

**CITY OF SHERMAN
CITY COUNCIL CALLED MEETING AGENDA
COUNCIL CHAMBERS OF THE CITY HALL
220 WEST MULBERRY STREET
SHERMAN, TEXAS
WEDNESDAY, FEBRUARY 12, 2020
11:00 A.M.**

A. 1. CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN

A. 2. INVOCATION BY COUNCIL MEMBER JOSH STEVENSON

Training Workshop

**B. 1. COUNCIL MEMBER TRAINING WORKSHOP CONDUCTED BY E. ALLEN TAYLOR, JR.,
FOUNDING PARTNER OF TAYLOR, OLSON, ADKINS, SRAJA AND ELAM, LLP**

Resolutions

C. 1. RESOLUTION NO. 6592
Authorizing Execution of a Professional Services Agreement with Kimley-Horn and Associates, Inc. for
Impact Fee Studies

C. 2. RESOLUTION NO. 6593
Creating an Animal Control Advisory Committee; Providing for its Membership and Terms of Office;
Allowing its Organization and Structure

D. COUNCIL COMMENTS

E. ADJOURNMENT

COUNCIL CALENDAR

CERTIFICATION

I, the undersigned authority, do hereby certify that the above Notice of Called Meeting of the City Council of the City of Sherman is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice on the bulletin board at City Hall of said City of Sherman, Texas, a place convenient to the public, and said notice was posted on February 7, 2020 at 2:00 p.m., and said time of posting was 72 hours before said meeting was convened or called to order.

Dated this 7th day of February, 2020.
City of Sherman, Texas

City Clerk

The above agenda schedule represents an estimate of the order for the indicated items and is subject to change at any time.

All agenda items are subject to final action by the City Council.

An unscheduled closed executive session may be held if the discussion of any of the above agenda items concerns the purchase, exchange, lease or value of real property; the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee; the deployment or use of security personnel or equipment; or requires consultations with the City Attorney.

At the discretion of the City Council, non-agenda items under the headings of “Citizens Requests”, “Media Questions”, and “Council Concerns” may be presented to the Council for informational purposes; however, by law, the Council shall not discuss, deliberate, or vote upon such matters except that a statement of specific factual information, a recitation of existing policy, and deliberations concerning the placing of the subject on a subsequent agenda may take place.

The City Attorney has approved the Executive Session items on this agenda.

PERSONS WITH DISABILITIES, WHO PLAN TO ATTEND THIS MEETING AND WHO MAY NEED ASSISTANCE, ARE REQUESTED TO CONTACT LINDA ASHBY AT (903) 892-7204, TWO (2) WORKING DAYS PRIOR TO THE MEETING SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.

Mayor

David Plyler

Deputy Mayor

Willie Steele

Council Members

Willie Steele, Council-At-Large, PL #1
Sandra Melton, Council-At-Large, PL #2
Shawn C. Teamann, Council – District #1

Josh Stevenson, Council – District #2
Pamela L. Howeth, Council – District #3
Daron Holland, Council – District #4



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Called Meeting - Training Workshop

C. 1.

Meeting Date: 02/12/2020

Prepared By: Pamela Cloer, Assistant to the City Manager

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 6592

Authorizing Execution of a Professional Services Agreement with Kimley-Horn and Associates, Inc. for Impact Fee Studies

Issue:

To consider a contract for professional services with Kimley-Horn and Associates, Inc. for Impact Fee Studies as authorized by Chapter 395 of the Texas Local Government Code (attached)

Background:

At the February 3, 2020 meeting, the City Council received a presentation on Impact Fees from Jeff Whitacre, Vice President of Kimley-Horn and Associates, Inc. The proposed contract with Kimley-Horn and Associates, Inc. for Impact Fee Studies is the first step in this process. Included in the contract are the following services:

- Project Initiation, Education and Management
- Land Use Assumptions
- Roadway Impact Fee
- Water Impact Fee
- Wastewater Impact Fee
- Adoption Process
- Administration Tools and Implementation Support

Origination:

Mayor and City Council
City Manager

Financial Consideration:

The fee for the Impact Fee Studies will be \$150,000.00.

Staff Recommendation:

It is recommended that the contract for professional services with Kimley-Horn and Associates, Inc. for Impact Fee Studies be approved.

Alternatives:

As may be directed by the City Council

Attachments

Resolution No. 6592

Professional Services Agreement

Exhibit A - Scope of Service for Impact Fee Studies

Chapter 395 of the Texas Local Government Code

RESOLUTION NO. 6592

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR IMPACT FEE STUDIES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a Professional Services Agreement with Kimley-Horn and Associates, Inc. for Impact Fee Studies as authorized by Chapter 395 of the Texas Local Government Code, in accordance with all contract documents attached hereto and made a part hereof for all purposes.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the _____ day of _____, 2020.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY,
CITY CLERK

BY: _____
DAVID PLYLER,
MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY

**STANDARD AGREEMENT BETWEEN CLIENT AND
KIMLEY-HORN AND ASSOCIATES, INC. FOR PROFESSIONAL SERVICES**

THIS AGREEMENT is made this 12th day of February 2020, by and between the CITY OF SHERMAN, TEXAS ("the Client") and KIMLEY-HORN AND ASSOCIATES, INC. ("the Consultant").

NAME OF PROJECT: IMPACT FEE STUDIES ("the Project").

The Client and the Consultant agree as follows:

(1) Scope of Services and Additional Services. The Consultant will perform only the services specifically described in Exhibit A, which is made a part of this Agreement ("the Services"). If requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for the performance of any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.

(2) Client's Responsibilities. In addition to other responsibilities herein or imposed by law, the Client shall:

(a) Designate in writing a person to act as the Client's representative. Such person shall have complete authority to transmit instructions, receive information, make and interpret the Client's and decisions.

(b) Provide all criteria and information as to the Client's requirements, objectives and expectations for the Project, and all standards of development, design, or construction.

(c) Provide the Consultant all available studies, plans, or other documents pertaining to the project, such as survey, engineering data, environmental information, etc., all of which the Consultant may rely upon.

(d) Arrange for access to the project site and other property as required for the Consultant to perform services.

(e) Review all documents or reports presented by the Consultant and communicate decisions pertaining thereto within a reasonable time so as not to delay the Consultant.

(f) Furnish approvals and permits for all government authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary.

(g) Obtain any independent accounting, legal, cost estimating and feasibility services as the Client may require.

(h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the Consultant's services, or any defect or nonconformance in any aspect of the Project.

(3) Period of Services. This Agreement assumes conditions permitting orderly and continuous progress of the Project through completion of the Services. The Consultant shall begin work after receipt of a fully executed copy of this Agreement. The times for performance shall be extended as necessary for periods of delay or suspension resulting from circumstances the Consultant does not control. If such delay or suspension extends for more than six months for reasons beyond the Consultant's control, the rates of compensation provided for in this Agreement shall be renegotiated.

(4) Compensation for Services.

(a) The Consultant's compensation shall be as stated herein, unless otherwise provided in Exhibit A. The Client shall pay the Consultant an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.

(b) If the Consultant's compensation is on an hourly basis, the parties may have estimated in Exhibit A costs and expenses for the various portions of the scope of Services.

(5) Method of Payment.

(a) Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the rate of 12% per year beginning on the 25th day.. If the Client fails to make any payment due the Consultant under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid in full.

(b) If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.

(c) If the Client objects to any charge on an invoice submitted by the Consultant, the Client shall so advise the Consultant in writing giving its reasons within fourteen (14) days of receipt of the invoice or all such objections shall be waived, and the amount stated in the invoice shall be conclusively deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.

(d) The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts.

(6) Use of Documents. All documents, data, and programs prepared by the Consultant are related exclusively to the services described in this Agreement and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of the Consultant's documents, or any use, partial use or reuse of the documents without written authorization by the Consultant will be at the Client's sole risk and without liability to the Consultant. The Consultant's electronic files and source code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client, and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern.

(7) Opinions of Cost. Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, all opinions rendered as to costs, including but not limited to the costs of construction and materials, are solely based on its judgment as a professional familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from opinions of cost prepared by it. If at any time the Client wishes greater assurance as to the amount of any cost, it shall

employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

(8) Termination. The obligation to provide further services under this Agreement may be terminated by either party upon seven (7) days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof or upon thirty days' written notice for the convenience of the terminating party. The Consultant will be paid for all services performed to the effective date of termination, and all expenses subject to reimbursement.

(9) Standard of Care. The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

(10) LIMITATION OF LIABILITY. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH THE CLIENT AND THE CONSULTANT, THE RISKS ARE ALLOCATED SUCH THAT, TO THE FULLEST EXTENT ALLOWED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT OR THE EXISTENCE OF APPLICABLE INSURANCE COVERAGE, THAT THE TOTAL LIABILITY, IN THE AGGREGATE OF THE CONSULTANT AND THE CONSULTANT'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS TO THE CLIENT OR TO ANYONE CLAIMING BY, THROUGH OR UNDER THE CLIENT, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO THE SERVICES UNDER THIS AGREEMENT FROM ANY CAUSE OR CAUSES, INCLUDING BUT NOT LIMITED TO, THE NEGLIGENCE, PROFESSIONAL ERRORS OR OMISSIONS, STRICT LIABILITY OR BREACH OF CONTRACT OR ANY WARRANTY, EXPRESS OR IMPLIED, OF THE CONSULTANT OR THE CONSULTANT'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS SHALL NOT EXCEED TWICE THE TOTAL COMPENSATION RECEIVED BY THE CONSULTANT UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS GREATER. HIGHER LIMITS OF LIABILITY MAY BE NEGOTIATED FOR ADDITIONAL FEE. THIS SECTION 10 IS INTENDED SOLELY TO LIMIT THE REMEDIES AVAILABLE TO THE CLIENT OR THOSE CLAIMING BY OR THROUGH THE CLIENT, AND NOTHING IN THIS SECTION 10 SHALL REQUIRE THE CLIENT TO INDEMNIFY THE CONSULTANT.

(11) Mutual Waiver of Consequential Damages. In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.

(12) Construction Costs. Under no circumstances shall the Consultant be liable for extra costs or other consequences due to changed conditions, or for costs related to the failure of contractors to perform work in accordance with the plans and specifications. Consultant shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before the Consultant has issued final, fully-approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained

(13) Certifications. The Consultant shall not be required to execute certifications or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.

(14) Dispute Resolution. All claims by the Client arising out of this Agreement shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action must be commenced within two years of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

(15) Assignment and Subcontracting. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the Client and the Consultant and not for the benefit of any other party. The Client shall not assign, sublet or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

(16) Confidentiality. The Client consents to the Consultant's use and dissemination of photographs of the Project and to its use of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.

(17) Miscellaneous Provisions. This Agreement is to be governed by the law of the State of Texas. This Agreement contains the entire and fully integrated agreement between the parties, and supersedes all prior and contemporaneous negotiations, representations, agreements or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. Any provision in this Agreement that is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions or affecting the enforceability of the provision in any other jurisdiction. The non-enforcement of any provision by either party shall not constitute a waiver of that provision or affect the enforceability of that provision or the remainder of this Agreement.

The parties have made and executed this Agreement as of the day and year first above written.

CITY OF SHERMAN, TEXAS

KIMLEY-HORN AND ASSOCIATES, INC.

BY: _____

BY: _____

ITS: City Manager

ITS: _____

ATTEST: _____

ATTEST: _____

Request for Information

Please return this information with your signed contract; failure to provide this information could result in delay in starting your project

Client Identification

Full, Legal Name of Client					
Mailing Address for Invoices					
Federal ID Number					
Contact for Billing Inquiries					
Contact's Phone and e-mail					
Client is (check one)	Owner	☐	Agent for Owner	☐	Unrelated to Owner

Property Identification

	Parcel 1	Parcel 2	Parcel 3	Parcel 4
Street Address				
County in which Property is Located				
Tax Assessor's Number(s)				

Property Owner Identification

	Owner 1	Owner 2	Owner 3	Owner 4
Owner(s) Name				
Owner(s) Mailing Address				
Owner's Phone No.				
Owner of Which Parcel #?				

Project Funding Identification – List Funding Sources for the Project

Attach additional sheets if there are more than 4 parcels or more than 4 owners

EXHIBIT A
SCOPE OF SERVICE
IMPACT FEE STUDIES
CITY OF SHERMAN

PROJECT DESCRIPTION

The City of Sherman (City) is contracting with Kimley-Horn and Associates, Inc. (Consultant) to provide professional engineering services for the completion of impact fee studies per the Texas Local Government Code Chapter 395. The Consultant understands the goal of this project is to evaluate the development and implementation of Roadway, Water and Wastewater Impact Fee for the City. This scope of services will provide the City with the technical analysis required by Chapter 395 of the Texas Local Government Code to determine the maximum assessable Roadway, Water and Wastewater impact fee that may be assessed. The Consultant will assist the City with the establishment of a Capital Improvements Advisory Committee (CIAC). To conduct the land use assumptions analysis, the Consultant will utilize the demographics developed from previous planning efforts such as the 2018 Grayson County Thoroughfare Plan. To create the Roadway, Water, and Wastewater Impact Fee Capital Improvements Plan (CIP), the Consultant will utilize the most recent Master Plans. The Consultant will assist the City with the development of an Impact Fee Ordinance, assist with public hearings, and other infrastructure policy recommendations.

This project is anticipated to include the following components:

1. Project Initiation, Education and Management
2. Land Use Assumptions
3. Roadway Impact Fee
4. Water Impact Fee
5. Wastewater Impact Fee
6. Adoption Process
7. Administration Tools and Implementation Support

1. Project Initiation, Education and Management

- 1.1 Project Kick-Off Meeting and Impact Fee 101. The Consultant will meet with the City for a formal kick-off meeting. During this meeting, the scope and City contacts will be determined for each task. The Consultant will present an Impact Fee 101 to City staff during this meeting.
- 1.2 Project Team Status Meetings and Coordination. The Consultant will participate in reoccurring meetings with City staff. These meetings will be held on specific days and times as agreed by the City. A maximum of two (2) hours will be anticipated for each meeting. These may be either in-person or conference calls. The Consultant will prepare notes from each meeting. A maximum of eight (8) meetings will be held with a maximum of three (3) in-person.

- 1.3 Project Status Reports and Invoicing. The Consultant will prepare and submit monthly status reports regarding project schedule and critical tasks. The Consultant will prepare monthly invoices.
- 1.4 Service Areas. The Consultant will meet with the City to develop the impact fee service area boundaries. For Roadway, the Consultant will develop up to three options to be consistent with the existing City limits consistent and the six (6) mile limit required by Chapter 395. The Consultant anticipates approximately five (5) service areas will be required for Roadway Impact Fees and one (1) service area for both Water and Wastewater Impact Fees.
- 1.5 Project Education. The Consultant will prepare for and attend the following meetings:
Two workshops to present fundamentals of Roadway, Water and Wastewater Impact Fees, a summary of Impact Fee methodology, Land Use Assumptions, and the CIP and Maximum Assessable Impact Fees
 - 1.5.1 One (1) stakeholder project education meeting
 - 1.5.2 One (1) joint Council and CIAC education meeting

2. Land Use Assumptions

- 2.1. Data Collection. Data provided by the City for new development activity that has occurred during the last ten years. Data to be provided by the City include residential (added single and multi-family dwelling units) and square footage (or acreage) of developed non-residential uses within the city and water/wastewater planning areas. Data will be by City of Sherman planning areas to facilitate both the roadway and water/wastewater service area analyses. The provision of electronic data (GIS Shapefile) is envisioned. The Consultant will coordinate with the City on specific data needs.
- 2.2. Existing Land Use. The Consultant will utilize data collected from Task 2.1 to document existing growth rates, trends and socio-demographics as well as provide the development of base projections. The Consultant will provide supporting documentation for land use, population and employment data by planning areas and service areas for the base year
- 2.3. 10-Year Land Use. Chapter 395 states that impact fees may only be used to pay for items included in the Impact Fee Capital Improvements Plan and attributable to new service units projected over a period not to exceed ten (10) years. Based on guidance from the City regarding projected development patterns and growth rates, the Consultant will develop the Ten-Year Land Use Assumptions for the 2020 – 2030 planning window. The Consultant will complete the demographic table for each service area.
- 2.4. Documentation. The Consultant will prepare a Chapter entitled Land Use Assumptions for Impact Fees. This will be incorporated into the final report.
- 2.5. Meetings. The Consultant will discuss the land use assumptions during one of the reoccurring project team status meetings. It is anticipated to be one of the meetings.

- 2.6. Deliverables. The Land Use Assumptions (LUA) will be standalone report that will ultimately be incorporated into the final Impact Fee Study report. Key elements of the LUA report include:
- Coordination and correlation of LUA with service areas for roads, water and wastewater
 - Documentation of existing growth rates, trends and socio-demographics
 - Development of base, 10-year and ultimate or build-out projections
 - Land use, population and employment assumptions for the projection periods
 - Supporting documentation population and employment data by planning areas and service areas for the base year and 10-year growth

3. Roadway Impact Fee Study

- 3.1. Data Collection. The Consultant will coordinate with the City to obtain the following data:
- 3.1.1 City contacts – City shall provide the organization structure and contact information for the applicable City staff involved with the completion of the roadway capacity analysis and Roadway Impact Fee Capital Improvement Plans (CIP).
 - 3.1.2 Thoroughfare Plan – The Consultant will utilize the thoroughfare plan as is currently adopted. Any analysis related to updating the City’s currently adopted Thoroughfare Plan will be considered additional services.
 - 3.1.3 Traffic Counts – The City shall provide any available data (current and historical) for all roadway segments on the current Thoroughfare Plan. The Consultant will obtain recently completed traffic counts for state highway facilities from TxDOT. If additional counts are necessary the Consultant will collect up to 20 addition tube counts.
 - 3.1.4 Historical Project Costing Information – The City shall provide the Consultant with available data on the actual City costs for previously completed arterial roadway improvement projects to assist in the development of planning level project costs.
- 3.2. Master Plan Review. The Consultant will review the currently adopted roadway Master Thoroughfare Plan (MTP) to verify if modifications are needed prior to formulating the Roadway Impact Fee Capital Improvement Plan. Modification will be provided with the recommendations from City staff. City staff will perform the necessary tasks to have the revised MTP adopted by City Council (if necessary). As part of this task the Consultant will field verify the existing inventory of the City’s roadway network.
- 3.3. Ten-Year Growth Projections and Capacity Analysis.
- 3.3.1 The Consultant will identify the service units for new development and the average trip length. Using the 10th Edition of the Institute of Transportation Consultant’s (ITE) Trip Generation Manual, the Consultant will incorporate trip generation and pass-by trip rates.

- 3.3.2 The Consultant will perform an analysis of existing conditions. This will include a determination of roadway capacities, volumes, vehicle-miles of supply, vehicle-miles of demand, existing excess capacity, and existing deficiencies.
- 3.3.3 The Consultant will project traffic conditions for the ten-year planning period, the target year for the impact fee growth projections. This will include growth and new demand for each service area established in Task 2. The Consultant will determine the capacity available for new growth.
- 3.4. Roadway Impact Fee Capital Improvements Plan. The Consultant will assist the City to develop a Roadway Impact Fee Capital Improvements Plan which will include cost projections for anticipated projects to be included in the study. The Roadway Impact Fee Capital Improvements Plan will include existing oversized facilities and proposed facilities designed to serve future development. The Roadway Impact Fee Capital Improvements Plan shall include a general description of the project and a project cost projection. Planning level cost projections for future projects will be prepared based on discussion with local roadway construction contractors, City staff, and previous experience with roadway construction costs. The City shall provide actual City cost information for previously completed projects with excess capacity and any cost contribution to County, State, Federal, or developer constructed projects. Due to the variety of unknowns associated with roadway project costs projections (ROW acquisition, utility relocations, etc.), the planning level project cost projections utilized in the roadway impact fee analysis should not be used for any future capital improvement planning within the City. The Consultant will identify the portion of projected improvements required to serve existing demand and the portion of project improvements required to serve new development within the 10-year planning period.
- 3.5. Maximum Assessable Roadway Impact Fee Calculation. Using the newly developed ten-year growth projections, roadway impact fee capital improvements plan, and capacity available for new growth, the Consultant will determine the cost of roadway improvements by service area, the maximum costs per service unit, and the resulting pre-credit maximum assessable roadway impact fees by service area. A financial analysis for the credit calculation will not be performed. 50% of the pre-credit maximum assessable roadway impact fee calculated in Task 3.4 will be utilized to determine the maximum assessable roadway impact fee.
- 3.6. Documentation. The Consultant will provide both a draft and final Roadway Impact Fee Report. The report will include:
- Land Use Assumptions;
 - Roadway service areas;
 - Roadway CIP;
 - Narrative of the impact fee methodology;
 - Impact fee calculations;
 - Land Use Vehicle-Mile Equivalency Table; and
 - Supporting Exhibits.

- 3.7. Meetings. The Consultant will discuss the roadway impact fees during the reoccurring project team status meetings.
- 3.8. Deliverables.
- 3.8.1 Electronic (.pdf) copy of the Draft Roadway Impact Fee Report;
 - 3.8.2 Five (5) 8.5" x 11" hard copies of the Draft Roadway Impact Fee Report; and
 - 3.8.3 Upon final approval of the Roadway Impact Fee Analysis and new ordinance by the City Council, the Consultant will provide five (5) 8" x 11" originals and one (1) electronic (.pdf) copy of the Final Roadway Impact Fee Report

4. Water Impact Fee Study

- 4.1. Data Collection for City and Wholesale Customers. The Consultant will coordinate with the City on obtaining data required for the impact fee study, including cost data for recently constructed projects, information on water meters, recent water usage, etc. The Consultant will prepare and present a data request memorandum for City staff. Information for wholesale customers served by Sherman will also be required.
- 4.2. Master Plan Review. The Consultant will review the current Water Distribution System Master Plan (if available) to verify if modifications are needed prior to formulating the Water Impact Fee Capital Improvement Plan. Modification will be provided with the recommendations from City staff. City staff will perform the necessary tasks to have the revised Water Distribution System Master Plan adopted by City Council (if necessary). The review of the Master Plan is anticipated to be a half-day workshop and map will be developed for the use of impact fees. No water system hydraulic model will be developed for the study.
- 4.3. Ten-Year Growth Projections and Capacity Analysis. The Consultant will develop projected water demands over the 10-year planning period which will be based on socio-demographic data developed in the LUAs report. The determination of 10-year water demands will be based on LUAs and recent historical water usage for average, and maximum day conditions. The Consultant will utilize data from the recent Master Plan in addition to the newly requested data. The Consultant will utilize equivalent capacity of water meters to establish the service unit equivalents (SUEs) required in Chapter 395 of the Local Government Code for both existing and 10-year growth conditions.
- 4.4. Water Impact Fee Capital Improvements Plan. The Consultant will review recently completed (over the last 5 years) water improvements and determine which projects are eligible for future cost recovery based on future growth. The Consultant will update the cost of proposed water system improvements to be included in the impact fee calculation. Maps will be prepared showing the existing and proposed water capital improvements plan projects to be included in the impact fee calculation.

- 4.5. Maximum Assessable Water Impact Fee Calculation. The Consultant will utilize the capacity analysis and capital project costs to calculate percentage of project cost eligible for impact fee cost recovery. The Consultant will develop maximum allowable water impact fees in accordance with Chapter 395 of the Texas Local Government Code using existing and proposed capital improvement costs to support 10-year growth based on projected increase in service units.
- 4.6. Documentation. The Consultant will provide both a draft and final Water Impact Fee Report. The report will include:
- Land Use Assumptions;
 - Water service area;
 - Water Impact Fee Eligible CIP;
 - Narrative of the impact fee methodology;
 - Impact fee calculations;
 - Service Unit Equivalency Table; and
 - Supporting Exhibits.
- 4.7. Meetings. The Consultant will discuss the water impact fees during the reoccurring project team status meetings.
- 4.8. Deliverables.
- 4.8.1 Electronic (.pdf) copy of the Draft Water Impact Fee Report;
 - 4.8.2 Five (5) 8.5" x 11" hard copies of the Draft Water Impact Fee Report; and
 - 4.8.3 Upon final approval of the Water Impact Fee Analysis and new ordinance by the City Council, the Consultant will provide five (5) 8" x 11" originals and one (1) electronic (.pdf) copy of the Final Water Impact Fee Report

5. Wastewater Impact Fee Study

- 5.1. Data Collection for City and Wholesale Customers. The Consultant will coordinate with the City on obtaining data required for the impact fee study, including cost data for recently constructed projects, information on wastewater meters, recent wastewater discharge, etc. The Consultant will prepare and present a data request memorandum for City staff. Information for wholesale customers served by Sherman will also be required.
- 5.2. Master Plan Review. The Consultant will review the current Wastewater Master Plan (if available) to verify if modifications are needed prior to formulating the Wastewater Impact Fee Capital Improvement Plan. Modification will be provided with the recommendations from City staff. City staff will perform the necessary tasks to have the revised Wastewater Collection System Master Plan adopted by City Council (if necessary). The review of the Master Plan is anticipated to be a half-day workshop and map will be developed for the use of impact fees. No wastewater system hydraulic model will be developed for the study.

- 5.3. Ten-Year Growth Projections and Capacity Analysis. The Consultant will develop projected wastewater discharges over the 10-year planning period which will be based on socio-demographic data developed in the LUAs report. The determination of 10-year wastewater discharge and will be based on LUAs and recent historical wastewater discharge for average and peak dry weather conditions along with peak wet weather conditions. The Consultant will utilize data from the recent Master Plan in addition to the newly requested data. The Consultant will utilize equivalent capacity of water meters that also have wastewater service to establish the service unit equivalents (SUEs) required in Chapter 395 of the Local Government Code for both existing and 10-year growth conditions.
- 5.4. Wastewater Impact Fee Capital Improvements Plan. The Consultant will review recently completed (over the last 5 years) wastewater improvements and determine which projects are eligible for future cost recovery based on future growth. The Consultant will update the cost of proposed wastewater system improvements to be included in the impact fee calculation. Maps will be prepared showing the existing and proposed wastewater capital improvements plan projects to be included in the impact fee calculation.
- 5.5. Maximum Assessable Wastewater Impact Fee Calculation. The Consultant will utilize the capacity analysis and capital project costs to calculate percentage of project cost eligible for impact fee cost recovery. The Consultant will develop maximum allowable wastewater impact fees in accordance with Chapter 395 of the Texas Local Government Code using existing and proposed capital improvement costs to support 10-year growth based on projected increase in service units.
- 5.6. Documentation. The Consultant will provide both a draft and final Wastewater Impact Fee Report. The report will include:
- Land Use Assumptions;
 - Wastewater service area;
 - Wastewater Impact Fee Eligible CIP;
 - Narrative of the impact fee methodology;
 - Impact fee calculations;
 - Service Unit Equivalency Table; and
 - Supporting Exhibits.
- 5.7. Meetings. The Consultant will discuss the water impact fees during the reoccurring project team status meetings.

5.8. Deliverables.

- 5.8.1 Electronic (.pdf) copy of the Draft Wastewater Impact Fee Report;
- 5.8.2 Five (5) 8.5" x 11" hard copies of the Draft Wastewater Impact Fee Report; and
- 5.8.3 Upon final approval of the Wastewater Impact Fee Analysis and new ordinance by the City Council, the Consultant will provide five (5) 8" x 11" originals and one (1) electronic (.pdf) copy of the Final Wastewater Impact Fee Report

6. **Adoption Process**

- 6.1. Comparison Data. The Consultant will collect information on actual Impact Fees collected for up to six (6) benchmark cities for up to three (3) different land uses (likely residential, commercial, and industrial land uses). This information will be provided to the City in electronic (.xls) tabular format for use in the development of comparison tables.
- 6.2. Ordinance Support. The Consultant will review the proposed Impact Fee Ordinance as prepared by the City Attorney. It is anticipated the City Attorney will require exhibits from the Impact Fee Report to be included in the ordinance.

The Consultant will review the impact of the proposed Impact Fee program reimbursements on the City's existing pro rata cost allocation system for water and wastewater line extensions. The Consultant will determine how the pro rata system will work with the Impact Fee program and if pro rata costs will continue to be charged to developers once the Impact Fee program is implemented.

The Consultant will review the policies for roadway improvements in the City's ETJ.

- 6.3. Revenue Projections. The Consultant will utilize the Land Use Assumptions calculated in Task 2 to calculate various revenue projections based on potential collection rate scenarios.
- 6.4. Meetings. It is anticipated that the Consultant will prepare for and attend each of the following meetings (total of eight). These are anticipated to be:
 - Two (2) CIAC worksession;
 - Two (2) CIAC meeting to present the Land Use Assumptions, CIP, and Maximum Assessable Impact Fees;
 - Two (2) Council worksession; and
 - Two (2) City Council public hearings to present the Impact Fee, including the Land Use Assumptions, Impact Fee CIP and Maximum Assessable Impact Fees

7. Administration Tools and Implementation Support

- 7.1. Impact Fee Estimator. The Consultant will create an Impact Fee estimator spreadsheet tool to assist in calculating a development's water, wastewater, and roadway impact fees based on the impact fee rates adopted in Task 6.
- 7.2. Implementation Support. The Consultant will provide implementation support to assist City staff as a program is rolled out. This implementation support is based on 18 hours.
- 7.3. Deliverables. Electronic (.xls) Impact Fee Estimator Tool.

- End of Scope of Services -

**IMPACT FEE STUDY
FEE PROPOSAL
CITY OF SHERMAN**

Kimley-Horn will perform the scope of services for the total fixed fee below. Fees will be invoiced monthly based upon the overall percentage of services performed.

Task	Task Name	Subtotal
1	Project Initiation, Education and Management	\$10,000
2	Land Use Assumptions	\$10,000
3	Roadway Impact Fee Study	\$35,000
4	Water Impact Fee Study	\$35,000
5	Wastewater Impact Fee Study	\$35,000
6	Adoption Process	\$20,000
7	Administration Tools and Implementation Support	\$5,000
Subtotals		\$150,000

**FUTURE INFRASTRUCTURE STUDY FOR CONSULTING
SCHEDULE PROPOSAL
CITY OF SHERMAN**

Tasks 1 thru 5 will be completed within four (4) months following receipt of a signed copy of this agreement, exclusive of City review time after receipt of a signed copy of this agreement. Task 6 and 7 will proceed in accordance with the requirements of Chapter 395 of the Texas Local Government Code and as requested by the City. Consultant will use best efforts to complete all tasks on or before August 31, 2020. Additional services, if desired by the City, will be performed in a timely manner upon authorization by the City.

LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

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



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Called Meeting - Training Workshop

C. 2.

Meeting Date: 02/12/2020

Prepared By: Linda Ashby, City Clerk

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 6593

Creating an Animal Control Advisory Committee; Providing for its Membership and Terms of Office; Allowing its Organization and Structure

Issue:

The creation of an Animal Control Advisory Committee, pursuant to the provisions of Section 823.005 of the Texas Health and Safety Code

Background:

The Texas Health and Safety Code, Section 823.005 requires that the City establish and maintain an Advisory Committee to assist the City's Animal Control Department in carrying out its duties. The purpose of the Animal Control Advisory Committee is to serve in an advisory capacity to assist the City's Animal Control Department in compliance with city and state regulations concerning the operation of the City's Animal Control facility; to assist the City in communicating awareness to the citizens of Sherman regarding the services, procedures, and compliance with state regulations concerning the operation of animal shelters and coordinating review of programs and services to make recommendations for improvements in those programs and services to better serve the community.

The Committee will consist of eight (8) members, each appointed by the City Council, and will serve for a term which will be no more than three years in duration. Membership shall consist of one (1) licensed veterinarian, one (1) municipal official; one (1) person whose duties include the daily operation of an animal shelter and serves as the City's Animal Services Manager; one (1) representative from an animal welfare organization; and four (4) citizens of Sherman. Appointments to this Committee will be made by the Council at a future Council meeting.

Origination:

Animal Services Manager Ty Coleman

Financial Consideration:

There is no financial impact to be considered.

Staff Recommendation:

It is the staff's recommendation that the City Council approve the Resolution creating the Animal Control Advisory Committee.

Alternatives:

No alternatives are recommended.

Attachments

Resolution No. 6593

Application for Board or Commission Membership

RESOLUTION NO. 6593

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, CREATING AN ANIMAL CONTROL ADVISORY COMMITTEE; PROVIDING FOR ITS MEMBERSHIP AND TERMS OF OFFICE; ALLOWING ITS ORGANIZATION AND STRUCTURE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Sherman, Texas, desires to create an Animal Control Advisory Committee to serve in an advisory capacity to assist the City's Animal Control Department in compliance with city and state regulations concerning the operation of the City's Animal Control facility;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That there is hereby created the Animal Control Advisory Committee of the City of Sherman, Texas, to assist the City in communicating awareness to the citizens of Sherman regarding the services, procedures, and compliance with state regulations concerning the operation of animal shelters and coordinating review of programs and services to make recommendations for improvements in those programs and services to better serve the community. The Committee shall be advisory in nature and shall not have any responsibility or authority over any board, commission, public official or employee of the City. The Animal Control Advisory Committee shall consist of eight (8) members appointed by the City Council as follows: one (1) licensed veterinarian; one (1) municipal official; one (1) person whose duties include the daily operation of an animal shelter and serves as the City of Sherman Animal Services Manager; one (1) representative from an animal welfare organization; and four (4) people who reside in the city limits.

SECTION 2. That the Committee shall elect its own officers, may establish its own procedural rules, and may adopt by-laws for the conducting of its business, to the extent that such by-laws do not conflict with the Charter and Code of Ordinances of the City of Sherman. Further, the Committee shall establish the term of office for its members that does not exceed the three (3) year limit set forth in the Sherman City Charter and Code of Ordinances.

SECTION 3. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2020.

CITY OF SHERMAN, TEXAS

BY: _____
DAVID PLYLER, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
**BRANDON S. SHELBY,
CITY ATTORNEY**



CITY OF SHERMAN APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

Return completed application to:

City Clerk's Office
220 W. Mulberry
P.O. Box 1106
Sherman, TX 75091
Fax: (903) 892-7394

Please type or use black ink

Please complete one application for each board or commission membership

Please limit attachments to two pages

For questions or additional information, call the City Clerk's Office, (903) 892-7206

Name: _____
(Please print legal name and your name as you wish it to appear, if different.)

Name of Board
or Commission: _____

☐ Yes, I would be interested in serving on subcommittees that may be formed.

Personal Information	Occupational Information
Home Address: _____	Business Name: _____
Mailing Address: _____	Occupation: _____
Telephone: _____ Fax: _____	Address: _____
E-Mail: _____	Telephone: _____ Fax: _____
Sherman Resident for _____ years County: _____	E-Mail: _____
Drivers License No.: _____	
Voter Registration No.: _____	

Which Council District do you live in? (see attached map) _____

Prior work experience: (please include dates)

Educational Achievement:

High School Graduate? ☐ Yes ☐ No Year Graduated/Left School? _____
Business College, Correspondence School, Adult Education, Other? _____
Name of College/University: _____ ☐ Bachelor's ☐ Master's ☐ PhD

Volunteer Work: (please include dates)

Have you ever been convicted of a crime (except for minor traffic offenses that resulted only in a fine)? ☐ Yes ☐ No

If yes, please explain in complete detail. State the nature and approximate date of the conviction, the sentence imposed, whether the sentence has been completed, and any other information you consider to be relevant.

Application held for 12 months from date received

Are you presently serving on a City board or commission? ☐ Yes ☐ No

If so, which one? _____

Why do you want to become a member of this particular board or commission (*how would you use this experience to benefit the City*)?

Briefly explain what you believe are the three most important issues facing this board or commission and how you believe this board or commission should address each issue?

1) _____

2) _____

3) _____

List any abilities, skills, licenses, certificates, specialized training, or interests you have which are applicable to this board or commission:

Please specify any business or personal relationships with the City or other activities, which might create a serious conflict of interest or affect your ability to serve if you should be appointed to this board or commission:

Have you attended a meeting of the board/commission you are applying to or talked to anyone currently on the board? ☐ Yes ☐ No
Comments: _____

Statement of Intent

I am aware of the requirements of the City regarding conflicts of interest of appointees to the City of Sherman Boards and Commissions, as noted in the overview. I am aware of meeting dates and times of the Board/Commission for which I have applied, and that Board/Commission members are expected to attend a minimum of 75 percent of regularly scheduled meetings annually of their Board/Commission. If appointed, I agree to serve on the Board/Commission for which I have applied. Applications, including those received after the posted deadline, will remain on file for one year from the date of receipt.

Signature: _____ Date: _____

In compliance with Chapter 552, Vernon's Texas Codes Annotated (Open Records Law), information provided on this application may be available to the public, upon request.

Sherman
CLASSIC TOWN. BROAD HORIZON.



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Called Meeting - Training Workshop

Meeting Date: 02/12/2020

Prepared By: Pamela Cloer, Assistant to the City Manager

Approved By: Robby Hefton, City Manager

Caption:

COUNCIL CALENDAR

Attachments

2020 Council Calendar

2020

JANUARY						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

FEBRUARY						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

MARCH						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

APRIL						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

MAY						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

JUNE						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

JULY						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

AUGUST						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

SEPTEMBER						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

OCTOBER						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

NOVEMBER						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

DECEMBER						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

1/20/2020	Martin Luther King, Jr. Day/Called City Council Meeting on <u>1/21/2020</u>
2/12/2020	Called Council Meeting - Training Session for Council Members
9/7/2020	Labor Day/Called City Council Meeting on 9/8/2020

[illegible]