse
Trailers for hauling/rental/sales	Travel trailer park
Used auto sales	Wholesale distributing center

D. Parking

Parking will be provided based on the following ratios:

D.1. Commercial/Retail Parking

Commercial/Retail development will be parked at a ratio of 1 space per 200 square feet of gross building area.

D.2. Hotel Parking

Hotel development will be parked at a ratio of 1.5 spaces per room.

D.3. Office Parking

Office development will be parked at a ratio of 1 space per 300 square feet of gross building area.

E. Public Roadway Access to U.S. Highway 290, Lee Dildy Boulevard, Platted Right-of-Way in Elgin Business Park Property and Private Internal Access

E.1. Public Access

The Owner agrees to provide four (4) public roadway connections into the Property, as depicted on **Exhibit “D”**. The Owner agrees to connect at the existing public right-of-way of U.S. Highway 290 in two (2) locations along the northern boundary of the Property, agrees to connect at the existing public right-of-way of Lee Dildy Boulevard on the eastern boundary of the Property, and agrees to connect at the public right-of-way platted in the Elgin Business Park Replat on the southern boundary (“Innovation Way”).

E.2. Private Access

Sec. 36-172(a) is modified for this Project such that the Owner agrees to provide one (1) private access drive, “Access Esmt. Road C”, as depicted on **Exhibit “D”**, to be contained within a private access easement, to Lot 13 in the southeast quadrant of the Property. This private access drive will be constructed to public roadway standards as described in Section F, Street Standards, for access the referenced Lot 13. Additionally, the Owner agrees to provide two (2) private access drives; “Access Esmt. Road A” shall provide access to Lot 2, 3, 6, and 7, and “Access Esmt. Road B” shall provide access to Lot 8 and 9, as depicted on **Exhibit “D”**. Both “Access Esmt. Road A” and “Access Esmt. Road B” shall be constructed to private roadway standards.

F. Street Standards

F.1. City Thoroughfare Plan

The Owner agrees to provide for an Arterial with 80 feet of Right-of-Way starting at the current terminus of Lee Dildy Boulevard on the eastern boundary of the Project, extending through the Project and connecting to the property to the south.

where it will have 90 feet of Right-of-Way to match the platted Right-of-Way of that property. As depicted on **Exhibit “D”**, the Arterial will include two (2) lanes in each direction with onsite storm sewer, divided by a median and a six foot (6’) wide sidewalk on each side of the Right-of-Way, and matching the configuration of the existing Lee Dildy Boulevard. The Owner also agrees to provide for two (2) Collectors; “Public Street A” shall have 80 feet of Right-of-Way, and “Public Street B” shall have 60 feet of Right-of-Way, and both shall start at the US Highway 290 frontage. As depicted on **Exhibit “D”**, “Public Street A” will include two (2) lanes in each direction with onsite storm sewer (as required) and a six foot (6’) wide sidewalk on each side of the Right-of-Way, as required by Sec. 36-141. “Public Street B” will include one (1) lane in each direction with onsite storm sewer (as required) and a six foot (6’) wide sidewalk on each side of the Right-of-Way, as required by Sec. 36-141. No utility extensions, no additional drainage or detention for offsite areas, no pedestrian facilities, and no other pass-through services that are not directly required for the Project will be required of the Owner as it pertains to the dedication of the Right-of-Way and construction of the Collector through the Project. Design of the pavement section for these roadways shall be per the Developer provided Geotechnical report meeting City codes.

F.2. Curve Radius on Collector Roads

Collector roads within the Project will have a minimum horizontal radius of four hundred feet (400’). This curve radius matches the curve metrics reflected in the adjacent Elgin Business Park Replat.

G. Block Length

The Project will have no block length minimum or maximum requirement, and no pass-through block requirement as referenced in Sec. 36-202.

H. Drainage and Storm Sewers

H.1. Open Channels

Sec. 36-285(6) is modified for this Project such that open channels shall be designed to contain runoff from a storm with a design frequency of 100 years and shall have a minimum of one foot (1’) of freeboard to top of bank. All open channels shall be privately maintained.

H.2. Detention Pond Volume Calculations

Sec. 36-288(3) is modified for this Project such that any vertically walled, structural detention pond(s) shall have a volume greater than or equal to the required volume with three inches (3”) of freeboard from a storm with a design frequency of 100 years. Any earthen-bermed detention pond(s) (partially or fully earthen-bermed) shall have a volume greater than or equal to the required volume with one-foot (1’) of freeboard from a storm with a design frequency of 100 years. All detention pond(s) shall be privately maintained.

H.3. Manholes, Inlets, Junction Boxes

Sec. 36-288(11) is modified for this Project such that manholes (inlets or junction boxes) shall be provided at all changes in grade and at a maximum of one thousand feet (1,000').

I. Stormwater Quality

I.1. Water Quality Controls

Impervious cover will be limited to eighty percent (80%) of the total gross acreage for each lot within the Project and therefore water quality controls will not be required. Decomposed granite trails, mulch, or other pervious surfaces will not be counted as impervious cover.

I.2. Buffer Zones

The project site contains an area of jurisdictional waters of the U.S. in the northeast corner. However, the drainage area associated with that feature is less than 64 acres, and therefore no city-related buffer zones are required for development under Sec. 36-312. The Project will comply with applicable federal buffer requirements.

J. Interior Parking Lot Landscaping

J.1. Sec. 44-81(C)(2)(a) is modified for this Project such that a landscaped end island with a minimum width of eight feet (8') from back of curb to back of curb shall be provided at the terminus of each parking bay. All end islands shall be landscaped with a minimum of one large tree.

J.2. Sec. 44-81(C)(2)(b) is modified for this Project such that a median island, peninsula or landscape island with a minimum width of eight feet (8') from back of curb to back of curb shall be sited between every 12 single parking bays and along primary internal and external access drives. Median intervals may be expanded in order to preserve existing trees, provided an alternative median location has been approved by the director of planning.

K. Platting and Subdivision

The Project is anticipated to be platted as depicted in **Exhibit "D"**. Any changes to the platting scenario after approval of the Plan will be processed in accordance with the requirements of Section I, 8.1 and Section I, 8.2 of this document.

EXHIBIT “D”

PROPOSED LOTTING & ACCESS SCENARIO
WITH ROW DETAILS & SECTIONS

EXHIBIT “E”
TRAFFIC IMPACT ANALYSIS