
CITY COUNCIL AGENDA

Notice is hereby given that the Rockport City Council will hold a regular meeting on Tuesday, July 25, 2023, at 6:30 p.m. The meeting will be held in person at the Training Room of the Rockport Service Center, 2751 State Highway 35 Bypass, Rockport, Texas. The live stream link to view the meeting is: <https://www.youtube.com/@rockporttxgov>.

Public participation is valued and citizens wishing to express their views on any topic or agenda item can electronically submit a citizen participation form in order to register to speak by going to <https://rockport.seamlessdocs.com/f/CouncilCitizenParticipation> or scanning the QR code to the right, or if attending the meeting in person register before the meeting begins. Using the same form, citizens can also provide written comments to the City Secretary by 4:00 p.m. on the day of the meeting. The comments will be read at the meeting.



The matters to be discussed and acted upon are as follows:

Opening Agenda

1. Call meeting to order.
2. Pledge of Allegiance.
3. Presentation: Promotion in Police Department.
4. Citizens to be heard.

At this time, comments limited to three (3) minutes will be taken from the audience from persons who have signed the speaker's card located on the table in the back of the Training Room of the Service Center and delivered to the City Secretary before the meeting begins, or written comments received by 4:00 p.m. on the day of the meeting, on any **Agenda** item or any subject matter, will be read at the meeting. Persons wishing to address the Council and who have registered using the Citizen Participation Form will have up to three minutes to speak. In accordance with the Open Meetings Act, Council may not discuss or take action on any item that has not been posted on the agenda. While civil public criticism is not prohibited; disorderly conduct or disturbance of the peace as prohibited by law shall be cause for the chair to terminate the offender's time to speak.

Consent Agenda

All consent agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

5. Deliberate and act on approval of City Council Regular Meeting Minutes of July 11, 2023.
6. Deliberate and act on 3rd quarter report from the Rockport-Fulton Chamber of Commerce for Fiscal Year 2022-2023 marketing expenditures.

Regular Agenda

7. Conduct a Public Hearing to consider a request to rezone property located at 607 Sunset Drive; also known as J Smith Survey, Acres .3078, City of Rockport, Aransas County, Texas, to R - 2 (2nd Single Family Dwelling District) currently zoned R-1 (1st Single Family Dwelling District).

8. Deliberate and act on first reading of an Ordinance amending Article 4 of the City of Rockport Zoning Ordinance Number 1027 by changing the zoning of land from R-1 (1st Single Family Dwelling District) for property located at 607 Sunset Drive; also known as .3078 acres J. Smith Survey, City of Rockport, Aransas County, Texas, to R -2 (2nd Single Family Dwelling District); repealing all ordinances in conflict therewith; providing for severability; and providing an effective date.
9. Deliberate and act on proposed Professional Service Agreement by and between the City of Rockport and Freese and Nichols, Inc. for the study and update of Water and Wastewater Impact Fees.
10. Upcoming budget schedule discussion and questions.
11. Reports from Council.

At this time, the City Council will report/update on activities in respective Wards, and all committee assignments, which may include the following: Aransas County Alliance Local Government Corporation; Aransas Pathways Steering Committee; Building and Standards Commission; Coastal Bend Bays and Estuaries Program; Coastal Bend Council of Government; Coastal Bend Mayors Group; Park & Leisure Services Advisory Board; Planning & Zoning Commission; Rockport-Fulton Chamber of Commerce; Aransas County Storm Water Management Advisory Committee; Swimming Pool Operations Advisory Committee; Tourism Development Council; Tree & Landscape Committee; Texas Maritime Museum, Fulton Mansion, Rockport Center for the Arts, Aransas County, Aransas County Independent School District, Aransas County Navigation District, Town of Fulton, and Texas Municipal League. No formal action can be taken on these items at this time.

12. Adjournment.

Special Accommodations

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodation or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (361) 729-2213, ext. 225 or FAX (361) 790-5966 or email tvaldez@cityofrockport.com for further information. Braille is not available. The City of Rockport reserves the right to convene into executive session under Government Code §§ 551.071-551.074 and 551.086.

In accordance with the requirements of Texas Government Code Section 551.127, a member of the governing body may participate in this meeting from a remote location. A quorum of the governing body as well as the presiding officer shall be physically present at the above posted location, which shall be open to the public. Those participating remotely shall be visible and audible to the public for all open portions of the meeting. A member of a governmental body who participates in a meeting remotely as provided by law, shall be counted as present at the meeting for all purposes.

Certification

I certify that the above notice of meeting was posted on the bulletin board at the Rockport Service Center, 2751 State Highway 35 Bypass, Rockport, Texas on Friday, July 21, 2023, by 5:30 p.m. and on the City's website at www.cityofrockport.com. I further certify that the following News Media were properly notified of this meeting as stated above: *The Rockport Pilot* and *Corpus Christi Caller Times*.

Kimberly Henry

Kimberly Henry, Assistant to the City Manager
Acting on behalf of
Teresa Valdez, City Secretary

CITY COUNCIL AGENDA
Regular Meeting: July 25, 2023

AGENDA ITEM: 3

Presentation – Promotion in Police Department

SUBMITTED BY: Police Chief Greg Stevens

APPROVED FOR AGENDA: VRS

BACKGROUND: The Rockport Police Department will promote Officer Stefanie Garcia to the rank of Lieutenant.

Officer Garcia was selected for promotion based on an assessment of performance; relevant training, education and experience; department needs; officer interests and predicted success; and managerial prerogative.

Lieutenant Garcia will be assigned as the RPD Administration Lieutenant tasked with managing aspects of the department such as training, vehicle fleet, property and evidence, alarm ordinance, crime analysis, public relations, social media, etc. This position is also designated as the RPD Accreditation Project Manager for the Texas Police Chiefs Association Foundation Best Practices Recognition program.

The Police Chief will ceremoniously present this newly promoted officer with new credentials and publicly recognize the promotion in the presence of family and friends and the Rockport City Council as well as members of the public in attendance.

See attached biographically information.

FISCAL ANALYSIS: None.

RECOMMENDATION: Not an action item.

Stefanie Garcia – Promoting to Administrative Lieutenant

Officer Stefanie Garcia is a 4-year veteran of the Rockport Police Department, with 13 total years as a City of Rockport employee. She currently holds an Intermediate Peace Officer License from the Texas Commission on Law Enforcement.

Officer Garcia began her law enforcement career as a civilian Telecommunications Officer with the City of Rockport in June of 2010. After a short time, Officer Garcia was hired as the Rockport Police Department Records Clerk, where she served for 3 years. Officer Garcia was promoted to Administrative Assistant to the Chief of Police, a position she held for one year before becoming the first Property & Evidence Technician for the police department. In 2018, Officer Garcia attended the Del Mar Regional Police Academy in Corpus Christi, TX, and in 2019 she became a full time Patrol Officer. Officer Garcia has served 2 years in the Patrol Division, 1 year as the Municipal Court Bailiff and Warrant Officer, and the last 9 months working as an Administrative Officer.

Officer Garcia's law enforcement experience includes certifications in Civilian Response to Active Shooter Trainer, Public Information Officer, Sexual Assault Family Violence Investigator, Emergency Management training, and over 200 hours of Evidence and Crime Scene training. Currently Officer Garcia is attending Del Mar College and will complete her Associate of Arts degree in Criminal Justice in Spring of 2024. Officer Garcia plans to continue her education and obtain her Bachelor degree.

Officer Garcia is married to Captain Nathan Garcia of the Rockport Police Department. They have an 11-year-old daughter, Haidyn, who attends Rockport Fulton Middle School. In her spare time, Officer Garcia enjoys spending time with her family and working on home renovation projects.

CITY COUNCIL AGENDA
Regular Meeting: Tuesday, July 25, 2023

AGENDA ITEM: 5

Deliberate and act on approval of City Council Regular Meeting Minutes of July 11, 2023.

SUBMITTED BY: City Secretary Teresa Valdez

APPROVED FOR AGENDA: VRS

BACKGROUND: Please see the accompanying City Council meeting minutes.

FISCAL ANALYSIS: N/A

RECOMMENDATION: Staff recommends Council approve the Minutes, as presented.

CITY OF ROCKPORT

MINUTES

CITY COUNCIL REGULAR MEETING 6:30 p.m. Tuesday July 11, 2023 Rockport Service Center 2751 State Highway 35 Bypass

Members of the public could view the meeting via live stream. Public participation is valued and citizens wishing to express their views on any topic or agenda item could electronically submit a Citizen Participation Form in order to register to speak by going to <https://rockport.seamlessdocs.com/f/CouncilCitizenParticipation> or scanning the QR code provided on the Agenda, or if attending the meeting in person register before the meeting begins. Using the same form, citizens could also provide written comments to the City Secretary by 4:00 p.m. on the day of the meeting. The comments were read at the meeting.

On the 11th day of July 2023, the City Council of the City of Rockport, Aransas County, Texas, convened in a Regular Meeting at 6:30 p.m., at the Training Room of the Rockport Service Center and notice of meeting giving time, place, date, and subject was posted as described in V.T.C.A., Government Code § 551.041.

CITY COUNCIL MEMBERS PRESENT

Mayor Tim Layroe
Mayor Pro-Tem Andrea Hattman, Ward 4
Council Member Stephanie Rangel, Ward 1
Council Member Danielle Hale, Ward 2
Council Member Brad Brundrett, Ward 3

CITY COUNCIL MEMBER(S) ABSENT

STAFF MEMBERS PRESENT

City Manager Vanessa Shrauner
Assistant to City Manager Kimberly Henry
City Attorney Art Rodriguez, Jr.
City Secretary Teresa Valdez
Director of Public Works and Building & Development Services Mike Donoho
Parks & Leisure Services Director Gene Camargo
Parks & Leisure Services Assistant Director Brittany Elkins
Information Technology Director Bob Argetsinger
Parks & Leisure Services Aquatics Manager Joe Riekers
Parks & Leisure Services Aquatics Staff: Charlie Griffin, Lisa Lind, James Savage, Michelle Darsey, Beau Blankenship, Brandon Barringer, Mikayla Molina, Stehle Snyder, Devon Clark, Ryan Ramirez, Ashley Wells, Milana Lanica, Aubrie Martinez, Boden Lanica, Connor Chaney, Anne Spangler, Hunter Gullen, Madison Brown, and Mark Perlotto
Chief of Police Greg Stevens

ELECTED OFFICIALS PRESENT

Opening Agenda

1. Call meeting to order.

With a quorum of the Council Members present, the Regular Meeting of the Rockport City Council was called to order by Mayor Layroe at 6:30 p.m. on Tuesday, July 11, 2023, in the Training Room of the Rockport Service Center, 2751 State Highway 35 Bypass, Rockport, Texas.

2. Pledge of Allegiance.

Mayor Pro-Tem Hattman led the Pledge of Allegiance to the U.S. flag.

3. Presentation □ American Red Cross 2023 Guardian Partnership Award – Rockport Parks □ Leisure Services Department.

Mayor Layroe stated the City of Rockport Parks □ Leisure Services Department recently received the American Red Cross 2023 Guardian Partnership Award. Mayor Layroe presented the award to the Rockport Parks □ Leisure Services Aquatics staff.

4. Presentation □ Lifeguard Rescue Awards to Madison Brown and Justin Reikers.

Mayor Layroe presented Lifeguard Rescue Awards to Madison Brown and Justin Reikers' brother (standing in for him due to a prior commitment) for their professionalism and skill in rendering aid for distressed swimmers and preventing potential drownings.

Aquatics Manager Joe Riekers addressed the Council and audience and explained the three different types of drowning: Fatal, Non-Fatal, and Dry. Mr. Riekers stated Lifeguards are trained to be pro-active to prevent any of the three types of drowning and these two lifeguards utilized their training and saved two lives.

5. Citizens to be heard.

At this time, comments limited to three (3) minutes will be taken from the audience from persons who have signed the speaker's card located on the table in the back of the Training Room of the Service Center and delivered to the City Secretary before the meeting begins, or written comments received by 4:00 p.m. on the day of the meeting, on any Agenda item or any subject matter, will be read at the meeting. Persons wishing to address the Council and who have registered using the Citizen Participation Form will have up to three minutes to speak. In accordance with the Open Meetings Act, Council may not discuss or take action on any item that has not been posted on the agenda. While civil public criticism is not prohibited, disorderly conduct or disturbance of the peace as prohibited by law shall be cause for the chair to terminate the offender's time to speak.

Ben Baron, 402 Cascades, addressed the Council. Mr. Baron commented he would like the Council to allocate money in the Fiscal Year 2023-2024 budget to solve some of the drainage problems in the Rockport Country Club. Mr. Baron said he has provided the City Secretary with a list of projects and if they are implemented it would eliminate all flooding in the Country Club.

Darrell Dean, 408 Cherry Hills, addressed the Council. Mr. Dean stated he would like to know when the Budget Workshop and Public Hearing is scheduled because the Rockport Country Club would like to be present to present their project requests.

Skip Carrier, 122 Cedar Ridge Drive, addressed the Council. Mr. Carrier stated there is an extremely dangerous deer situation in the area where he lives, and it is going to come to a hard head with someone getting hurt. Mr. Carrier expressed that something has to be done and that is why he is bringing his concern to Council tonight; at least it will provide a date-stamp – you have been warned.

Scott Hime, 1901 FM 3036, addressed the Council and commented on Agenda Item 11. Mr. Hime stated if the City has a legitimate need to borrow the storm-recovery money, then do so, but do not borrow the money if it will not be for storm-recovery things.

Consent Agenda

All consent agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

- 6. Deliberate and act on approval of City Council Regular Meeting Minutes of June 27, 2023.**
- 7. Deliberate and act on 3rd Quarter Report from Rockport Center for the Arts for Fiscal Year 2022-2023 marketing expenditures.**

Mayor Layroe called for requests to remove any item from the Consent Agenda for separate discussion.

MOTION Council Member Brundrett moved to approve the Consent Agenda Items, as presented. Council Member Hale seconded the motion. Motion carried unanimously.

Regular Agenda

- 8. Deliberate and act to confirm Mayoral appointments of City Council liaisons to various boards, committees and commissions.**

Mayor Layroe made the following City Council liaison appointments to the various boards, committees, and commissions:

- | | |
|--|--|
| 1) ARANSAS PATHWAYS
Council Liaison: Mayor Layroe | Alternate Liaison: Council Member Hale |
| 2) COASTAL BEND BAYS AND ESTUARIES
Council Liaison: Council Member Rangel | Alternate Liaison: Mayor Pro-Tem Hattman |
| 3) COASTAL BEND COUNCIL OF GOVERNMENTS
Council Liaison: Mayor Layroe | Alternate Liaison: Mayor Pro-Tem Hattman |
| 4) ECONOMIC DEVELOPMENT COUNCIL
Council Liaison: Mayor Layroe | Alternate Liaison: Mayor Pro-Tem Hattman |
| 5) PARK AND LEISURE SERVICES ADVISORY BOARD
Council Liaison: Council Member Brundrett | Alternate Liaison: Council Member Hale |

- 6) PLANNING & ZONING COMMISSION
Council Liaison: Council Member Hale
Alternate Liaison: Council Member Rangel
- 7) ROCKPORT CULTURAL ARTS DISTRICT
Council Liaison: Council Member Rangel
Alternate Liaison: Mayor Pro-Tem Hattman
- 8) ROCKPORT-FULTON CHAMBER OF COMMERCE
Council Liaison: Mayor Pro-Tem Hattman
Alternate Liaison: Council Member Brundrett
- 9) TREE LANDSCAPE COMMITTEE
Council Liaison: Mayor Pro-Tem Hattman
Alternate Liaison: Council Member Brundrett
- 10) BUILDING & STANDARDS COMMISSION &
ZONING BOARD OF ADJUSTMENT
Council Liaison: Council Member Brundrett
Alternate Liaison: Mayor Pro Tem Hattman
- 11) STORMWATER MANAGEMENT ADVISORY COMMITTEE
Council Liaison: Mayor Layroe
Alternate Liaison: Council Member Hale
- 12) TOURISM DEVELOPMENT COUNCIL
Council Liaison: Mayor Pro-Tem Hattman
Alternate Liaison: Council Member Rangel
- 13) SWIMMING POOL ADVISORY COMMITTEE
Council Liaison: Council Member Rangel
Alternate Liaison: Council Member Hale

MOTION Mayor Pro-Tem Hattman moved to confirm the Mayor's appointments of City Council liaisons to various boards, committees, and commissions. Council Member Brundrett seconded the motion. Motion carried unanimously.

9. Deliberate and act to re-appoint and appoint members to various City of Rockport boards, committees and commissions.

Discussion was held among Council regarding the re-appointment and appointment of members to various City of Rockport boards, committees, and commissions.

MOTION Council Member Brundrett moved to re-appoint the following: Shelly Schubert-Steckler to the Parks and Leisure Services Advisory Board; Warren Hassinger, Thomas Blazek, and Patricia A. Impens to the Planning and Zoning Commission; Shelly Steckler, Carla Rinche, and Ginger Easton Smith to the Tree and Landscape Committee; and Warren Hassinger, Patricia Bemrose, and Brandi Picton to the Zoning Board of Adjustment and Building and Standards Commission. Mayor Pro-Tem Hattman seconded the motion. Motion carried unanimously.

10. Hear, deliberate and act on requests for Fiscal Year 2023-2024 grant funds from the Hotel Occupancy Tax Fund Account from the following entities

- a. Rockport-Fulton Chamber of Commerce -Marketing
- i. Rockport-Fulton Chamber of Commerce – Seafair
- ii. Rockport-Fulton Chamber of Commerce – Summerbird

Shanon Biggerstaff, Tourism Coordinator, and Shelly Stuart, President and Chief Executive Officer of the Rockport-Fulton Chamber of Commerce addressed. They presented a request for \$385,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund.

b. Texas Maritime Museum

Justin Parkoff, Executive Director of the Texas Maritime Museum, addressed the Council. Mr. Parkoff presented a request for \$100,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund.

c. UTMSI – Bay Education Center

Sara Melendez, Education Specialist with the Bay Education Center addressed the Council. Ms. Melendez presented a request for \$15,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund.

d. Friends of the Fulton Mansion - Fulton Mansion State Historic Site

Pamela Black, Board President for the Fulton Mansion State Historical Site, addressed the Council. Ms. Black presented a request for \$50,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund.

e. Rockport Center for the Arts – Arts Culture & Humanities

Luis Purin, Executive Director of the Rockport Center for the Arts, addressed the Council. Mr. Purin presented a request for \$250,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund.

f. Rockport Conference Center – Hotel & Convention Industry

Luis Purin, Executive Director of the Rockport Center for the Arts, addressed the Council. Mr. Purin presented a request for \$170,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund.

g. Aransas County Council on Aging – Countiful Bowl

Ms. Mary Ellen Nies, Executive Director for Aransas County Council on Aging, addressed the Council. Ms. Nies presented a request for \$5,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund.

h. Rockport Yacht Club – Nautical Flea Market

There was no one at the meeting representing the Rockport Yacht Club to present their request for \$1,800 grant funds from the City of Rockport Hotel Occupancy Tax Fund.

i. Tropical Christmas

Gene Camargo, Director of the Parks and Leisure Services Department, addressed the Council. Mr. Camargo presented a request on behalf of the City of Rockport Parks and Leisure Services Department for \$70,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund for the annual Tropical Christmas event.

□ □ite Festival

Gene Camargo, Director of the Parks and Leisure Services Department, addressed the Council. Mr. Camargo presented a request on behalf of the City of Rockport Parks and Leisure Services Department for \$6,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund for the □ite Festival.

Council took a recess from 7:43 p.m. until 7:53 p.m.

□ Whooping Crane Strut

Gene Camargo, Director of the Parks and Leisure Services Department, addressed the Council. Mr. Camargo presented a request on behalf of the City of Rockport Parks and Leisure Services Department for \$7,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund for the annual Whooping Crane Strut event.

l. Public Art

City Manager Vanessa Shrauner addressed the Council. Ms. Shrauner presented a request on behalf of the City of Rockport for \$5,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund for Public Art for the new City Hall.

m. Event Support

Gene Camargo, Director of the Parks and Leisure Services Department, addressed the Council. Gene Camargo presented a request on behalf of the City of Rockport Parks and Leisure Services Department as well as other City Departments for \$35,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund for City Departments providing support in events held within the City of Rockport.

n. Rockport Cultural Arts District

□ennifer Day, Executive Director of the Rockport Cultural Arts District, and Warren Hassinger, Board President, addressed the Council. Ms. Day presented a request for \$129,900 grant funds from the City of Rockport Hotel Occupancy Tax Fund.

o. Christmas on the Beach

Marissa Hunter, President, and Shiloh Mitchell, Secretary for Christmas On The Beach, addressed the Council. They presented a request for \$8,190 grant funds from the City of Rockport Hotel Occupancy Tax Fund.

p. Rockport Little Theatre

George Sherman, Board President, addressed the Council. Mr. Sherman presented a request for \$94,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund.

q. Wendell Family Fund – 4th of July Fireworks

City Secretary Teresa Valdez stated Lisa Wendell had emailed and said they would not be able to attend the meeting tonight. Ms. Valdez said the Wendell Family Fund is requesting \$1,600 grant funds from the City of Rockport Hotel Occupancy Tax Fund.

r. Airplanes & Coffee

Cody Stewart, representing Airplanes & Coffee, addressed the Council. Mr. Stewart presented a request for \$25,000 grant funds from the City of Rockport Hotel Occupancy Tax Fund.

Discussion was held among Council.

MOTION Mayor Pro-Tem Hattman moved that the Fiscal Year 2023-2024 Budget provide Hotel Occupancy Tax Fund grant funds for the full amounts requested by the entities. Council Member Brundrett seconded the motion. Motion carried unanimously.

Mayor Layroe commented that the City has never been in a position where requests could be fully funded. Mayor Layroe expressed it was important for everyone to know that this cannot be done every year.

Council Member Hale encouraged those entities that use billboards to talk to each other and maximize efforts and not duplicate things.

Council Member Rangel encouraged proper use of the funds and wise use when it comes to advertising.

Council Member Brundrett commented the City is extremely blessed this year, but there may be lean years. Council Member Brundrett stated everyone should understand the City may not be able to do this in future years.

11. Deliberate and take action to either draw or reject the Community Development Loan (CDL) funds.

City Manager, Vanessa Shrauner noted a correction to the Agenda Item; it is a Community Disaster

Loan, not “development”. Ms. Shrauner stated the City was awarded \$5,000,000 to be spent by September 2022, and according to FEMA regulations, the City does not qualify for the forgiveness program. Ms. Shrauner said the loan is set at 3% and must be paid back by September 2028. Ms. Shrauner explained that in researching City Council Minutes, the money was included in budgets and spent, but never drawn from the loan. Ms. Shrauner stated a decision needs to be made as to whether to draw from the Community Disaster Loan for reimbursement to ourselves, or to decline the loan altogether.

Discussion was held between the Council and Ms. Shrauner.

MOTION Council Member Brundrett moved to follow staff’s recommendation to not withdraw from the Community Disaster Loan and work on a conservative budget until we are able to replenish our reserves. Mayor Pro-Tem Hattman seconded the motion. Motion carried unanimously.

12. City Manager Report

A. Projects.

City Manager Shrauner said she did not have a report.

13. Reports from Council.

At this time the City Council will report update on activities in respective Wards and all committee assignments which may include the following: Aransas County Alliance Local Government Corporation, Aransas Pathways Steering Committee, Building and Standards Commission, Coastal Bend Bays and Estuaries Program, Coastal Bend Council of Government, Coastal Bend Mayors Group, Parrish Leisure Services Advisory Board, Planning and Zoning Commission, Rockport-Fulton Chamber of Commerce, Aransas County Storm Water Management Advisory Committee, Swimming Pool Operations Advisory Committee, Tourism Development Council, Tree and Landscape Committee, MCA Development Committee, Texas Maritime Museum, Fulton Mansion, Rockport Center for the Arts, Aransas County, Aransas County Independent School District, Aransas County Navigation District, Town of Fulton, and Texas Municipal League. No formal action can be taken on these items at this time.

Council Member Rangel reported last weekend there were a lot of events and a lot of traffic. Council Member Rangel said she is working with residents and things are getting taken care of.

Council Member Brundrett reported the City had another successful and busy 4th of July.

Mayor Layroe reported he had attended the Stormwater Board meeting and they are still looking at coming up with a Master Drainage Plan for the County.

Executive Session

City Council will hold an executive session pursuant to the provisions of Chapter 551 of the Texas Government Code, in accordance with the authority contained in:

- 14. Section 551.071 Consultations with Attorney seeking the advice of attorney about pending or contemplated litigation or a settlement offer and on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter (A) Concho Street General Land Office (GL) drainage projects and (B) Stormwater permitting and related matters.**

Open Session

City Council will reconvene into open session pursuant to the provisions of Chapter 551 of the Texas Government Code to take any actions necessary related to the executive sessions noted herein, or regular agenda items, noted above, and/or related items.

An Executive Session was not held.

15. Adjournment.

At 8:36 p.m., Council Member Brundrett moved to adjourn. Motion was seconded by Council Member Hale. Motion carried unanimously.

APPROVED

Tim Mayroe, Mayor

ATTEST

Teresa Valdez, City Secretary

CITY COUNCIL AGENDA
Regular Meeting: Tuesday, July 25, 2023

AGENDA ITEM: 6

Deliberate and act on 3rd quarter report from the Rockport-Fulton Chamber of Commerce for Fiscal Year 2022-2023 marketing expenditures.

SUBMITTED BY: City Secretary Teresa Valdez

APPROVED FOR AGENDA: VRS

BACKGROUND: The Rockport-Fulton Chamber of Commerce has been allocated \$369,000.00 in Fiscal Year 2022-2023 Hotel Occupancy Tax (HOT) funds. According to our agreement with the Chamber, HOT funds are paid in advance and a report of the previous quarter's expenditures is required. See the accompanying 3rd quarter HOT expenditure report for additional information.

FISCAL ANALYSIS: Charged to account 6602001. Year to date expenses are \$277,464.18 out of \$369,000.00 budgeted.

STAFF RECOMMENDATION: Staff recommends approval of the Rockport-Fulton Chamber of Commerce Fiscal Year 2022-2023 Hotel Occupancy Tax funds 3rd quarter expenditures and authorization to disburse 4th Quarter funds in the amount of \$92,250.00, as presented.

Rockport-Fulton Area Chamber of Commerce, Inc.
Rockport Hotel Tax Account
April 1, 2023 through
June 30, 2023

HOT FUNDING EXPENSE REPORT 2022-2023							
Description of Expense	Approved Budget	1st Quarter Expenses	2nd Quarter Expenses	3rd Quarter Expenses	4th Quarter Expenses	Total	Number of Heads In Beds
Accounting Fees	1,150.00	-	-	-	-	-	-
Advertising and promotion	281,099.76	60,165.00	78,186.92	82,743.18	-	221,095.10	-
Bank & Card Fees	324.00	123.87	31.27	94.09	-	249.23	-
Conference Fees	3,275.00	25.00	-	-	-	25.00	-
Contract Services	3,333.24	-	-	-	-	-	-
Event funding assistance	-	-	-	-	-	-	-
Dues and Subscriptions	1,875.00	1,360.00	125.00	-	-	1,485.00	-
Equipment Lease & Maintenance	-	-	-	-	-	-	-
Food, beverages and meals	3,165.00	400.56	187.98	213.30	-	801.84	-
Maintenance and repairs	-	-	-	-	-	-	-
Mileage and travel	3,253.00	795.18	-	-	-	795.18	-
Postage and freight	1,365.00	-	-	-	-	-	-
Printing and publication	5,735.00	-	-	-	-	-	-
Prizes, gifts and awards	400.00	-	-	-	-	-	-
Rentals and fees	500.00	-	-	-	-	-	-
Supplies	225.00	-	-	-	-	-	-
Tax and License	-	-	-	-	-	-	-
Telephone	900.00	-	-	-	-	-	-
Telephone Internet Service	-	-	-	-	-	-	-
Utilities	-	-	-	-	-	-	-
Web site maintenance	6,000.00	3,750.00	-	-	-	3,750.00	-
Administrative services reimbursement	55,200.00	26,262.83	13,800.00	9,200.00	-	49,262.83	-
Inter Fund Support	-	-	-	-	-	-	-
							385,119
TOTAL REQUESTED	367,800.00	92,882.44	92,331.17	92,250.57	-	277,464.18	-

Description of Administrative Expenses	Current Fiscal Year Administrative Expenses Projection	Fiscal Year Administrative Actual Expenses	Percentage of Fiscal Year Projections
Administrative services reimbursement	55,200.00	49,262.83	89.24%
Totals	55,200.00	49,262.83	89.24%



**Quarterly Report on the Use of HOT Funds
2nd Quarter – April thru June 2023**

Best Coastal Small Town

The top 10 winners in the category Best Coastal Small Town
Are as follows:

- Bucksport – Maine
- Georgetown-South Carolina
- Southport-North Carolina
- **Rockport-Texas**
- Ocean Springs-Mississippi
- Bay Saint Louis-Mississippi
- Nags Head -North Carolina
- Del Mar-California

As a recipient of this award, we are able to use this logo in all media
including outdoor boards.



- **HummerBird Celebration/Seafair** – Planning for both 2023 events are well on their way. Mark your calendars. HummerBird is scheduled for September 14-17, and Seafair is set for October 6-8. Visit www.Rockport-Fulton.org for more information.
- **Aransas Pathways Committee** – Chamber assisted the committee with Press Releases on scheduled Birding Tours held April through May. Also assisted in developing a template for a monthly series to run in the Rockport Pilot featuring different Pathway activities each month. A Chamber Ribbon Cutting was held June 1st to celebrate the installation of a new Pathways Kiosk at 103 S. Magnolia. The Kiosk highlights the four features of Pathways; history, birding, hiking and biking and kayaking.
- **Attractions Committee**- Monthly meetings are held to secure dates of local events and activities for the Rockport-Fulton area. These events are promoted on our website, e-blasted to over 70,000 e-newsletter subscribers, promoted on social media, on statewide tourism websites and publications
- **Geocache**-There are currently 50 geocache in the Rockport-Fulton area. The Chamber continually works to visit and repair or replace cache items as needed.
- **Marketing and Promotion** - Featuring local events in the TourTexas.com Hot & Happening E-newsletter. Dedicated E-mail blasts in the San Antonio Report featuring Rockport-Fulton ads. Annual and local events forwarded to local and regional media monthly. Ad updates and placement in the Rockport Guide and Rockport Pilot Visitors Guide. Placement of local events in the Texas Events Spring publication. Billboard placement along IH-35, IH-37, IH-10, Hwy 281 and Hwy 59. TV ads run in San Antonio on KENS-TV, KSAT-TV and WOAI-TV. Weekly promotion of local events and activities on VisitRockportFulton Facebook page.

- **Weekly Radio Interviews**- Featuring “What’s Happening in Rockport-Fulton” with attraction managers and event organizers in Rockport-Fulton each month on three New Braunfels stations; New Braunfels Radio, The Ranch and The Patriot.
- **Committee Meetings** – Each month the Chamber meets with the Attractions, Aransas Pathways, Short Term Rental Council, RV Council, HummerBird Committee and Searfair Committee. Bi-monthly meetings are held with the Tourism Development Council and meetings with the Hotel/Lodging Council is held twice a year.
- Preparation and meeting with the **Tourism Development Council** on May 25th to review and approve the 2023-2024 marketing budget to be presented to city and county entities.
- The Chamber has formed a board and is working towards completion of their **Texas Music Friendly Community** certification.
- **Goodie Bags**- The Chamber prepared 300 bags filled with information about Rockport-Fulton for the Warbirds Over South Texas Memorial Day Fly-In in May and the Teacher’s Continued Education Conference in June.
- Kick off of the **Meal Mob** program. In an effort to promote business in local restaurants, each month a location is “mobbed” during lunch. This program is promoted on Facebook both locally and regionally. Featured Charlotte’s Plummer’s, Poor Man’s Country Club and Benchwarmers-Hudat Restaurant this quarter.
- Preparation and presentation of 1st quarter HOT tax reports to the city of Rockport, Aransas County and the Town of Fulton.
- Partnered with the Aransas County Historical Society and Historical Commission, the History Center for Aransas County and the Cultural Arts District to submit an application to the Texas Historical Commission to host the **Smithsonian Institution Traveling Exhibit**.
- Rockport-Fulton hosted the May monthly **Texas Coastal Bend Regional Tourism Council** partnership meeting.

FIND YOURSELF IN
ROCKPORT
FULTON

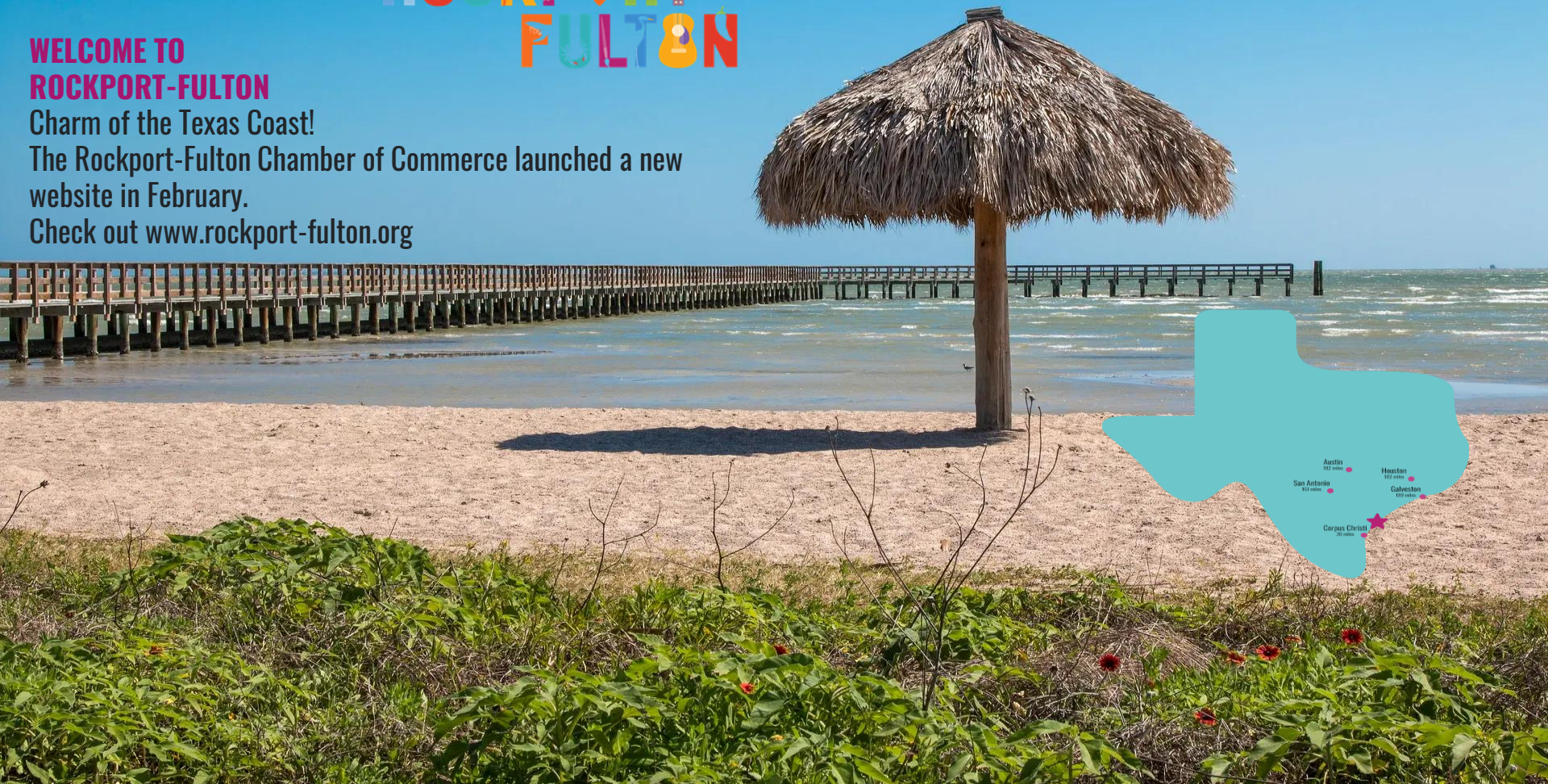
21

**WELCOME TO
ROCKPORT-FULTON**

Charm of the Texas Coast!

The Rockport-Fulton Chamber of Commerce launched a new website in February.

Check out www.rockport-fulton.org



BILLBOARDS

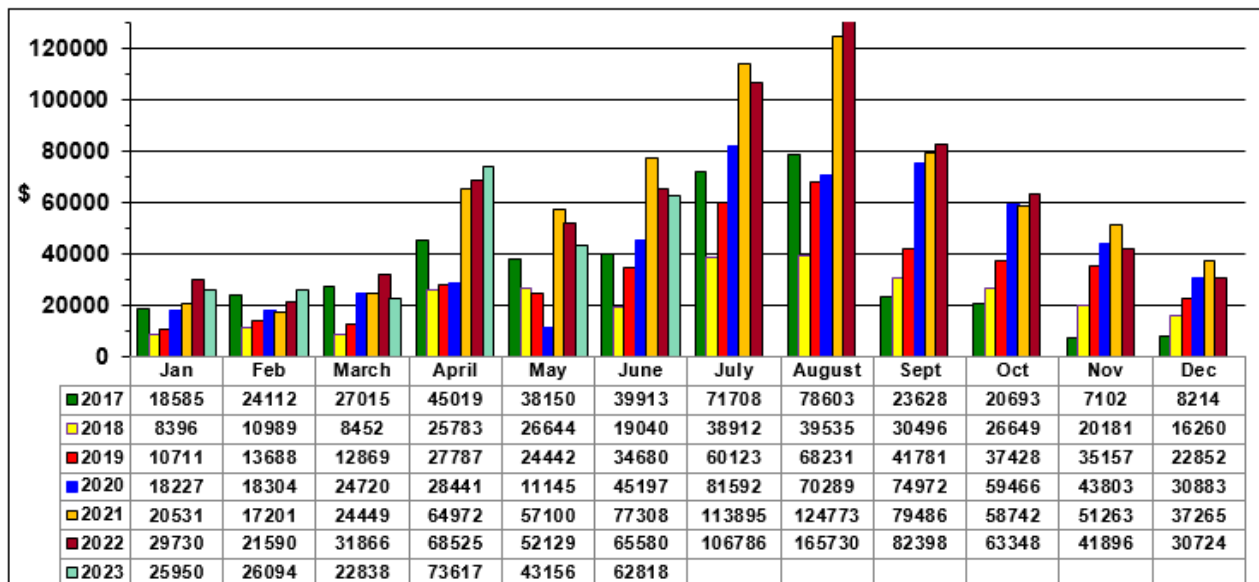
22

Market	Media Type	Unit #	Creative	Contract Dates	Install Date
Austin	10'6 x 36' Bulletin	63512	 	3/20/23 – 9/3/23	3/23/23
Houston	12' x 40' Bulletin	12807	 	3/20/23 – 9/3/23	3/21/23
San Antonio	14' x 48' Bulletin	4615	 	3/20/23 – 9/3/23	3/20/23
Victoria	14' x 48' Bulletin	11131	 	3/20/23 – 9/3/23	3/23/23
Waco-Temple	14' x 48' Bulletin	18102	 	3/20/23 – 9/3/23	3/15/23

ARANSAS COUNTY VENUE TAX COLLECTIONS (\$) BY MONTH FROM 2017 FORWARD

23

- After reporting the highest ever Venue Tax Collections during 2022, cumulative collections during the first six months of 2023 are a slight level below the same period of 2023, with the significant 3Q months not yet accounted for.

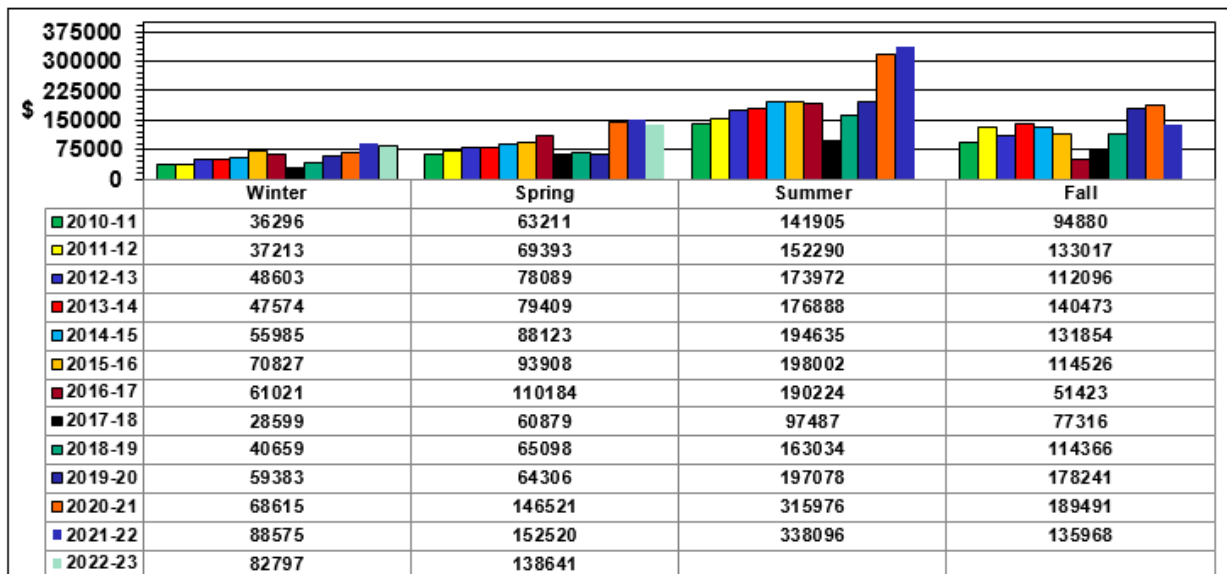


SOURCE: Aransas County Treasurer (Rounded Data)

ARANSAS COUNTY VENUE TAX REVENUE BY SEASON (SOURCE: ARANSAS COUNTY)

24

- When the Venue Tax data is aggregated by tourism seasons, there is linear seasonal growth over time – very significantly in Summer, significantly in Spring, and gradual in Winter. The Fall data is inconsistent over time.
- Summer, Spring, and Winter seasons have grown 144% since their respective baselines when tracking began in 2011. Growth in Fall has been less but is still up 43% over time.



Winter = December – January – February

Spring = March – April – May

Summer = June – July – August

Fall = September – October – November

Attendance Data Sheet	Apr 2023	May 2023	June 2023	2ND QTR
Visitor Data Distribution				
Outside of 70 Miles*	87.72%	81.74%	87.81%	85.76%
Local**	12.28%	18.26%	12.19%	14.24%
Total	100.00%	100.00%	100.00%	100.00%

***Highlights of Tourism > 70+ miles and major metro areas**

Austin	8.42%	12.98%	10.08%	10.50%
Dallas / Ft. Worth	6.32%	0.96%	6.72%	4.67%
Houston	5.26%	10.58%	5.46%	7.10%
San Antonio	9.12%	10.10%	26.05%	15.09%
Total major metro areas	29.12%	34.62%	48.31%	37.36%
Tourism from outside of Texas	36.49%	12.02%	21.85%	23.45%
Rural tourism beyond 70 miles	22.11%	35.10%	17.65%	24.95%
Total tourism from beyond 70 miles	87.72%	81.74%	87.81%	85.76%

** Local Visitors < 70 miles				
Rockport and Fulton	8.06%	10.10%	5.88%	8.01%
Corpus Christi	2.11%	2.88%	0.85%	1.95%
Victoria	0.00%	1.44%	2.10%	1.18%
Rural Areas	2.11%	3.84%	3.36%	3.10%
Total	12.28%	18.26%	12.19%	14.24%

Visitor Sign-In Log at the Rockport- Fulton Visitor Center



Print Creative



FIND YOURSELF IN
ROCKPORT FULTON

Digital Creative

27



FIND YOURSELF IN
ROCKPORT
FULTON

MODEL USING # OF HOTEL ROOMS AS BASE – 2Q 2023

28

Base = Rockport - Fulton # of Hotel Rooms 2QTR 2023

Base = Rockport - Fulton # of Hotel Rooms	2Q 2023
1. Number of Hotel Rooms in Rockport - Fulton (Source: Texas Comptroller)	1905
2. Number of Nights in 2Q 2023 (April - June)	91
3. Available Room Nights to Sell in Rockport - Fulton (1 * 2)	173,355
4. Rockport - Fulton Hotel Occupancy (Estimated by Source Strategies)	56.10%
5. Rockport - Fulton Rooms Nights Sold (3 * 4)	97,252
6. Number of Visitors in Each Room (Size of Party Assumption)	1.8
7. Number of Rockport - Fulton Hotel-based Visitors (5 * 6)	175,054
8. Average Number of Nights Spent in Rockport - Fulton (Assumption)	2.2
9. Number of "Heads in Beds" Rockport - Fulton (7 * 8)	385,119

Calculations by Prost Marketing, Inc
7/12/2023



Thank you!

Shelly Stuart, IOM, President/CEO

Rockport-Fulton Chamber of Commerce
319 Broadway
Rockport, TX 78382

Shanon Biggerstaff

Tourism Coordinator
Rockport-Fulton Chamber of Commerce
319 Broadway
Rockport, TX 78382



CITY COUNCIL AGENDA
Regular Meeting: Tuesday July 25, 2023

AGENDA ITEM: 7

Conduct a Public Hearing to consider a request to rezone property located at 607 Sunset Drive; also known as J Smith Survey, Acres .3078, City of Rockport, Aransas County, Texas, to R -2 (2nd Single Family Dwelling District) currently zoned R-1 (1st Single Family Dwelling District).

SUBMITTED BY: Asst Director Bldg. & Planning / Community Planner - Carey Dietrich

BACKGROUND: Property owners, April and Nathan Clark wish to rezone their property located at 607 Sunset, from R1 (1st Single Family Dwelling District) to R2 (2nd Single Family Dwelling District).

A public notice regarding this item was published in The Rockport Pilot in the Saturday, July 1, 2023 edition and mailed out to eight (8) property owners within a 200-foot radius of the property. No letters For and Two (2) Against the request have been received at this time.

Please see the accompanying zoning change request application and Section 118-7 of the Code of Ordinances for detailed information.

FISCAL ANALYSIS: N/A

RECOMMENDATION: No action required. Public Hearing only.



PUBLIC HEARING
Planning & Zoning Commission
and City Council

NOTICE is hereby given that the Planning & Zoning Commission will hold a Public Hearing on Monday, July 17, 2023, at 5:30 p.m. and the Rockport City Council will hold a Public Hearing on Tuesday, July 25, 2023 at 6:30 p.m., at the Rockport Service Center, 2751 State Highway 35 Bypass, Rockport, Texas, to consider a request to rezone property located at 607 Sunset Drive; also known as Smith Survey, .3078 acres, City of Rockport, Aransas County, Texas, to R-2 (2nd Single Family Dwelling District); currently zoned R-1 (1st Single Family Dwelling District).

Members of the public can view the meeting remotely via live stream at the address that will be provided on the Planning & Zoning Commission Agenda of July 17, 2023, and the City Council Agenda of July 25, 2023, and posted on the City's website www.cityofrockport.com.

Public participation is valued and citizens wishing to express their views during the Public Hearing can electronically submit a Citizen Participation Form in order to register to speak by going to <https://rockport.seamlessdocs.com/f/CouncilCitizenParticipation>, or if attending the meeting in person register at the meeting before the meeting begins. Using the same form, citizens can also provide written comments to the City Planner by 3:00 p.m. on the day of the Planning & Zoning Commission meeting or to the City Secretary by 4:00 p.m. on the day of the City Council meeting. The comments will be read at the meeting.

The City encourages citizens to participate and make their views known at the Public Hearings. For further information on this request, please contact the Building Department at (361) 790-1125.

POSTED the 27th day of June 2023 on the bulletin board at the Rockport Service Center, 2751 State Highway 35 Bypass, Rockport, Texas, and on the website www.cityofrockport.com.

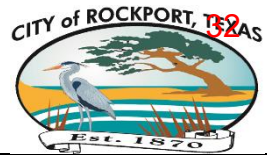
PUBLISHED in *The Rockport Pilot* in the Saturday, July 1, 2023, Edition, in accordance with the City of Rockport Code of Ordinances.

CITY OF ROCKPORT, TEXAS


Teresa Valdez, City Secretary

STAFF REPORT

Building & Development Services | Carey Dietrich, Community Planner
 2751 SH 35 Bypass, Rockport, TX 78362
 Phone: (361) 790-1125, x. 226 | Email: communityplanner@cityofrockport.com



PROPERTY ADDRESS/LOCATION
 607 Sunset

APPLICANT/PROPERTY OWNER
 April & Nathan Clark, Owner

PUBLIC HEARING DATE
 P&Z - Monday, Monday, July 17, 2023
 CC - Tuesday, July 25, 2023

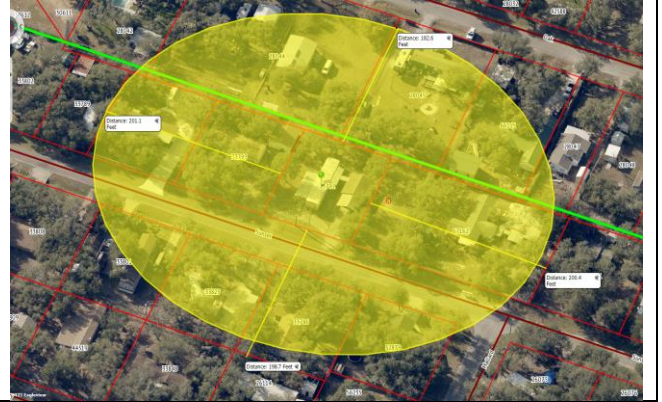
P&Z DATE
 Monday, July 17, 2023

CITY COUNCIL DATE(S)
 1st Reading - Tuesday, July 25, 2023
 2nd Reading - Tuesday, August 8, 2023

BRIEF SUMMARY OF REQUEST

Property owners, April and Nathan Clark wish to rezone their property located at 607 Sunset, from R1 (1st Single Family Dwelling District) to R2 (2nd Single Family Dwelling District).

A public notice regarding this item was published in The Rockport Pilot in the Saturday, July 1, 2023 edition and mailed out to eight (8) property owners within a 200-foot radius of the property. No letters For and Two (2) Against the request have been received at this time.



MAP SOURCE: Pictometry

EXISTING ZONING	EXISTING LAND USE	SURROUNDING ZONING & LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
R-1 – 1 st Single Family Dwelling District	Currently unoccupied	N – R-1 (1st Single Family Dwelling District) S – R-1 (1st Single Family Dwelling District) E – R-1 (1st Single Family Dwelling District) W – Not in City Limits	Manufactured Home demolished Garage/Carport gutted in preparation of remodel	.3078 acres Lot Size: 100X134.07

STAFF RECOMMENDATION**APPROVE****APPROVE WITH CONDITIONS****DENY****COMPATIBILITY with the ZONING ORDINANCE**

The Current Future Land Use Map suggests Residential Use

PROPERTY HISTORY

The manufactured home was damaged by Harvey and subsequently demolished. The garage/carport has been gutted in preparation of remodel

ATTACHMENTS
 (CIRCLE)

SUBMITTED PLANS

PUBLIC HEARING PETITION/
 APPLICATION FORM

LEGAL NOTICE

LEGAL DESCRIPTION

PUBLIC COMMENTS

AGENCY COMMENTS

RESPONSE TO STANDARDS

OTHER (DESCRIBE)

CITY COUNCIL AGENDA

Regular Meeting: Tuesday July 25, 2023

AGENDA ITEM: 8

Deliberate and act on first reading of an Ordinance amending Article 4 of the City of Rockport Zoning Ordinance Number 1027 by changing the zoning of land from R-1 (1st Single Family Dwelling District) for property located at 607 Sunset Drive; also known as .3078 acres J. Smith Survey, City of Rockport, Aransas County, Texas, to R -2 (2nd Single Family Dwelling District); repealing all ordinances in conflict therewith; providing for severability; and providing an effective date.

SUBMITTED BY: Carey Dietrich- Asst. Director Building & Development/ Community Planner

BACKGROUND: Property owners, April and Nathan Clark wish to rezone their property located at 607 Sunset, from R1 (1st Single Family Dwelling District) to R2 (2nd Single Family Dwelling District).

A public notice regarding this item was published in The Rockport Pilot in the Saturday, July 1, 2023 edition and mailed out to eight (8) property owners within a 200-foot radius of the property. No letters For and Two (2) Against the request have been received at this time.

Please see the accompanying zoning change request application and Section 118-7 of the Code of Ordinances for detail information.

RECOMMENDATION: Planning & Zoning Commission, by unanimous vote recommends Council APPROVE a request to rezone property located at 607 Sunset Drive; also known as J Smith Survey, Acres .3078, City of Rockport, Aransas County, Texas, to R -2 (2nd Family Dwelling District); currently zoned R-1 (1st Single Family Dwelling District).

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP AS STIPULATED UNDER ARTICLE 4.1 OF THE CITY OF ROCKPORT ZONING ORDINANCE NUMBER 1027 BY CHANGING THE ZONING OF LAND FROM R-1 (1ST SINGLE FAMILY DWELLING DISTRICT) FOR PROPERTY LOCATED AT 607 SUNSET DRIVE; ALSO KNOWN AS .3078 ACRES J SMITH SURVEY, CITY OF ROCKPORT, ARANSAS COUNTY, TEXAS; TO R -2 (2ND SINGLE FAMILY DWELLING DISTRICT); REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

- WHEREAS** a request to re-zone property was received in the office of the Building Department, Rockport, Texas; and
- WHEREAS,** On June 27, 2023, notice was posted on the bulletin boards at the City of Rockport Service Center, 2751 State Highway 35 Bypass, and on the City’s webpage www.cityofrockport.com; and
- WHEREAS,** on June 30, 2023, notice was mailed to affected property owners within 200’ of subject property; and
- WHEREAS,** on July 1, 2023, the City caused to be published “Notice of Public Hearing” in the official newspaper of the City notifying area residents and the public in general to participate and make their views known regarding this request; and
- WHEREAS,** on July 17, 2023, 2 at 5:30 p.m., the Planning & Zoning Commission did hold a Public Hearing, and on April 11, 2023, at 6:30 p.m., the Rockport City Council did hold a Public Hearing; and
- WHEREAS,** on July 17, 2023, the Planning & Zoning Commission did meet and said Commission voted to recommend to the City Council to Approve this request to re-zone property, located at 607 Sunset Dr from R-1 (1st Single Family Dwelling District) to R -2 (2nd Single Family Dwelling District).

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

SECTION 1 – AMENDMENT

That, pursuant to Article 4 of the City of Rockport Zoning Ordinance Number 1027, the current zoning of land located at 102 Saint Francis Circle; also known as .3078 Acres J Smith Survey, City of Rockport, Aransas County, Texas; be changed from R-1 (1st Single Family Dwelling District) to R -2 (2nd Single Family Dwelling District).

SECTION 2 - REPEALER

Any previously adopted ordinances, and any subsequent amendments to them, which are in conflict with this ordinance, are hereby repealed.

SECTION 3 - SEVERABILITY

It is the intention of the City Council of the City of Rockport that if any phrase, sentence, section, or paragraph of this ordinance shall be declared unconstitutional or otherwise invalid by final judgment of a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remainder of this ordinance since the same would have been enacted by the City Council without the incorporation of the unconstitutional or invalid phrase, sentence, section or paragraph.

SECTION 4 - EFFECTIVE DATE

This ordinance shall become effective immediately upon adoption by second and final reading.

APPROVED on first reading this the 25th day of July, 2023.

CITY OF ROCKPORT, TEXAS

Tim Jayroe, Mayor

ATTEST:

Teresa Valdez, City Secretary

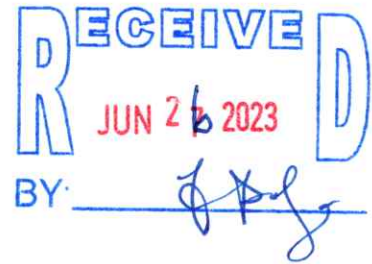
APPROVED, PASSED and ADOPTED on second and final reading, this _____ day of _____ 2023.

CITY OF ROCKPORT, TEXAS

Tim Jayroe, Mayor

ATTEST:

Teresa Valdez, City Secretary



**CITY OF ROCKPORT
ZONING AND LAND DEVELOPMENT APPLICATION**

INSTRUCTION: Please fill out completely. If more space is needed, attach additional pages. Please print or use typewriter.

A. REQUESTING: Rezoning [X] Conditional Permit []

Planned Unit Development (P.U.D.) by Conditional Permit []

B. ADDRESS AND LOCATION OF PROPERTY 607 1/2 Sunset
Rockport, Tx. 78382

C. CURRENT ZONING OF PROPERTY: R1

D. PRESENT USE OF PROPERTY: Under construction

E. ZONING DISTRICT REQUESTED: (2) R2 properties

F. CONDITIONAL USE REQUESTED: N/A

G. LEGAL DESCRIPTION: (Fill in the one that applies)

- Lot or Tract 0.31 Acres lying south of Block lot N0.105 large acres subdivided out of outlot NO. 30
- Tract of the Survey as per metes and bounds (field notes attached)

- If other, attach copy of survey or legal description from the Records of Aransas County or Appraisal District.

H. NAME OF PROPOSED DEVELOPMENT (if applicable) N/A

I. TOTAL ACREAGE OR SQ. FT. OF SITE(S): 0.31 acres

J. REASON FOR REQUEST AND DESCRIPTION OF DEVELOPMENT:
(Please be specific)

We purchased the abandoned property in March and removed the Hurricane-damaged ~~trailer~~ mobile home. We will be renovating the 670+ sqft garage into a 2/1 cottage on (1) R2 & Building a 3/2 ≈ 1,100 sqft cottage-style home on the 2nd R2.

K. OWNER'S NAME: (Please print) April + Nathan Clark
 ADDRESS: 207 Portia Ave.
 CITY, STATE, ZIP CODE: Rockport TX, 78382
 PHONE NO 361-232-3836

L. REPRESENTATIVE: (If Other Than Owner) Owner
 ADDRESS: _____
 CITY, STATE, ZIP CODE: _____
 PHONE NO _____

NOTE: Do you have property owner's permission for this request?

YES ✓ NO _____

M. FILING FEE:

REZONING	\$150.00 + \$10.00 PER ACRE
PLANNED UNIT DEVELOPMENT	\$200.00 + \$10.00 PER ACRE
P.U.D. REVISION	\$200.00 + \$10.00 PER ACRE
CONDITIONAL PERMIT	\$150.00 + \$10.00 PER ACRE

(Make check payable to the City of Rockport)

- Submit application and filing fee to the Department of Building & Development, City of Rockport, 2751 S.H. 35 Bypass, Rockport, Texas 78382.

Signed: April K. Clark
 (Owner or Representative)

(FOR CITY USE)

Received by: _____ Date: _____ Fees Paid: \$ _____

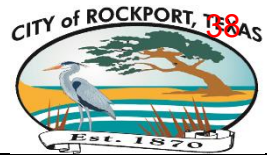
Submitted Information (_____ accepted) (_____ rejected) by: _____

If rejected, reasons why: _____

Receipt No. _____

STAFF REPORT

Building & Development Services | Carey Dietrich, Community Planner
 2751 SH 35 Bypass, Rockport, TX 78362
 Phone: (361) 790-1125, x. 226 | Email: communityplanner@cityofrockport.com



PROPERTY ADDRESS/LOCATION
 102 St Frances Circle

APPLICANT/PROPERTY OWNER
 Brian Phillips, Owner

PUBLIC HEARING DATE
 P&Z - Monday, Monday, April 3, 2023
 CC - Tuesday, April 11, 2023

P&Z DATE
 Monday, April 3, 2023

CITY COUNCIL DATE(S)
 1st Reading - Tuesday, April 11, 2023
 2nd Reading - Tuesday, April 25, 2023

BRIEF SUMMARY OF REQUEST

Property owner, Brian Phillips, desires to rezone property located at 102 Saint Francis Circle to allow for monitored outdoor parking. The property is 3.4 acres with 109 ft frontage on SH 35 Bypass.

A public notice regarding this item was published in The Rockport Pilot in the Saturday, March 18, 2023 edition and mailed out to eleven (11) property owners within a 200-foot radius of the property. Two (2) letters For and One (1) Against the request have been received at this time.



MAP SOURCE: Pictometry

EXISTING ZONING	EXISTING LAND USE	SURROUNDING ZONING & LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
R-1 – 1 st Single Family Dwelling District	undeveloped	N – R-1 (1st Single Family Dwelling District) Residential Dwelling S – R-1 (1st Single Family Dwelling District) Residential dwelling E – R-1 (1st Single Family Dwelling District) Commercial business Use W – Not in City Limits	None at this time	3.445 Acres

STAFF RECOMMENDATION

APPROVE

APPROVE WITH CONDITIONS

DENY

COMPATIBILITY with the ZONING ORDINANCE

The Future Land Use Map suggests Commercial Use

PROPERTY HISTORY

The property was replatted in 2022 to give SH 35 Bypass frontage to this parcel. The property is undeveloped.

There were two (2) property owners, Jim Riley and John Lucas, speaking against at the P&Z Regular meeting of 4/3/2023 but no letters of opposition have been received from either gentleman.

P&Z has recommended denial of the request

ATTACHMENTS
 (CIRCLE)

SUBMITTED PLANS

**PUBLIC HEARING PETITION/
 APPLICATION FORM**

LEGAL NOTICE

LEGAL DESCRIPTION

PUBLIC COMMENTS

AGENCY COMMENTS

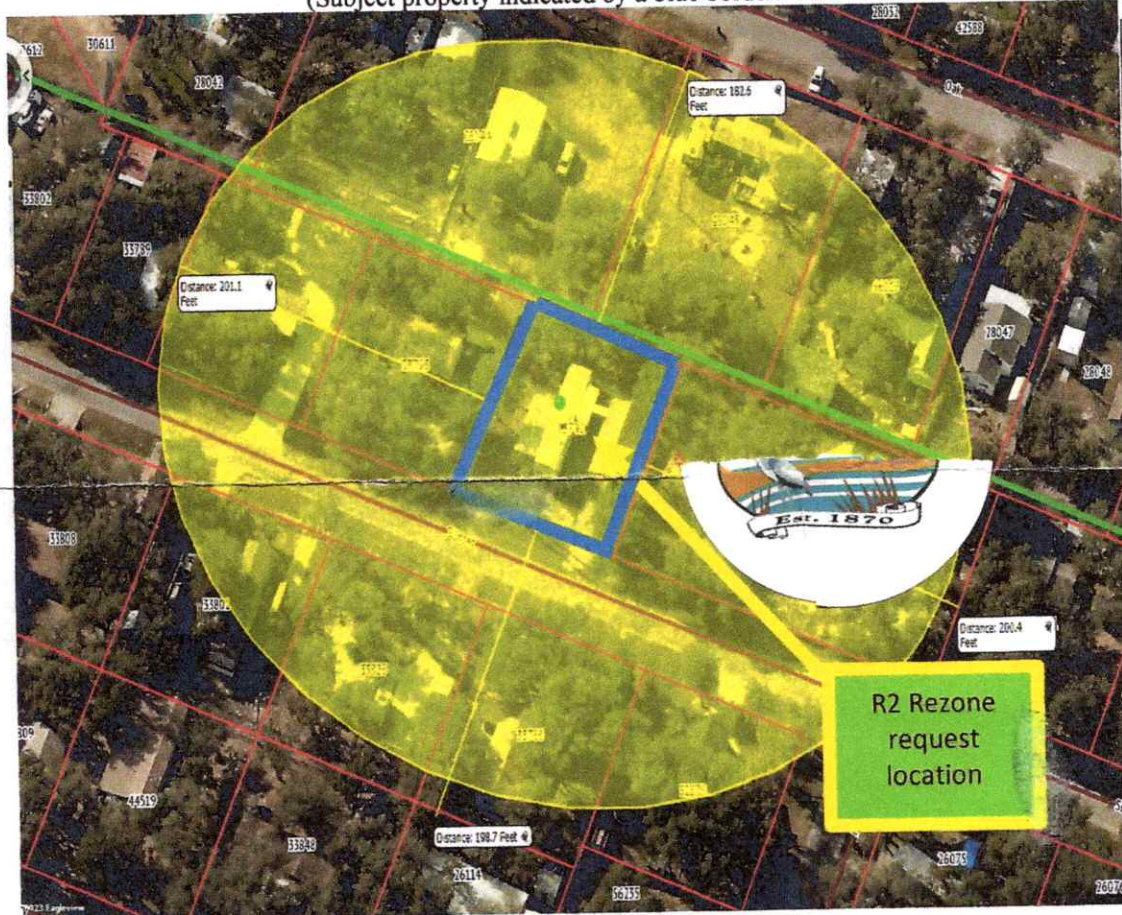
RESPONSE TO STANDARDS

OTHER (DESCRIBE)

<u>Property ID</u>	<u>Property Owner</u>	<u>Situs Address</u>	<u>Mailing Address</u>	<u>City</u>	<u>State</u>	<u>ZIP</u>
33792	April & Nathan Clark	607 Sunset Dr	207 Portia	Rockport	Tx	78382
33793	Gene & Patricia	613 Sunset Dr	163 Diamond J South	Pipe Creek	Tx	78063
33828	Larry & Donna Hill	615 Sunset Dr	27215 Kentoaks Dr	San Antonio	Tx	78260
67162	Miguel Gonzales Jr	525 Sunset Dr	525 Sunset Dr	Rockport	Tx	78382
52879	Cayla Martinez	2015 Mallard Dr	2015 Mallard Dr	Rockport	Tx	78382
33786	Adam Sprague	604 Sunset Dr	604 Sunset Dr	Rockport	Tx	78382
33825	Martin & Mary Lugo	608 Sunset Dr	8310 Real Dr	San Antonio	Tx	78263
33801	Berry Rowden	614 Sunset Dr	614 Sunset DR	Rockport	Tx	78382
33808	Herman & Peggy Dabbs	616 Sunset Dr	PO Box 675	Rockport	Tx	78381

Location Map of Proposed Change of Zoning Request

(Subject property indicated by a blue border. Notice area indicated in yellow.)



FAQ

Why am I receiving this notice?

Texas law requires that property owners within 200 feet of a zoning request be notified of the possible change to the property.

What do I do now?

It is your right to either object or support the proposed request. If you wish to do so, simply fill out this letter and return it to the City of Rockport by mail:

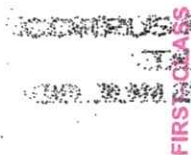
ATTN:

**Building Department
City of Rockport
2751 SH 35 Bypass
Rockport, TX 78382**

If you have any questions regarding this notice, please contact Carey Dietrich, Community Planner, at 361-790-1125, ext. 226.



City of Rockport
Building & Development Department
2751 S.H. 35 Bypass
Rockport, TX 78382



Larry & Donna Hill
27215 Kentoaks Dr
San Antonio, Tx 78260

SITUS ADDRESS: 615 Sunset Dr

7826085128 R010





PUBLIC HEARING
Planning & Zoning Commission
and City Council

NOTICE is hereby given that the Planning & Zoning Commission will hold a Public Hearing on Monday July 17, 2023, at 5:30 p.m. and the Rockport City Council will hold a Public Hearing on Tuesday, July 25, 2023, at 6:30 p.m., at the Rockport Service Center, 2751 State Highway 35 Bypass, Rockport, Texas, , to consider a request to rezone property located at 607 Sunset Drive; also known as J Smith Survey, Acres .3078, City of Rockport, Aransas County, Texas, to R -2 (2nd Single Family Dwelling District) currently zoned R-1 (1st Single Family Dwelling District).

Members of the public can view the meeting remotely via live stream at the address that will be provided on the Planning & Zoning Commission Agenda of July 17, 2023, and the City Council Agenda of July 25, 2023, and posted on the City's website www.cityofrockport.com.

Public participation is valued and citizens wishing to express their views during the Public Hearing can electronically submit a Citizen Participation Form in order to register to speak by going to <https://rockport.seamlessdocs.com/f/CouncilCitizenParticipation>, or if attending the meeting in person register at the meeting before the meeting begins. Using the same form, citizens can also provide written comments to the City Planner by 3:00 p.m. on the day of the Planning & Zoning Commission meeting or to the City Secretary by 4:00 p.m. on the day of the City Council meeting. The comments will be read and summarized in the minutes of the meeting.

The City encourages citizens to participate and make their views known at this Public Hearing. For further information on this request, please contact the Building Department at (361) 790-1125.

CITY OF ROCKPORT, TEXAS

/s/ Teresa Valdez, City Secretary

TO BE ON RECORD, THIS FORM MUST BE FILLED OUT, SIGNED BY THE CURRENT PROPERTY OWNER(S) AND MAILED IN ITS ENTIRETY TO THE BUILDING & DEVELOPMENT SERVICES DEPARTMENT, 2751 STATE HIGHWAY 35 BYPASS, ROCKPORT, TX 78382. ANY INFORMATION PROVIDED BELOW BECOMES PUBLIC RECORD.

Please see attached - We say "No"

NOTE: In accordance with the Open Meetings Act and Public Information Act, no discussion shall be held by a member or members of this Commission, either at home or office, or in person, by telephone call or by letter.

Printed Name: Larry & Donna Hill

Address: 615 Sunset

City/State: Rockport, TX

() IN FAVOR (✓) IN OPPOSITION

Phone: 210-213-5636

REASON: Please See Attached

Larry & Donna Hill
 Signature

See map on reverse side.

Members of Planning and Zoning Commission,

42

My wife and I own the home and double lot at 615 Sunset. To go on record to the Commission, we are in strong opposition to any and all rezoning attempts within our neighborhood.

Approximately (1) month ago, we stood in front of the Planning & Zoning Commission to discuss, as I remember a plea to rezone the double lot at 607 Sunset to be used to construct multi-family dwellings.

That proposal was dropped after the strong opposition to any rezoning that could result in the possibility of having short term rentals placed in a family oriented neighborhood.

Now we stand before the commission once again to attempt another rezoning, now to build a 2nd Single Family Dwelling on said lot.

We still have deep concerns and suspicions as to why it is necessary to rezone a double lot to build a 2nd Single Family Dwelling. We continue to be in opposition to any rezoning.

Rezoning for any reason that can be avoided only sets precedent, doubt, and mistrust. There is an option for avoiding any rezoning. There are single family dwellings up and down Sunset that are on single lots. This double lot at 607 Sunset could be re-surveyed into (2) single lots, also have separate Electric, Water, and Gas Meters installed as do other single lots currently have and with the correct building permits from the City of Rockport, a separate Single Family Dwelling structure can be squeezed onto each of them, built vertically on each re-surveyed lot. This would avoid any rezoning and alleviate any fears of such rezoning creating any opening to future detriment to a now very quiet, family setting we now enjoy.

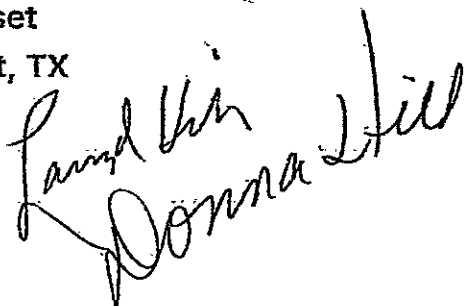
At the same time, each structure will have separate utility meters so that in the future, if individually sold, there wouldn't be any issue.

Thank you for hearing our concerns and alternative options. Our strongest apologies for not being able to attend this hearing in person,

Larry & Donna Hill

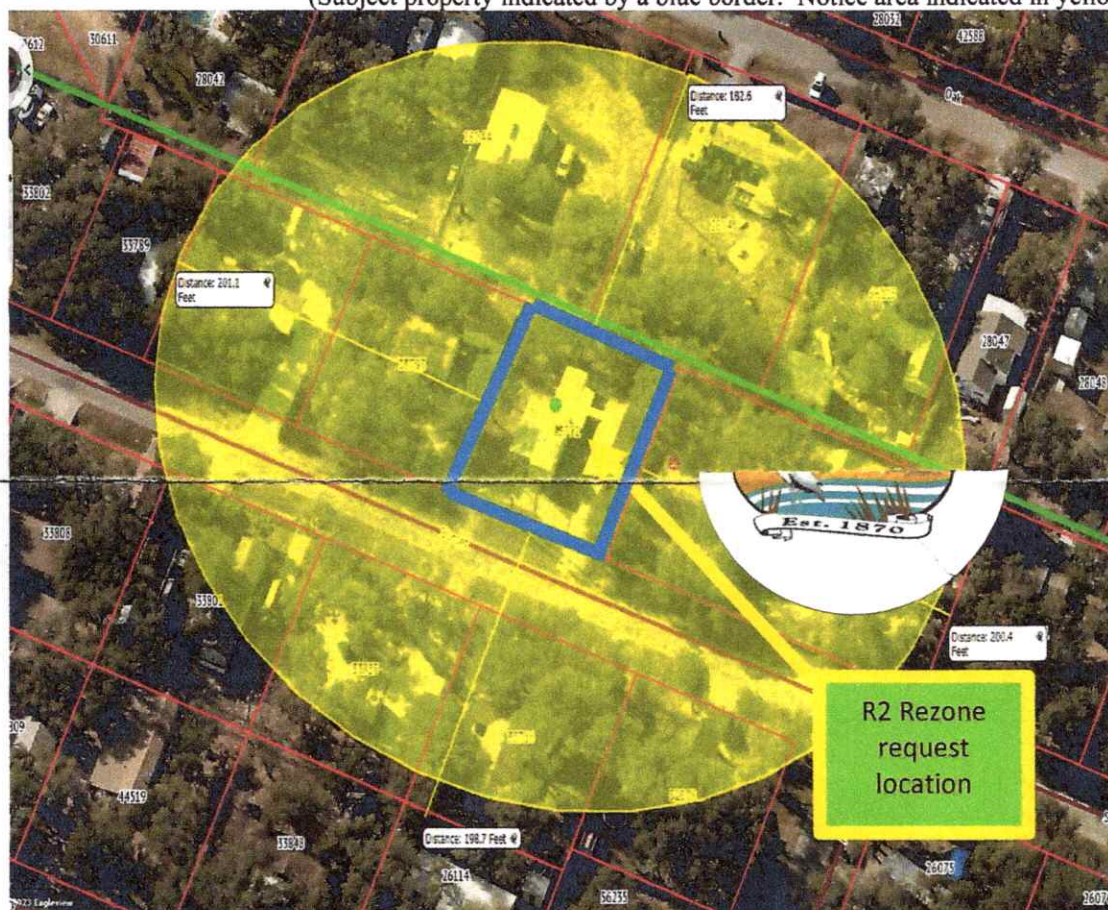
615 Sunset

Rockport, TX

A handwritten signature in black ink, appearing to read "Larry and Donna Hill", is written over the printed name and address.

Location Map of Proposed Change of Zoning Request

(Subject property indicated by a blue border. Notice area indicated in yellow.)



FAQ

Why am I receiving this notice?

Texas law requires that property owners within 200 feet of a zoning request be notified of the possible change to the property.

What do I do now?

It is your right to either object or support the proposed request. If you wish to do so, simply fill out this letter and return it to the City of Rockport by mail:

ATTN:

**Building Department
City of Rockport
2751 SH 35 Bypass
Rockport, TX 78382**

If you have any questions regarding this notice, please contact Carey Dietrich, Community Planner, at 361-790-1125, ext. 226.



City of Rockport
Building & Development Department
2751 S.H. 35 Bypass
Rockport, TX 78382



Gene & Patricia
163 Diamond J South
Pipe Creek, Tx78063

SITUS ADDRESS: 613 Sunset Dr

7806335418 H005





PUBLIC HEARING
Planning & Zoning Commission
and City Council

NOTICE is hereby given that the Planning & Zoning Commission will hold a Public Hearing on Monday July 17, 2023, at 5:30 p.m. and the Rockport City Council will hold a Public Hearing on Tuesday, July 25, 2023, at 6:30 p.m., at the Rockport Service Center, 2751 State Highway 35 Bypass, Rockport, Texas, , to consider a request to rezone property located at 607 Sunset Drive; also known as J Smith Survey, Acres .3078, City of Rockport, Aransas County, Texas, to R -2 (2nd Single Family Dwelling District) currently zoned R-1 (1st Single Family Dwelling District).

Members of the public can view the meeting remotely via live stream at the address that will be provided on the Planning & Zoning Commission Agenda of July 17, 2023, and the City Council Agenda of July 25, 2023, and posted on the City's website www.cityofrockport.com.

Public participation is valued and citizens wishing to express their views during the Public Hearing can electronically submit a Citizen Participation Form in order to register to speak by going to <https://rockport.seamlessdocs.com/f/CouncilCitizenParticipation>, or if attending the meeting in person register at the meeting before the meeting begins. Using the same form, citizens can also provide written comments to the City Planner by 3:00 p.m. on the day of the Planning & Zoning Commission meeting or to the City Secretary by 4:00 p.m. on the day of the City Council meeting. The comments will be read and summarized in the minutes of the meeting.

The City encourages citizens to participate and make their views known at this Public Hearing. For further information on this request, please contact the Building Department at (361) 790-1125.

CITY OF ROCKPORT, TEXAS

/s/ Teresa Valdez, City Secretary

TO BE ON RECORD, THIS FORM MUST BE FILLED OUT, SIGNED BY THE CURRENT PROPERTY OWNER(S) AND MAILED IN ITS ENTIRETY TO THE BUILDING & DEVELOPMENT SERVICES DEPARTMENT, 2751 STATE HIGHWAY 35 BYPASS, ROCKPORT, TX 78382. ANY INFORMATION PROVIDED BELOW BECOMES PUBLIC RECORD.

NOTE: In accordance with the Open Meetings Act and Public Information Act, no discussion shall be held by a member or members of this Commission, either at home or office, or in person, by telephone call or by letter.

Printed Name: Patricia Smith

Address: 613 Sunset

City/State: _____

() IN FAVOR (X) IN OPPOSITION

Phone: 210 508 3875

REASON:

see attached

Patricia Smith
 Signature

See map on reverse side.

City of Rockport
 Building and Development Department
 2751 S.H. 35 Bypass
 Rockport, Texas 78382

RE: Proposed rezoning of property located at 607 Sunset Drive, Rockport, Texas

Dear Sir or Madam:

Here we are again. What I heard from the Planning and Zoning commission at the last meeting about a month ago was that they were not in favor of SPOT REZONING. It sets a bad precedent and could lead to others requesting a similar requests. It would change the current character of the neighborhood.

Please accept this letter as a formal opposition to the proposed rezoning of the above referenced property from "1st Single Family Dwelling District" to "2nd Single Family Dwelling District". For identification purposes, we are the owners of properties that either adjoin the above referenced property, or are located within close proximity of the above referenced property.

We oppose the proposed rezoning of the above referenced property for the following reasons:

1. We fear that the use of the subject property will add an unnecessary impact to the traffic on Sunset Drive, a narrow street with multiple existing residences;
2. No mistakes were made when the neighborhood was initially zoned as single family dwelling use, and there have been no changes in circumstances that would justify the rezoning of the above referenced property;
3. There is sufficient land within the City of Rockport for higher density residential use, and there is no need to rezone a single tract within a neighborhood that is otherwise zoned as single family use;
4. It is likely that the proposed rezoning of the subject property will lead to the construction of small duplexes on the property (it is only .30 acre in size) that will be occupied by transients who are vacationing in the area, with no consistent and steady occupants. This will change the character of the neighborhood from one in which the residents are familiar with and accustomed to one another (thereby providing a sense of security), to one in which there is a flow of visitors in and out of the neighborhood; and
5. We are concerned that the proposed rezoning of the subject property will negatively impact the value of our properties.
6. Additional flooding could occur in an area that already floods due to additional cover of property

I don't understand the urgency of rezoning Why don't they just subdivide the property into two single lots from this double lot. Then rezoning would not be necessary and could have two single family lots with water, sewer, garbage and electric connections, just like all the other properties. The city would loose money if only one connection is allowed for two residences.

It took 7 years after HARVEY to clean up lot and get rid of red tagged mobile home. For that we are thankful. When fences were down we put up new fence dividing property and did not ask Ms Betty to contribute. We knew her situation and had mowed her grass many times after the passing of Mr Marvin, as did other neighbors.

We are completely AGAINST rezoning the lot in question, if renting out the property is the end game, build one larger dwelling or move in a mobile home and rent it out.

The current makeup of the neighborhood should not change due one property owners desires. We were not crazy about being annexed by the city, but the city should provide the continuity of same zoning for all residents

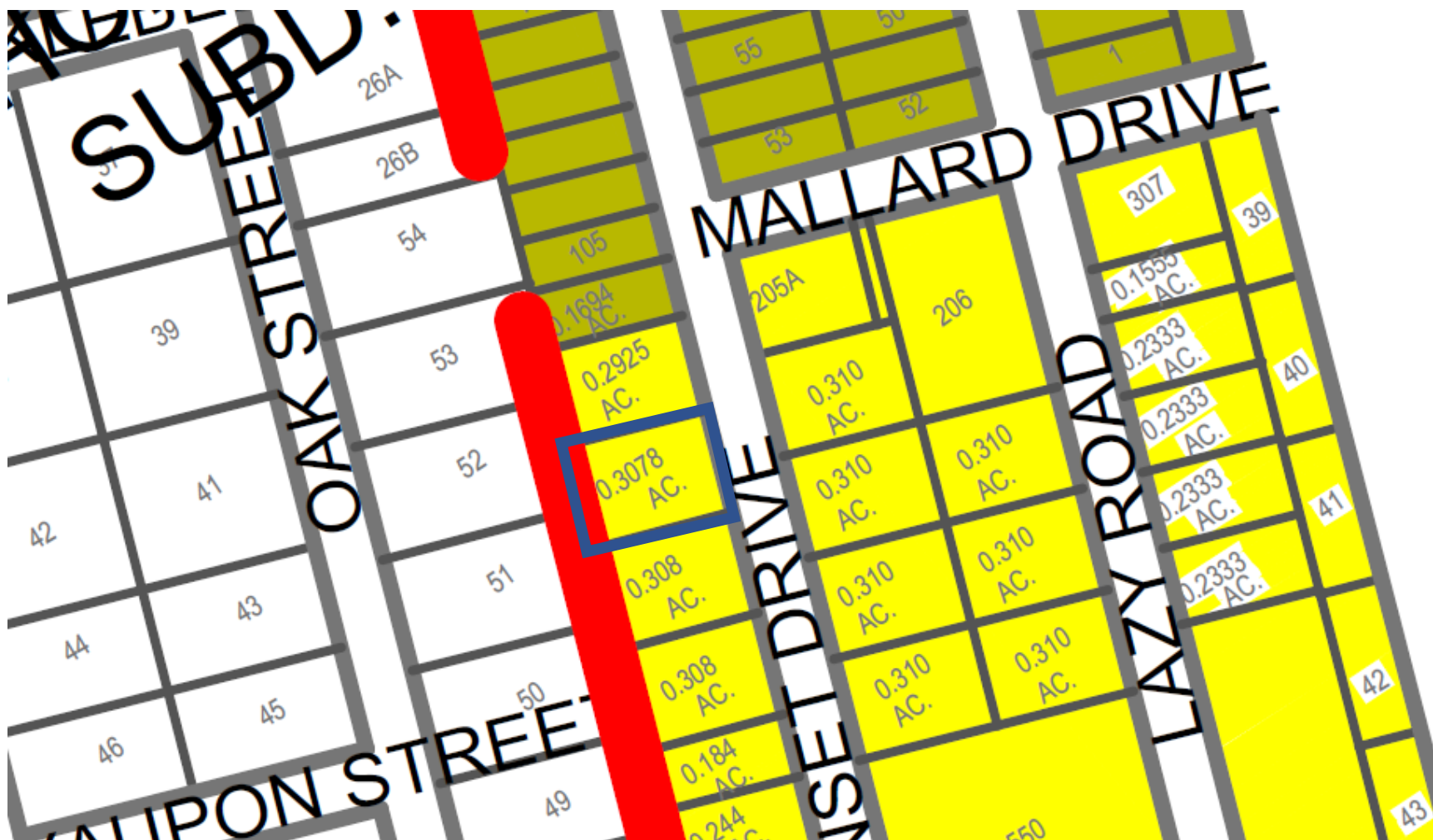
No matter who you are, SPOT REZONING should not be an available option.

For the above reasons, we ask that the request to rezone the above referenced property be denied.
Thank you for your time and for you serving on this committee.

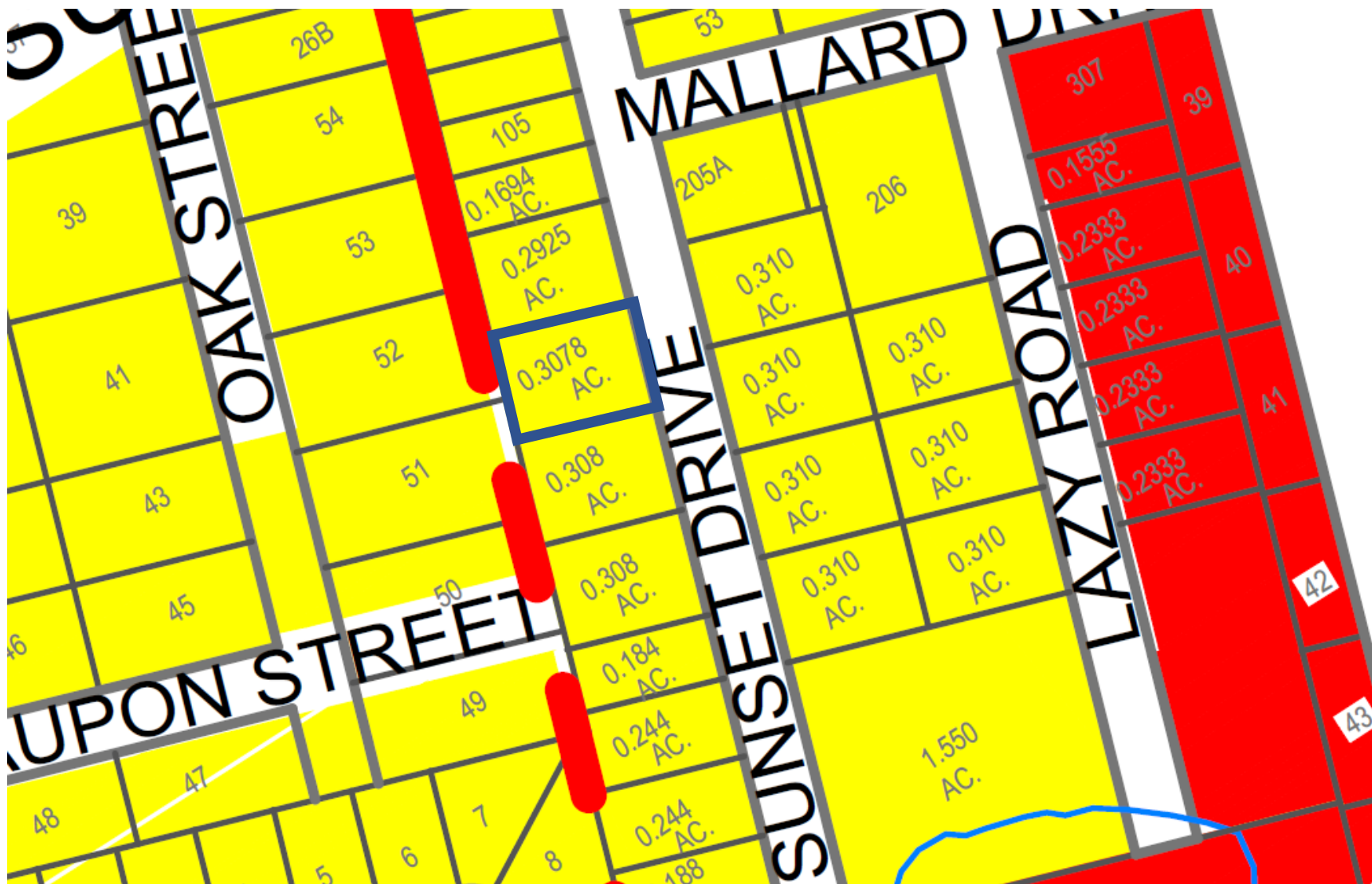
Patricia Smith

Patricia Smith
Gene Smith

ZONING MAP



FUTURE LAND USE MAP



CITY COUNCIL AGENDA
Regular Meeting: Tuesday, July 11, 2023

AGENDA ITEM: 9

Deliberate and act on proposed Professional Service Agreement by and between the City of Rockport and Freese and Nichols, Inc. (FNI) for the study and update of Water and Wastewater Impact Fees.

SUBMITTED BY: Asst Director Building & Development / Community Planner - Carey Dietrich

APPROVED FOR AGENDA: VRS

BACKGROUND: The City of Rockport adopted Impact Fees in November of 1999. I can find no record of an update to the plan since that time and it is recommended to update every 5 years. There are sufficient funds in the Impact Fees account to cover the cost of the study.

An updated Impact Fee plan will include an updated Impact Fee CIP which will allow use of the funds for approved utility projects.

Please see the accompanying Ordinance No. 1128 establishing Impact Fees and Section 22-400 through 22-421 of Code of Ordinances for detail information.

FISCAL ANALYSIS: N/A

RECOMMENDATION: Staff recommends approval of the proposed Professional Service Agreement by and between the City of Rockport and Freese and Nichols, Inc. (FNI) for the study and update of Water and Wastewater Impact Fees.

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF TARRANT §

This Agreement is entered into by City of Rockport, TX (City) and Freese and Nichols, Inc. (FNI). In consideration of FNI providing professional services for City and City utilizing these services, the parties hereby agree:

- I. **EMPLOYMENT OF FNI:** In accordance with the terms of this Agreement, City agrees to engage and compensate FNI to perform professional services in connection with the Project. The Project is described as a Water and Wastewater Impact Fee Study.
- II. **SCOPE OF SERVICES:** FNI shall render professional services in connection with the Project as set forth in Attachment SC – Scope of Services and Responsibilities of City which is attached to and made a part of this Agreement.
- III. **COMPENSATION:** City agrees to pay FNI for all professional services rendered under this Agreement. FNI shall perform professional services under this Agreement for a lump sum fee of \$260,680.00.
- IV. **TERMS AND CONDITIONS OF AGREEMENT:** The Terms and Conditions of Agreement, as set forth in Attachment TC – Terms and Conditions of Agreement, shall govern the relationship between the City and FNI.
- V. **GOVERNING LAW; VENUE:** This Agreement shall be administered and interpreted under the laws of the State of Texas. Venue of any legal proceeding involving this Agreement shall be in Aransas County, Texas.
- VI. **EFFECTIVE DATE:** The effective date of this Agreement is July 25, 2023.

Nothing in this Agreement shall be construed to give any rights or benefits under this Agreement to anyone other than the Client and FNI. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the Client and FNI and not for the benefit of any other party. This Agreement constitutes the entire agreement between the Client and FNI and supersedes all prior written or oral understandings.

This Agreement is executed in two counterparts. IN TESTIMONY HEREOF, Agreement executed:

City of Rockport, TX

FREESE AN

By: _____

By: _____ 

Name: _____

Name: S _____

Title: _____

Title: Principal _____

Date: _____

Date: 6/28/23 _____

Attest: _____

Attest: _____

City of Rockport Water and Wastewater Impact Fee Study

Project Understanding

It is the understanding of Freese and Nichols, Inc. (FNI) that the City of Rockport (City) is requesting assistance to conduct a Water and Wastewater Impact Fee Study. The study will consist of developing Land Use Assumptions (LUAs) and Capital Improvements Plan (CIP) as required in Chapter 395 of the Texas Local Government Code. The study will be coordinated through a Capital Improvements Advisory Committee, to be appointed by the City, and a Public Hearing process through the Rockport City Council.

Task A: Project Management and Data Collection

- A1. Project Kick-Off Meeting: FNI will conduct an in-person meeting to discuss the project approach and schedule. A data request memorandum will be prepared and submitted for discussion of available data and data requirements.
- A2. Data Collection and Review: FNI will collect and compile information from the City related to the impact fee study. The data may include historical water usage and wastewater flow data, GIS data, as-built drawings, water billing data, SCADA records, and financial information.
- A3. Project Management Activities: FNI will conduct routine project management activities including monthly progress reports, project accounting, invoicing, and project coordination.

Task B: Land Use Assumptions

- B1. Land Use Workshop: FNI will conduct a virtual meeting to discuss existing and future service areas, historical growth rates, anticipated future land use, and information on impending/proposed development. The goal of the workshop is to gain an understanding of the City's vision for growth in the water and wastewater systems and to determine the approach for the development of land use assumptions.
- B2. Develop Land Use Assumptions: FNI will develop existing, 10-year, and 25-year land use assumptions using existing and future land use from the recent comprehensive plan as well as information collected from City staff.
- B3. Progress Meeting #1 – Land Use Assumptions: FNI will attend an in-person meeting with City staff to present the draft land use assumptions.
- B4. Revise Land Use Assumptions: Based on comments received at the progress meeting, FNI will revise the land use assumptions and provide updated maps/tables showing the revised land use assumptions.
- B5. Advisory Committee Presentation #1 – Land Use Assumption: FNI will conduct a presentation to the Capital Improvements Advisory Committee to present an overview of impact fees and the land use assumptions. FNI will prepare presentation materials and exhibits to be used during the presentation.

Task C: Capital Improvements Plan

- C1. Update Water and Wastewater System Models: FNI will review the City's existing hydraulic models and update or rebuild using GIS data and as-built drawings for pumping, storage, and control valve facilities. The models will consist of all lines 8-inch and larger.
- C2. Conduct Temporary Pressure Testing: FNI will identify locations for field testing based on model calibration needs and areas of concern from the City. Up to eight (8) pressure recorders will be furnished by FNI. Procedures for field testing will be prepared showing proposed location of testing, duration of testing, required SCADA data during testing period, and assistance from water utility department. The City will be responsible for installing and removing the pressure recorders on the designated fire hydrants.
- C3. Obtain and Evaluate SCADA Data: FNI will obtain water system SCADA records for the temporary field pressure testing period. SCADA data will be used for system operations planning, development of diurnal curves, and to assist in model calibration.
- C4. Develop Water Demand and Wastewater Flow Projections: FNI will obtain and evaluate historical water usage and wastewater flow data to develop trends and calculate peaking factors. Water demand and wastewater flow projections for existing, 10-year, and 25-year conditions will be calculated using the future land use assumptions and selected design criteria consistent with historical data. FNI will distribute demands and flow throughout the service area based on the existing and future population distribution.
- C5. Validate Water and Wastewater Models: FNI will conduct steady-state model verification runs for the water and wastewater system models. Modeling parameters will be adjusted so that the models represent real-world operational conditions.
- C6. Progress Meeting #2 – Projections and Model Development: FNI will conduct a virtual meeting to present the water demand and wastewater flow projections as well as the results of the model development. Design criteria for CIP development will also be discussed.
- C7. Conduct Water and Wastewater System Modeling: FNI will conduct hydraulic modeling for existing, 10-year, and 25-year conditions. Water system modeling will consist of average day, maximum day, and peak hour. Wastewater system modeling will consist of peak wet weather flow conditions.
- C8. Evaluate Pumping and Storage Capacity: FNI will evaluate existing and future pumping capacity with regards to TCEQ requirements and general industry recommendations. Ground and elevated storage will also be evaluated.
- C9. Identify Water and Wastewater System Improvements: FNI will utilize modeling results to identify system improvements required to support growth for the 10-year and 25-year conditions. The City's currently proposed water and wastewater projects will be reviewed to determine if the projects are needed based on the updated growth projections.
- C10. Progress Meeting #3 – System Improvements: FNI will conduct an in-person meeting with City staff to present the recommended water and wastewater system improvements.

- C11. Develop Water and Wastewater Capital Improvements Plan (CIP): FNI will develop prioritization and planning-level costs for each proposed project in current year dollars including engineering and contingencies. Large scale citywide maps will be produced showing proposed projects, costs, and phasing. Projects phased in the 10-year planning period will be considered impact fee eligible.
- C12. Advisory Committee Presentation #2 – CIP: FNI will conduct a presentation to the Capital Improvements Advisory Committee to present the recommended Capital Improvements Plan. FNI will prepare presentation materials and exhibits to be used during the presentation.

Task D: Impact Fee Calculations

- D1. Identify Existing Projects Eligible for Impact Fee Cost Recovery: FNI will review recently completed water and wastewater improvements and determine which projects have excess capacity to serve future growth and are eligible for inclusion in the impact fee calculations.
- D2. Conduct Impact Fee Capacity Analysis: FNI will utilize the water and wastewater models developed as part of Task C to analyze the available capacity of each project to serve the projected 10-year growth.
- D3. Calculate Project Costs Eligible for Impact Fee Cost Recovery: FNI will utilize the capacity analysis and project costs to calculate the percentage of project costs that are eligible for impact fee cost recovery.
- D4. Develop Service Unit Equivalents (SUEs) for Water and Wastewater Systems: FNI 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.
- D5. Calculate Maximum Allowable Impact Fees: FNI will develop maximum allowable water and wastewater impact fees using the 50% credit method based on the existing and proposed capital improvement costs to support 10-year growth based on projected increase in SUEs.
- D6. Progress Meeting #4 – Impact Fee Calculations: FNI will conduct an in-person meeting with City staff to present the results of the impact fee calculations.
- D7. Advisory Committee Presentation #3 – Maximum Allowable Impact Fees: FNI will conduct a presentation to the Capital Improvements Advisory Committee to present the impact fee calculations. FNI will prepare presentation materials and exhibits to be used during the presentation.
- D8. Develop Impact Fee Report: FNI will prepare a draft report documenting the methodology and results of the impact fee calculations. An electronic PDF file of the draft report will be submitted for City review. City will provide written comments for any requested changes to the draft report. FNI will address City comments and revise report. An electronic PDF file and five hard copies of the final report will be submitted to the City.

Task E: Public Hearing Process

- E1. Impact Fee Resolutions/Ordinance Support: The City will lead in the development of required Council resolution language and ordinance development throughout the impact fee process. Resolutions are required to appoint the Capital Improvements Advisory Committee and to call the of public hearings. Ordinances of adoption are required with each public hearing. FNI will assist the City in the development of ordinances by providing examples from other Texas cities.
- E2. City Council Presentation: FNI will attend and present information related to the water and wastewater impact fee calculations at a City Council meeting. Typically, this presentation is conducted at the Council meeting when the public hearing date is established.
- E3. Public Hearing: FNI will attend the Impact Fee Public Hearing. FNI will be available to present information and/or answer questions from City Council and citizens during the public hearing. FNI will also assist in the development of notification language for the public hearing advertisement.
- E4. Impact Fee Benchmarking: To support in consideration of collection rates, FNI will develop comparison tables showing impact fees assessed by other Texas cities. City Staff will identify up to ten (10) area or peer cities for the comparison.

Summary of Meetings:

- Kick-off Meeting (in-person)
- Land Use Workshop (virtual)
- Progress Meeting #1 – Land Use Assumptions (in-person)
- Progress Meeting #2 – Projections and Model Development (virtual)
- Progress Meeting #3 – System Improvements (in-person)
- Progress Meeting #4 – Impact Fee Calculations (in-person)
- Advisory Committee Presentation #1 – Land Use Assumptions (in-person)
- Advisory Committee Presentation #2 – CIP (in-person)
- Advisory Committee Presentation #3 – Maximum Allowable Impact Fees (in-person)
- City Council Presentation (in-person)
- Public Hearing (in-person)

TERMS AND CONDITIONS OF AGREEMENT

1. **DEFINITIONS:** As used herein: (1) City refers to the party named as such in the Agreement between the City and FNI; (2) FNI refers to Freese and Nichols, Inc., its employees and agents, and its subcontractors and their employees and agents; and (3) Services refers to the professional services performed by FNI pursuant to the Agreement.
2. **INFORMATION FURNISHED BY CITY:** City will assist FNI by placing at FNI's disposal all available information pertinent to the project, including previous reports and any other data relative to design or construction of the project. FNI shall have no liability for defects or negligence in the Services attributable to FNI's reliance upon or use of data, design criteria, drawings, specifications, or other information furnished by City. To the fullest extent permitted by law, City agrees to indemnify and hold FNI harmless from any and all claims and judgments, and all losses, costs, and expenses arising therefrom. FNI shall disclose to City, prior to use thereof, defects or omissions in the data, design criteria, drawings, specifications, or other information furnished by City to FNI that FNI may reasonably discover in its review and inspection thereof.
3. **STANDARD OF CARE:** FNI will perform all professional services under this Agreement with the professional skill and care ordinarily provided by competent members of the subject profession practicing under the same or similar circumstances and professional license as expeditiously as is prudent considering the ordinary professional skill and care of a competent member of the subject profession. FNI makes no warranties, express or implied, under this Agreement or otherwise, in connection with any Services performed or furnished by FNI.
4. **INSURANCE:** FNI shall provide City with certificates of insurance with the following minimum coverage:

<u>Commercial General Liability</u>	<u>Workers' Compensation</u>
\$2,000,000 General Aggregate	As required by
Statute <u>Automobile Liability (Any Auto)</u>	<u>Professional Liability</u>
\$1,000,000 Combined Single Limit	\$3,000,000 Annual Aggregate

FNI will add the City as an Additional Insured on all insurance policies with the exception of Workers Compensation and Professional Liability.

5. **CHANGES:** City, without invalidating the Agreement, may order changes within the general scope of Services required by the Agreement by altering, adding, and/or deducting from the Services to be performed. If any such change under this clause causes an increase or decrease in FNI's cost or time required for the performance of any part of the Services, an equitable adjustment will be made by mutual agreement and the Agreement will be modified in writing accordingly.

FNI will make changes to the drawings, specifications, reports, documents, or other deliverables as requested by City. However, when such changes differ from prior comments, directions, instructions, or approvals given by City or are due to causes not solely within the control of FNI, FNI shall be entitled to additional compensation and time required for performance of such changes to the Services authorized under this Agreement.

6. **OPINION OF PROBABLE CONSTRUCTION COSTS:** No fixed limit of project construction cost shall be established as a condition of the Agreement, unless agreed upon in writing and signed by the parties hereto. If a fixed limit is established, FNI shall be permitted to include contingencies for design, bidding, and price escalation in the construction contract documents to make reasonable

adjustments in the scope of the project to adjust the project construction cost to the fixed limit. Such contingencies may include bid allowances, alternate bids, or other methods that allow FNI to determine what materials, equipment, component systems, and types of construction are to be included in the construction contract documents. Fixed limits, if any, shall be increased by the same amount as any increase in the contract price after execution of the construction contract.

FNI will furnish an opinion of probable construction or program cost based on present day pricing, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions, and utilitarian considerations of operations and maintenance costs prepared by FNI hereunder will be made on the basis of FNI's experience and qualifications and represent FNI's judgment as an experienced and qualified design professional. It is recognized, however, that FNI does not have control over the cost of labor, material, equipment, or services furnished by others or over market conditions or contractors' methods of determining prices. Accordingly, FNI cannot and does not warrant or represent that bids or cost proposals will not vary from the City's project budget or from any estimate or opinion of probable construction or program cost prepared by or agreed to by FNI.

7. **PAYMENT:** Progress payments may be requested by FNI based on the amount of Services completed. Payment for Services shall be due and payable upon submission of a statement for Services to City and in acceptance of Services as satisfactory by City. Statements for Services shall not be submitted more frequently than monthly. Any applicable taxes imposed upon the Services, expenses, and charges by any governmental body after the execution of this Agreement will be added to FNI's compensation.

If City fails to make any payment due FNI for Services, expenses, and charges within 30 days after receipt of FNI's statement for Services therefore, the amounts due FNI will be increased at the rate of 1 percent per month from said 30th day, and, in addition, FNI may, after giving 7 days' written notice to City, suspend Services under this Agreement until FNI has been paid in full for all amounts due for Services, expenses, and charges.

If FNI's Services are delayed or suspended by City or are extended for more than 60 days through no fault of FNI, FNI shall be entitled to equitable adjustment of rates and amounts of compensation to reflect reasonable costs incurred by FNI in connection with such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.

8. **OWNERSHIP OF DOCUMENTS:** All drawings, reports, data, and other project information developed in the execution of Services provided under this Agreement shall be the property of City upon payment of FNI's fees for Services. FNI may retain copies for record purposes. City agrees such documents are not intended or represented to be suitable for reuse by City or others. Any reuse by City or by those who obtained said documents from City without written verification or adaptation by FNI, will be at the City's sole risk and without liability or legal exposure to FNI, or to FNI's independent associates or consultants. To the fullest extent permitted by law, City shall indemnify and hold harmless FNI and FNI's independent associates and consultants from all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle FNI to further reasonable compensation. FNI may reuse all drawings, report data, and other project information in the execution of Services provided under this Agreement in FNI's other activities. Any reuse by FNI will be at FNI's sole risk and without liability or legal exposure to City, and FNI shall indemnify and hold harmless City from all claims, damages, losses, and expenses including reasonable attorneys' fees arising out of or resulting therefrom.

9. **TERMINATION:** The obligation to provide Services under this Agreement may be terminated by either party upon 10 days' written notice. In the event of termination, FNI will be paid for all Services rendered and reimbursable expenses incurred to the date of termination and, in addition, all reimbursable expenses directly attributable to termination.
10. **CONSTRUCTION REPRESENTATION:** If required by the Agreement, FNI will furnish construction representation according to the defined scope for these Services. FNI will observe the progress and the quality of work to determine in general if the work is proceeding in accordance with the construction contract documents. In performing these Services, FNI will report any observed deficiencies to City, however, it is understood that FNI does not guarantee the contractor's performance, nor is FNI responsible for the supervision of the contractor's operation and employees. FNI shall not be responsible for the contractor's means, methods, techniques, sequences, or procedures of construction or the safety precautions and programs incident to the work of the contractor. FNI shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the project site or otherwise performing any of the work of the project. If City designates a resident project representative that is not an employee or agent of FNI, the duties, responsibilities, and limitations of authority of such resident project representative will be set forth in writing and made a part of this Agreement before the construction phase of the project begins.
11. **GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT:** City agrees to include provisions in the general conditions of the construction contract that name FNI: (1) as an additional insured and in any waiver of subrogation rights with respect to such liability insurance purchased and maintained by the contractor for the project (except workers' compensation and professional liability policies); and (2) as an indemnified party in any indemnification provisions where City is named as an indemnified party.
12. **POLLUTANTS AND HAZARDOUS WASTES:** It is understood and agreed that FNI has neither created nor contributed to the creation or existence of any hazardous, radioactive, toxic, irritant, pollutant, or otherwise dangerous substance or condition at the project site, if any, and its compensation hereunder is in no way commensurate with the potential risk of injury or loss that may be caused by exposures to such substances or conditions. The parties agree that in performing Services required by this Agreement, FNI does not take possession or control of the subject site, but acts as an invitee in performing Services, and is not therefore responsible for the existence of any pollutant present on or migrating from the site. Further, FNI shall have no responsibility for any pollutant during clean-up, transportation, storage or disposal activities.
13. **SUBCONTRACTS:** If, for any reason and at any time during the progress of providing Services, City determines that any subcontractor for FNI is incompetent or undesirable, City shall notify FNI accordingly and FNI shall take immediate steps for cancellation of such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in the Agreement shall create any contractual relation between any subcontractor and City.
14. **PURCHASE ORDERS:** If a purchase order is used to authorize FNI's Services, only the terms, conditions, and instructions typed on the face of the purchase order shall apply to this Agreement. Should there be any conflict between the purchase order and the terms of this Agreement, then this Agreement shall prevail and be determinative of the conflict.
15. **CONSEQUENTIAL DAMAGES:** In no event shall FNI be liable in contract, tort, strict liability, warranty, or otherwise for any special, indirect, incidental, or consequential damages (such as loss of product, loss of use of equipment or systems, loss of anticipated profits or revenue, non-operation or increased expense of operation), arising out of, resulting from, or in any way related to this Agreement or the project.

16. **ARBITRATION:** No arbitration, arising out of or relating to this Agreement, involving one party to this Agreement may include the other party to this Agreement without their approval.
17. **SUCCESSORS AND ASSIGNMENTS:** City and FNI and the partners, successors, executors, administrators, and legal representatives of each are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

Neither City nor FNI shall assign, sublet, or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent FNI from employing such independent associates and consultants as FNI may deem appropriate to assist in the performance of Services hereunder.

18. **PROHIBITION FROM DOING BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION:** FNI covenants and agrees that during the term of this Agreement it shall not provide supplies or services to a foreign terrorist organization as required by Texas Government Code Sections 2252.152 and 2252.153.
19. **PROHIBITION ON BOYCOTTING ISRAEL:** FNI verifies, covenants and agrees that during the term of this Agreement it shall not boycott Israel as required by Texas Government Code Section 2271.002.
20. **FORM 1295:** FNI prior to providing any work hereunder shall provide the City a properly executed Form 1295, Certificate of Interested Parties, as promulgated by the Texas Ethics Commission.

§ 22-400

§ 22-405

ARTICLE XI WASTEWATER AND WATER IMPACT FEE

§ 22-400. Purpose.

This article is intended to impose impact fees for wastewater treatment and water supply, pumps and storage facilities as established in this article, in order to finance public facilities, the demand for which is generated by new development (please see definition) in the designated service area or areas.
(Ordinance 1128, § 1, 11-9-99)

§ 22-401. Authority.

The city council is authorized to enact this article by chapter 395 of the Texas Local Government Code, as amended, which authorizes home-rule cities, among others, to enact or impose impact fees on land within their corporate boundaries or extraterritorial jurisdictions, and to persons with whom they have a wastewater or water supply service contract, as charges or assessments imposed against new development (please see definition) in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development (please see definition). The provisions of this article shall not be construed to limit the power of the city council to adopt such ordinance pursuant to any other source of local authority, including the City Charter, nor to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this article. Guidelines may be developed by resolution or otherwise to implement and administer this article.
(Ordinance 1128, § 1, 11-9-99)

§ 22-402. Reserved.

Editor's note—Formerly, § 22-402 pertained to definitions, derived from Ord. No. 1128, § 1, adopted Nov. 9, 1999; Ord. No. 1162, § 2, adopted Sept. 26, 2000; and Ord. No. 1203, § 1, 1-8-2002. Such section was repealed by Ord. No. 1272, § 4, adopted Dec. 9, 2003. For current provisions pertaining to similar subject matter, see § 22-1 and § 22-408

§ 22-403. Applicability of impact fees.

- (a) This article shall be uniformly applicable to new development (please see definition), which occurs within the corporate limits of the city and its extraterritorial jurisdiction, and other areas serviced by a city wastewater treatment facility or water facility.
 - (b) No new development (please see definition) shall be exempt from the assessment of impact fees as defined in this article.
- (Ordinance 1128, § 1, 11-9-99)

§ 22-404. Impact fees as conditions of development approval.

No application for new development (please see definition) shall be approved within the city without assessment of impact fees pursuant to this article, and no water and wastewater tap shall be issued and no building permit shall be issued unless the applicant has paid the impact fees imposed by and calculated hereunder.
(Ordinance 1128, § 1, 11-9-99)

§ 22-405. Establishment of water and wastewater service areas.

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§ 22-405

§ 22-408

(a) The water and wastewater service areas are established as shown on the service area map, which is attached hereto as Exhibit D to this article.

(b) The service areas shall be established consistent with any facility service area defined in the CIP for each utility or facility. Additions to the service area may be designated by the city council consistent with the procedure set forth in chapter 395.

(Ordinance 1128, § 1, 11-9-99)

§ 22-406. Land use assumptions.

Land use assumptions used in the development of the impact fees are contained in Exhibit A to this article. These assumptions may be revised by the city council according to the procedure set forth in chapter 395. (Ordinance 1128, § 1, 11-9-99)

§ 22-407. Capital improvements plan.

The capital improvements plan for the city is hereby adopted as Exhibit C to this article. The capital improvements plan may be amended from time to time, pursuant to the procedures set forth in chapter 395.

(Ordinance 1128, § 1, 11-9-99)

§ 22-408. Service units.

(a) Service units are established in accordance with generally accepted engineering and planning standards.

(b) The water and wastewater impact fees per service unit shall be calculated based on living unit equivalents as determined by the category of service for the development, or alternatively, as approved by the city council, based on the recommendation of the director as a result of an engineering report prepared by a qualified professional engineer licensed to perform such professional engineering services in the state, which demonstrates that the number of LUE's of service for the new development (please see definition) will be different than those indicated by the category of service.

(c) No impact fee shall be assessed or collected from properties utilizing water service through fire flow connectors or fire demand meters only.

(d) If a fire demand meter (tap) is purchased for a property, the number of service units shall be calculated based only upon the demand for regular residential, commercial or industrial service to the property.

(e) Living unit equivalent (LUE) established are as follows:

Category	Service Unit	LUE	Water CIF	Wastewater CIF
Restaurant	1 person (based on maximum)	0.07	\$47.13	\$29.83
Cocktail Lounge	1 person (based on maximum)	0.04	26.93	17.05
Store/shop	1 restroom	0.50	336.64	213.08
Convenience Store	1 store	2.78	1,871.72	1,184.70

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Category	Service Unit	LUE	Water CIF	Wastewater CIF
Self-service laundry	1 washing machine	0.66	444.36	281.26
Bath house	1 water fixture	0.06	40.40	25.57
Hospital	1 bed	0.50	336.64	213.08
Warehouse	1 restroom	0.50	336.64	213.08
Service station	1 station	2.30	1,548.54	980.15
Classroom (church or school)	1 student	0.05	33.66	21.31
Office building	150 square feet	0.05	33.66	21.31
Car wash	1 stall	2.50	1,683.20	1,065.38
Movie theater	1 seat	0.02	13.47	8.52
Recreational vehicle park	1 space	0.40	269.31	170.46
Motel/hotel (unit without kitchen)	1 unit	0.50	336.64	213.08
Commercial boat docks	1 slip	0.16	107.72	68.18
Church sanctuary	1 fixture	0.13	87.53	55.40
Dwelling unit*	1 unit	1.00	673.28	426.15
Efficiency dwelling 2 bedroom or less*	1 unit	0.75	504.96	319.61
Motel with kitchen	1 unit	0.75	504.96	319.61
Nursing home/assisted care facility	1 bed	0.50	336.64	213.08

*NOTE: Dwelling units include manufactured homes, apartments, condominiums and all other residential dwelling structures not listed above.

New Calculations (1/9/02)	Capital Recovery Fee	Maximum % allowed	Impact Fee per LUE
Water Living Unit Equivalent (LUE)	\$1,356.56	0.50%	\$674.28
Wastewater Living Unit Equivalent (LUE)	852.30	0.50%	426.15

(Ordinance 1128, § 1, 11-9-99; Ordinance 1272, § 5, 12-9-03)

§ 22-409. Impact fees per service unit.

- (a) The maximum impact fee per service unit shall be computed by subtracting the credit for a 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, or the credit equal to 50 percent of the total

§ 22-409 projected cost of implementing the capital improvement plan, whichever is applicable, from the growth-related capital construction cost in the capital improvements plan for that category of capital improvements, and dividing that amount by the total number of projected service units anticipated within the service area which are necessitated by and attributable to new development (please see definition), based on the land use assumptions for that service area. Maximum assessable impact fees per service unit shall be established by category of capital improvements and shall be set forth in Exhibit B to Ordinance No. 1203. § 22-411

- (b) Maximum assessable impact fees in Exhibit B may be amended by the city council according to the procedure set forth in chapter 395.

Editor's note—Exhibit B referenced in subsection (a) above is not set out at length in this Code, but is on file in the office of the city secretary.

(Ordinance 1128, § 1, 11-9-99; Ordinance 1203, § 2, 1-8-2002)

§ 22-410. Assessment of impact fees.

- (a) The approval of any subdivision of land or of any new development (please see definition) shall include as a condition the assessment of the impact fees applicable to such development.
- (b) Assessment of the impact fees for any new development (please see definition) shall be made as follows and shall be based upon the impact fee per service unit set forth in Exhibit B at the time of assessment:
- (1) For a new development (please see definition), which has received final plat approval prior to the effective date of this article and for which no replatting is necessary prior to water or wastewater tap purchase, assessment shall be upon the effective date of this article.
 - (2) For a development, which is final platted pursuant to the city's subdivision regulations following the effective date of this article, assessment shall be at the time of final plat recordation.
- (c) Because fire protection is of critical concern to the community as a whole, water demand related solely to fire protection is not subject to assessment of an impact fee. However, if the fire protection capacity of the fire demand meter is routinely utilized for regular residential, commercial or industrial purposes as evidenced by the record of consumption recorded on the city's meter-reading and billing systems, the then current impact fee should be assessed and collected from the current owner of the property for the routine usage as domestic capacity.
- (d) Following assessment of the impact fees pursuant to subsection (b) of this section, no additional impact fees or increases thereof shall be assessed against that development unless the number of service units increases.

(Ordinance 1128, § 1, 11-9-99)

§ 22-411. Calculation of impact fees.

- (a) Following a request for a building permit or tap purchase for new development (please see definition), the director shall compute impact fees due for the new development (please see definition) in the following manner:
- (1) The number of LUE's shall be determined by the category of service or as otherwise determined by the city council as provided in subsection (b) of section 22-408; and

§ 22-411 (2) The total service units shall be multiplied by the appropriate per-unit fee value determined as set forth in section 22-409. § 22-414

(b) The value of each impact fee due for a new development (please see definition) shall not exceed the values shown in Exhibit B.

(c) Separate impact fees shall be calculated for water and wastewater service.
(Ordinance 1128, § 1, 11-9-99)

§ 22-412. Collection of impact fees.

- (a) No water or wastewater tap shall be allowed until all impact fees have been paid in full to the city, except as provided otherwise by this section.
- (b) Except as provided in subsections (c) below, impact fees shall be collected at the time of issuance of the building permit. For land platted outside this city's corporate limits, the city shall collect impact fees at the time an application for an individual meter connection to the city's water and/or wastewater system is filed. If the city lacks authority to issue building permits in the area where the impact fees applies, the city shall collect the impact fees at the time an application is filed for an individual meter connection to the political subdivision's water or wastewater system.
- (c) The city may enter into an agreement with the owner of a tract of land for which a plat has been recorded providing for payment of the impact fees in up to 18 monthly payments.
- (d) Impact fees paid overtime shall accrue interest of six percent APR and monthly payments shall not be less than \$100.00.

(Ordinance 1128, § 1, 11-9-99; Ordinance 1148, § 1, 5-11-00; Ordinance 1162, § 3, 9-26-00; Ordinance 1203, § 3, 1-8-2002; Ordinance 1238, § 1, 1-28-03)

§ 22-413. Establishment of accounts and records.

- (a) The director shall establish separate interest-bearing accounts, in a bank authorized to receive deposits of city funds, for each major category of capital facility for which an impact fee is imposed pursuant to this article.
- (b) Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds authorized in section 22-414.
- (c) The director shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the account are utilized solely for the purposes authorized in section 22-414. Disbursement of funds shall be authorized by the director at such times as are reasonably necessary to carry out the purposes and intent of this article; provided, however, that any fee paid shall be expended within a reasonable period of time, but not to exceed ten (10) years from the date the fee is deposited into the account.
- (d) The director shall maintain and keep adequate financial records for each such account, which shall show the source and disbursement of all revenues, which shall account for all monies received, and which shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of uses specified in the capital improvements plan as system-related capital projects.

(Ordinance 1128, § 1, 11-9-99)

§ 22-414. Use of proceeds of impact fee accounts.

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- (a) The impact fees collected pursuant to this article may be used to finance or to recoup capital construction costs of service. Impact fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the city to finance such capital improvements or facilities expansions.
- (b) Impact fees collected pursuant to this article shall not be used to pay for any of the following expenses:
- (1) Construction, acquisition or expansion of capital improvements or assets other than those identified for the appropriate utility in the capital improvements plan;
 - (2) Repair, operation, or maintenance of existing or new capital improvements or facilities expansions;
 - (3) Upgrading, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
 - (4) Upgrading, expanding or replacing existing capital improvements to provide better service to existing development; provided however, that impact fees may be used to pay the costs of upgrading, expanding or replacing existing capital improvements in order to meet the need for new capital improvements generated by new development; or
 - (5) Administrative and operating costs of the city.

(Ordinance 1128, § 1, 11-9-99)

§ 22-415. Appeals.

- (a) The property owner or applicant for new development (please see definition) may appeal the following decisions to the director or his/her designee:
- (1) The applicability of an impact fee to the development;
 - (2) The value of the impact fee due;
 - (3) All appeals shall be filed with the city secretary within 30 days of notice of the action from which the appeal is taken.
- (b) The burden of proof shall be on the appellant to demonstrate that the fee is not applicable or that the value of the fee or the value of the offset or credit was not calculated according to the applicable impact fee schedule or the guidelines established for determining offsets and credits.
- (c) The appellant may appeal the decision of the director to the city council. The applicant must file a notice of appeal to the city council with the city secretary within 30 days following the director's decision. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the city attorney in an amount equal to the original determination of the impact fee due, the development application or tap purchase or building permit issuance may be processed while the appeal is pending.

(Ordinance 1128, § 1, 11-9-99)

§ 22-416. Updates to plan and revision of fees.

The city shall review the land use assumptions and capital improvements plan for wastewater treatment and water supply, pumps and storage facilities at least every five years, the first five-year period to commence from the date of adoption of the capital improvements plan referenced herein. The city council

§ 22-416 shall accordingly then make a determination of whether changes to the land use assumptions, capital improvements plan or impact fees are needed and shall, in accordance with the procedures set forth in chapter 395, either update the fees or make a determination that no update is necessary. § 22-419
(Ordinance 1128, § 1, 11-9-99; Ordinance 1203, § 4, 1-8-2002)

§ 22-417. Functions of advisory committee.

- (a) The functions of the advisory committee are those set forth in chapter 395 and shall include the following:
- (1) Advise and assist the city council in adopting land use assumptions;
 - (2) Review the capital improvements plan regarding wastewater treatment and water supply, pumps and storage facilities capital improvements and file written comments thereon;
 - (3) Monitor and evaluate implementation of the capital improvements plan;
 - (4) Advise the city of the need to update or revise the land use assumptions, capital improvements plan and impact fees; and
 - (5) File a semiannual report evaluating the progress of the city in achieving the capital improvement plan and identifying any problems in implementing the plan or administering the impact fees.
- (b) The city council shall make available to the advisory committee any professional reports prepared in the development or implementation of the capital improvement plan.
- (c) The city council shall adopt procedural rules for the advisory committee to follow in carrying out its duties.
- (Ordinance 1128, § 1, 11-9-99)

§ 22-418. Use of other financing mechanisms.

- (a) The city council may finance wastewater treatment and water supply, pumps and storage facilities, and capital improvements or facilities expansions designated in the capital improvements plan through the issuance of bonds, through the formation of public improvement districts or other assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations as may be provided by law, in addition to the use of impact fees.
- (b) Except as herein otherwise provided, the assessment and collection of an impact fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment which is lawfully imposed on and due against the property.
- (Ordinance 1128, § 1, 11-9-99)

§ 22-419. Impact fees as additional and supplemental regulation.

- (a) Impact fees established by this article are additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the issuance of building permits or the sale of water or wastewater taps or the issuance of certificates of occupancy. Such fees are intended to be consistent with and to further the policies of the city's comprehensive plan, capital improvements plan, zoning ordinance, subdivision regulations and other city policies, ordinances and resolutions by which the city seeks to ensure the provision of adequate public facilities in conjunction with the development of land.

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(b) This article shall not affect, in any manner, the permissible use of property, density of development, design, and improvement standards and requirements, or any other aspect of the development of land or provision of public improvements subject to the zoning and subdivision regulations or other regulations of the city, which shall be operative and remain in full force and effect without limitation with respect to all such development.

(Ordinance 1128, § 1, 11-9-99)

§ 22-420. Certification of compliance.

The city shall submit a written certification verifying compliance with chapter 395 to the attorney general each year not later than the last day of the city's fiscal year. The certification shall be signed by the mayor and include the statement:

"This statement certifies compliance with Chapter 395, Local Government Code."

(Ordinance 1203, § 5, 1-8-2002)

§ 22-421. Capital improvements plan.

The capital improvements plan (Exhibit C) is included for the sole purpose of enumerating a plan for awarding credits as set forth in section 22-409 and shall not be considered to be an update of the capital improvements plan as provided in section 22-416.

EXHIBIT C CAPITAL IMPROVEMENTS PLAN

It is the intent of this capital improvement plan to include only improvements, which are "system wide improvements" in the service area for wastewater facilities and water supply facilities. A description of the existing capital improvements for each type of service and the associated cost is provided in the following:

(1) Wastewater facilities:

- (a) Treatment facilities. The existing Rockport Wastewater Treatment Plant (WWTP) will have a rated average daily capacity of 2.5 million gallons per day (MGD) after the 1999 improvements are completed. The plant has been expanded and upgraded over the last 15 years to provide treatment capabilities to meet the city's needs, improve safety and efficiency of operation and to meet the Texas Natural Resources Conservation Commission's (TNRCC) and U.S. Environmental Protection Agency's ever-changing regulatory standards.

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The Rockport WWTP total average daily flow capacity, prior to the present expansion, was 1.57 MGD. The level of current usage is an average wastewater flow of 1.2 MGD. With the completion of construction in late 1999 the plant total average daily flow capacity will be 2.5 MGD. Present TNRCC standards require that the owner must initiate engineering and financial planning for expansion when the flow rate reaches 75 percent of the average daily flow for three consecutive months and begin construction of the expansion when the flow rate reaches 90 percent of the average daily flow. This means there is a reserve capacity of 0.675 MGD until the flow rate reaches 75 percent of the plant capacity and the city has to begin planning for the next expansion. Demand of new service units over the next ten years will utilize a portion of the existing reserve capacity constructed.

There have been five construction projects performed at the Rockport WWTP over the last 15 years. These projects were undertaken to provide the necessary flow capacity to meet the needs of the city and to meet the periodically updated standards of the regulatory agencies. Impact fees can be assessed to recoup the cost of constructing facilities, which will serve new development. A detailed cost analysis for each project is shown in Attachment No. 1 to this exhibit. Line item costs were reviewed to determine whether they were eligible and ineligible to be included in the capital improvements plan. The eligible construction cost for each project was totaled and divided by the plant capacity gained or affected by the construction. A summary of the unit cost per gallon is present in the following:

SUMMARY OF WASTEWATER COST PER GALLON	
1984 Expansion (1.0 MGD to 2.5 MGD)	\$1.15/gallon
1989 Dechlorination Facilities	0.05/gallon
1992 New Permit Parameters	0.09/gallon
1993 Emergency Generator	0.02/gallon
1998 Expansion (1.57 MGD to 2.5 MGD)	1.45/gallon
2000 Chlorination/Dechlorination Improvements	0.07/gallon
TOTAL	\$2.83

The calculations show that the capital cost for the improvements at the existing plant to be \$2.83 per gallon. This equates to \$849.00 per connection (\$2.83/gallon X 3 persons/connection X 100 gallons/person/day).

(2) Water supply facilities:

The city has a water certificate of convenience and necessity to serve potable water to the population in a large portion of the Live Oak Peninsula of Aransas County. The facilities required to provide this service include water supply lines, storage tanks, pumping plants and a water distribution system. The city maintains the existing system and constructs improvements as necessary to meet the potable water demand and to stay in compliance with the TNRCC regulatory standards.

The maximum demand on the city's water system has been 106 million gallons per month. This value includes an average unaccounted loss rate of 11 percent. The amount of water sold ranges from a high of 96 million gallons per month (equates to 3.2 MGD) to an average of 75 million gallons per month (equates to 2.5 MGD). February 1999, the city's system had 8,164 total connections. A breakdown of the connections is as follows:

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Active taps	6,141	
Water company connections	891	
Apartments	1,132	
Total Connections	8,164	

The maximum water demand per connection, including losses, has been 431 gallons/connections/day (106,000,000 gallons/30 days per month/8,164 connections). The water use per person, based on water sold, is provided in the following:

Maximum Months	$\frac{3,200,000 \text{ gpd}}{8,164 \text{ connections}} = 392 \text{ gallons/connections}$
	$\frac{392 \text{ gallons/connections}}{3 \text{ persons/connection}} = 130.66 \text{ gallons/capacity/day}$
Average Months	$\frac{2,500,000 \text{ gpd}}{8,164 \text{ connections}} = 306 \text{ gallons/connections}$
	$\frac{306 \text{ gallons/connections}}{3 \text{ persons/connections}} = 102.00 \text{ gallons/capacity/day}$

a. Water Pumping and Storage

In 1995 the FM 188 pump station was constructed to increase the potable water delivery system capacity from the San Patricio Water District. The project included a pump station and ground storage reservoir. The construction of this pump station increased the available water supply by 567,000 gallons per day (gpd). This represents 1,316 new connections based on peak demand (567,000 gpd/431 gallons/connections/day). The cost per connection for adding the additional capacity calculates to

\$480.34/connections (\$632,132.00/1,316 connections).

The Ivy Lane pump station is another of the City's potable water facilities. This pump station has a total pumping capacity of 7.2 mgd (5,000 gpm). During 1998 there were demands put on this pump stations, which reached the limits of available peak capacity leaving the station with no reserve capacity. The ground storage facility at this site includes two 1.5 million gallon reservoirs. During the 1998 peak even water supply/storage was a limiting factor to demand/use in the city. The existing available peak storage volume, based on the 1998 peak event, amounts to 367 gallons/connections (3,000,000 gallons/8,164 connections). The volume per connection figure was used to determine future storage volumes.

The capital improvements plan includes the expansion of the Ivy Lane pump station. The improvements to the pumping facilities includes, the upsizing of pump impellers and the necessary work to the electrical controls to accommodate the additional pump load. The improvements will cost

\$21,000.00 and will increase pumping capacity by 1,000,000 gallons per day and will serve 2,320 new connections. This equates to \$9.05/connection.

Also contemplated at the Ivy Lane station is a new 1.5 million gallon ground storage tank, which is projected to cost \$540,000.00 and will serve 4,087 new connections. The per

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connection cost for these facilities is
\$132.12/connection.

b. Water Transmission/Distribution

The city has constructed or identified water system improvement projects necessary to provide service to new customers expected over the next ten years. The cost to construct these improvements has been estimated at

\$1,804,382.00. Although not fully utilized within the next ten years the ultimate cost per LUE is estimated at \$721.75/LUE (\$1,804,382.00/2,500).

- (3) *Other eligible costs*: Costs associated with developing the capital impact program are also eligible. They can be charged to the rate. The following is an estimate of these costs and a per connection charge for the same.

Legal and Engineering	\$25,000.00
Land Use Planning	7,500.00
Publication and Printing	500.00
TOTAL	\$33,000.00

The number of connections over the next ten-year planning period is estimated to be 5,000. Therefore, the per connection soft cost charge is \$6.60.

A summary of the unit cost per gallon is presented in the following:

Summary of Capital Impact Charges

a.	Sewer Treatment	
	Existing plant capacity	\$849.00/connection
	Other eligible cost	3.30/connection
	Maximum Assessable Sewer CIF	\$852.30/connection
b.	Water Supply	
	Water pumping and storage	\$ 621.51/connection
	Water transmission	721.75/connection
	Other eligible cost	3.30/connection
	Maximum Assessable Water CIF	\$1,346.56/connection

(Ordinance 1203, § 6, 1-8-2002)

§ 22-422. through § 22-439. (Reserved)

ORDINANCE NO. 1128

AN ORDINANCE IMPOSING AN IMPACT FEE ON NEW LAND DEVELOPMENT IN THE CITY OF ROCKPORT AND SURROUNDING AREAS SERVICED BY THE CITY FOR PROVIDING WASTEWATER TREATMENT AND WATER SUPPLY, PUMPS AND STORAGE FACILITIES NECESSITATED BY SUCH NEW DEVELOPMENT; STATING THE PURPOSE AND AUTHORITY FOR ADOPTION OF THE ORDINANCE; PROVIDING DEFINITIONS; PROVIDING FINDINGS AND DECLARATIONS OF THE CITY COUNCIL; PROVIDING FOR THE ASSESSMENT, PAYMENT AND TIME OF PAYMENT OF WASTEWATER AND WATER IMPACT FEES; PROVIDING FOR REVIEW OF WASTEWATER AND WATER IMPACT FEES AND FEE SCHEDULES; PROVIDING FOR THE PLACEMENT OF REVENUE COLLECTED FROM WASTEWATER AND WATER IMPACT FEES INTO WASTEWATER AND WATER IMPACT FEE ACCOUNTS ESTABLISHED FOR THAT PURPOSE; PROVIDING FOR USE OF FUNDS DERIVED FROM WASTEWATER AND WATER IMPACT FEES; PROVIDING THAT WASTEWATER AND WATER IMPACT FEES MAY BE PLEDGED TOWARD PAYMENT OF BOND ISSUES AND SIMILAR DEBT INSTRUMENTS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

- WHEREAS,** the City of Rockport currently provides water and/or wastewater services to land within its city limits, and its extraterritorial jurisdiction and other areas outside its city limits; and
- WHEREAS,** the City is committed to providing public wastewater and water facilities and services at levels necessary to cure any existing public service deficiencies in already developed areas; and
- WHEREAS,** such facilities and service levels shall be provided by the City utilizing funds allocated in the capital budget and capital improvements programming processes and relying upon the funding sources indicated therein; and
- WHEREAS,** new residential and nonresidential development causes and imposes increased and excessive demands upon City public facilities and services, including wastewater treatment and water supply, pumps and storage facilities that would not otherwise occur; and
- WHEREAS,** planning and zoning projections indicate that such development will continue and will place ever-increasing demands on the City to provide necessary public facilities; and
- WHEREAS,** the development potential and property values of properties is strongly influenced and encouraged by City policy as expressed in the Comprehensive Plan and as implemented via the City zoning ordinance and map; and
- WHEREAS,** to the extent that such new development (please see definition) places demands upon the public facility infrastructure, those demands should be satisfied by shifting the responsibility for financing the provision of such facilities from the public at large to the developments actually creating the demands for them; and

WHEREAS, the amount of the impact fee to be imposed shall be determined by the cost of the additional public facilities needed to support such development, which public facilities shall be identified in a capital improvements plan; and

WHEREAS, the City Council, after careful consideration of the matter, hereby finds and declares that impact fees imposed upon residential and nonresidential development to finance specified major public facilities in designated service areas, the demand for which is created by such development, is in the best interest of the general welfare of the City and its residents, is equitable, and does not impose an unfair burden on such development; and

WHEREAS, the Texas Legislature has adopted Chapter 395 of the Texas Local Government Code, providing guidelines and requirements for the adoption of impact fees; and

WHEREAS, the City Council finds that the City has complied with said statute in the notice, adoption, promulgation and methodology necessary to adopt impact fees;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKPORT, TEXAS:

Section 1: There to is hereby added to Chapter 22, "Building and Building Regulations" of the Code of Ordinances of the City of Rockport, " Article XI. Wastewater and Water Impact Fee".

Article XI. Wastewater and Water Impact Fee

Sec. 22-400. Purpose

This Ordinance is intended to impose impact fees for wastewater treatment and water supply, pumps and storage facilities as established in this Ordinance, in order to finance public facilities, the demand for which is generated by new development (please see definition) in the designated service area or areas.

Sec. 22-401. Authority

The City Council is authorized to enact this Ordinance by Chapter 395 of the Texas Local Government Code, as amended, ("Chapter 395") which authorize home-rule cities, among others, to enact or impose impact fees on land within their corporate boundaries or extraterritorial jurisdictions, and to persons with whom they have a wastewater or water supply service contract, as charges or assessments imposed against new development (please see definition) in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development (please see definition). The provisions of this Ordinance shall not be construed to limit the power of the City Council to adopt such Ordinance pursuant to any other source of local authority, including the City Charter, nor to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this Ordinance. Guidelines may be developed by resolution or otherwise to implement and administer this Ordinance.

Sec. 22-402. Definitions

As applied in this Ordinance, the following words and terms shall be used:

- (1) **Assessment** - The determination of the amount of the maximum impact fee per service unit which can be imposed on new development pursuant to this Ordinance.
- (2) **Building Permit** - Written permission issued by the City for the construction, repair, alteration or addition to a structure.

- (3) Capital Construction Cost of Service - Costs of constructing capital improvements or facility expansions, including and limited to the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorneys fees, and expert witness fees), and the 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 City.
- (4) Capital Improvements Advisory Committee (Advisory Committee) - Advisory committee, appointed by the City Council, consisting of at least five members, not less than 40 percent of which shall be representatives of the real estate, development, or building industries which are not employees of the City, and, if impact fees are to be applied within the extraterritorial jurisdiction of the City, including one member representing the extraterritorial jurisdiction; or consisting of the Planning and Zoning Commission, including one regular or ad hoc member who is not an employee of the City and which is representative of the real estate, development, or building industry, and, if impact fees are to be applied within the extraterritorial jurisdiction of the City, one representative of the extraterritorial jurisdiction area; which committee is appointed to regularly review and update the capital improvements program in accordance with the requirements of Chapter 395.
- (5) Capital Improvements Plan (CIP) - Plan adopted in Section 22-407 of this Ordinance which identifies wastewater treatment and water supply, pump and storage facilities capital improvements or facility expansions pursuant to which impact fees may be assessed. The Capital Improvements Plan may be composed of a separate Wastewater Improvements Plan and Water Improvements Plan.
- (6) City - City of Rockport.
- (7) City Council (Council) - Governing body of the City of Rockport.
- (8) City Public Works Director (Director) - Public Works Director of the City of Rockport.
- (9) Commercial Development - For the purposes of this Ordinance, all development which is neither residential nor industrial.
- (10) Comprehensive Plan (Master Plan) - The comprehensive long-range plan, adopted by the City Council, which is intended to guide the growth and development of the City, which may include analyses, recommendations and proposals for the City regarding such topics as population, economy, housing, transportation, community facilities and land use.
- (11) Credit - The amount of the reduction of an impact fee for fees, payments or charges for the same type of capital improvements for which the fee has been assessed.
- (12) Existing Development - All development within the service area which has a water or wastewater tap on the City's water or wastewater system as of the date of the adoption of this Ordinance.
- (13) Facility Expansion - The expansion of the capacity of an existing facility which serves the same function as an otherwise necessary new capital improvement in order that the existing facility may serve new development. Facility expansion does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

- (14) *Final Subdivision Plat* - The map, drawing or chart meeting the requirements of the City's Subdivision Ordinance on which is provided a subdivider's plan of a subdivision, and which has received final approval by the Planning and Zoning Commission or City Council and which is recorded with the office of the County Clerk.
- (15) *Growth-Related Costs* - Capital construction costs of service related to providing additional service units to new development, either from excess capacity in existing facilities, from facility expansions or from new capital facilities. Growth-related costs do not include:
- (a) Construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;
 - (b) Repair, operation, or maintenance of existing or new capital improvements or facility expansions;
 - (c) Upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;
 - (d) Upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;
 - (e) Administrative and operating costs of the City; and
 - (f) Principal payments and interest or other finance charges on bonds or other indebtedness, except for such payments for growth-related facilities contained in the capital improvements program.
- (16) *Impact Fee* - Fee to be imposed upon new development, calculated based upon the costs of facilities in proportion to development creating the need for such facilities. Impact fees do not include dedication of rights-of-way or easements, or construction or dedication of on-site water distribution or wastewater collection facilities required by other ordinances of the City; or lot or acreage fees placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or wastewater mains or lines.
- (17) *Industrial Development* - Development which will be assigned to the industrial customer class of the water or wastewater utilities; generally development in which goods are manufactured, or development which is ancillary to such manufacturing activity.
- (18) *Land Use Assumptions* - Description of the service area and projections of changes in land uses, densities, intensities, and population therein over at least a 10-year period, adopted by the City Council, as may be amended from time to time, upon which the capital improvement plan is based.
- (19) *Living Unit Equivalent (LUE)* - Basis for establishing equivalency among and within various customer classes based upon the category of use and service. LUE's established are as follows:

Category	Service Unit	LUE	Water CIF	Sewer CIF
Restaurant	1 person (based on Max)	0.07	\$41.55	\$52.50
Cocktail Lounge	1 person (based on Max)	0.04	\$23.74	\$30.00
Store/shop	1 restroom	0.50	\$296.81	\$375.00
Convenience Store	1 store	2.78	\$1,650.24	\$2,085.00
Self-service laundry	1 washing machine	0.66	\$391.78	\$495.00
Bath house	1 water fixture	0.06	\$35.92	\$45.00
Hospital	1 bed	0.50	\$296.81	\$375.00
Warehouse	1 restroom	0.50	\$296.81	\$375.00
Service Station	1 station	2.30	\$1,365.30	\$1,725.00
Class room (Church or School)	1 student	0.05	\$29.68	\$37.50
Office Building	150 sf	0.05	\$29.68	\$37.50
Car wash	1 stall	2.50	\$1,484.03	\$1,875.00
Movie theater	1 seat	0.02	\$11.87	\$15.00
Recreational vehicle park	1 space	0.40	\$237.44	\$300.00
Motel/hotel(unit without kitchen)	1 unit	0.50	\$296.81	\$375.00
Commercial Boat docks	1 slip	0.16	\$94.98	\$120.00
Church sanctuary	1 fixture	0.13	\$77.17	\$97.50
* Dwelling unit	1 unit	1.00	\$593.61	\$750.00
* Efficiency dwelling 2 bedroom or less	1 unit	0.60	\$356.17	\$450.00
Motel with kitchen	1 unit	0.60	\$356.17	\$450.00
Nursing home/assisted care facility	1 bed	0.50	\$296.61	\$375.00

NOTE: * Dwelling units include Manufactured Homes, Apartments, Condominiums and all other residential dwelling structures not listed above.

- (20) New Development - Subdivision of land; or 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 for water supply or wastewater service. New development includes the sale of water taps resulting from the conversion of an individual well to the City's water utility and includes the sale of wastewater taps resulting from the conversion of an individual septic or other individual waste disposal system to the City's wastewater utility.
- (21) On-Site Facility - Improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water or wastewater facilities to serve the new development, and which is not included in the capital improvements plan, and for which the developer or property owner is solely responsible under subdivision and other applicable regulations.
- (22) Residential Development - A lot developed for use and occupancy as a residence or residences, according to the City's zoning ordinance.
- (23) Service Area - Area within the corporate boundaries, extraterritorial jurisdiction and other areas served by the City's water and wastewater system to be served by the capital improvements or facilities expansions specified in the capital improvements plan applicable to the service area.
- (24) Service Unit - 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 for a particular category of capital improvements or facility expansions, expressed in living units equivalent.

- (25) System-related Facility - A capital improvement or facility expansion which is designated in the capital improvements plan and which is not an on-site facility. A system-related facility may include a capital improvement, which is located offsite, within or on the perimeter of the development site.
- (26) Tap Purchase - The filing with the City of a written application for water or wastewater tap and the acceptance of applicable fees by the City. The term "tap purchase" shall not be applicable to a meter purchased for and exclusively dedicated to fire protection.
- (27) Wastewater Treatment Facility - Improvement for providing wastewater treatment, including, but not limited to, land or easements necessary for same.
- (28) Wastewater Treatment Facility Expansion - Expansion of the capacity of any existing wastewater treatment facility for the purpose of serving new development, not including the repair, maintenance, modernization or expansion of an existing wastewater treatment facility to serve existing development.
- (29) Wastewater Improvements Plan - Portion of the capital improvements plan, as may be amended from time to time, which identifies the wastewater treatment facilities or wastewater treatment facility expansions and their associated costs which are necessitated by and which are attributable to new development, and for a period not to exceed ten (10) years, and which are to be financed in whole or in part through the imposition of wastewater impact fees pursuant to this Ordinance.
- (30) Water Facility - Improvement for providing water supply service, including, but not limited to, pumping facilities, and storage facilities, and necessary land or easements.
- (31) Water Facility Expansion - Expansion of the capacity of any existing water facility for the purpose of serving new development, not including the repair, maintenance, modernization or expansion of an existing water facility to serve existing development.
- (32) Water Improvements Plan - Portion of the capital improvements plan, as may be amended from time to time, which identifies the water facilities or water facilities expansions and their associated costs which are necessitated by and which are attributable to new development, and for a period not to exceed ten (10) years, and which are to be financed in whole or in part through the imposition of water impact fees pursuant to this Ordinance.

Sec. 22.403 - Applicability of Impact Fees

- A. This Ordinance shall be uniformly applicable to new development (please see definition), which occurs within the corporate limits of the city and its extraterritorial jurisdiction, and other areas serviced by a City wastewater treatment facility or water facility.
- B. No new development (please see definition) shall be exempt from the assessment of impact fees as defined in this ordinance.

Sec. 22-404. Impact Fees as Conditions of Development Approval

No application for new development (please see definition) shall be approved within the City without assessment of impact fees pursuant to this Ordinance, and no water and wastewater tap shall be issued and no building permit shall be issued unless the applicant has paid the impact fees imposed by and calculated hereunder.

Sec. 22-405. Establishment of Water and Wastewater Service Areas

- A. The water and wastewater service areas are established as shown on the Service Area Map, which is attached hereto as Exhibit D to this Ordinance.
- B. The service areas shall be established consistent with any facility service area defined in the CIP for each utility or facility. Additions to the service area may be designated by the City Council consistent with the procedure set forth in Chapter 395.

Sec. 22-406. Land Use Assumptions

Land use assumptions used in the development of the impact fees are contained in Exhibit A to this Ordinance. These assumptions may be revised by the City Council according to the procedure set forth in Chapter 395.

Sec. 22-407. Capital Improvements Plan

The Capital Improvements Plan for the City is hereby adopted as Exhibit C to this Ordinance. The Capital Improvements Plan may be amended from time to time, pursuant to the procedures set forth in Chapter 395.

Sec. 22-408. Service Units

- A. Service units are established in accordance with generally accepted engineering and planning standards.
- B. The water and wastewater impact fees per service unit shall be calculated based on living unit equivalents as determined by the category of service for the development, or alternatively, as approved by the City Council, based on the recommendation of the Director as a result of an engineering report prepared by a qualified professional engineer licensed to perform such professional engineering services in the State of Texas, which demonstrates that the number of LUE's of service for the new development(please see definition) will be different than those indicated by the category of service.
- C. No impact fee shall be assessed or collected from properties utilizing water service through fire flow connectors or fire demand meters only.
- D. If a fire demand meter (tap) is purchased for a property, the number of service units shall be calculated based only upon the demand for regular residential, commercial or industrial service to the property.

Sec. 22-409. Impact Fees Per Service Unit

- A. The maximum impact fee per service unit shall be computed by dividing the growth-related capital construction cost in the capital improvements plan for that category of capital improvements, by the total number of projected service units anticipated within the service area which are necessitated by

and attributable to new development (please see definition), based on the land use assumptions for that service area. Maximum assessable impact fees per service unit shall be established by category of capital improvements and shall be set forth in Exhibit B to this Ordinance.

- B. Maximum assessable impact fees in Exhibit B may be amended by the City Council according to the procedure set forth in Chapter 395.

Sec. 22-410. Assessment of Impact Fees

- A. The approval of any subdivision of land or of any new development (please see definition) shall include as a condition the assessment of the impact fees applicable to such development.
- B. Assessment of the impact fees for any new development (please see definition) shall be made as follows and shall be based upon the impact fee per service unit set forth in Exhibit B at the time of assessment:
 - 1) For a new development (please see definition), which has received final plat approval prior to the effective date of this Ordinance and for which no replatting is necessary prior to water or wastewater tap purchase, assessment shall be upon the effective date of this Ordinance.
 - 2) For a development, which is final platted pursuant to the City's subdivision regulations following the effective date of this Ordinance, assessment shall be at the time of final plat recordation.
- C. Because fire protection is of critical concern to the community as a whole, water demand related solely to fire protection is not subject to assessment of an impact fee. However, if the fire protection capacity of the fire demand meter is routinely utilized for regular residential, commercial or industrial purposes as evidenced by the record of consumption recorded on the City's meter-reading and billing systems, the then current impact fee should be assessed and collected from the current owner of the property for the routine usage as domestic capacity.
- D. Following assessment of the impact fees pursuant to subsection B of this section, no additional impact fees or increases thereof shall be assessed against that development unless the number of service units increases.

Sec. 22-411. Calculation of Impact Fees

- A. Following a request for a building permit or tap purchase for new development (please see definition), the Director shall compute impact fees due for the new development (please see definition) in the following manner:
 - 1. The number of LUE's shall be determined by the category of service or as otherwise determined by the City Council as provided in subsection B of Sec. 22-408; and
 - 2. The total service units shall be multiplied by the appropriate per-unit fee value determined as set forth in Section 22-409.
- B. The value of each impact fee due for a new development (please see definition) shall not exceed the values shown in Exhibit B.
- C. Separate impact fees shall be calculated for water and wastewater service.

Sec. 22-412. Collection of Impact Fees

- A. No water or wastewater tap shall be allowed until all impact fees have been paid to the City except as provided otherwise by contract.

- B. Except as provided in subsections C. and D. below, impact fees shall be collected at the time of issuance of the building permit, or if no building permit is required, at the time of tap purchase.
- C. For any new development (please see definition) which has received final plat approval prior to the effective date of this Ordinance in accordance with Texas Local Government Code, Chapter 212, or pursuant to the City's subdivision regulations, the City Council may assess, but shall not collect any impact fee on any service unit for which a valid building permit is issued prior to or within one (1) year after the effective date of this Ordinance.
- D. If a building permit obtained prior to or within one (1) year after the effective date of this Ordinance subsequently expires, and no new application is made and approved within such period, the new development (please see definition) shall be subject to the payment of an impact fee, as provided in subsection B of this section.
- E. The City may, at its sole discretion, enter into contracts to establish a different date of fee collection than those provided in this Section.

Sec. 22-413. Establishment of Accounts and Records

- A. The Director shall establish separate interest-bearing accounts, in a bank authorized to receive deposits of City funds, for each major category of capital facility for which an impact fee is imposed pursuant to this Ordinance.
- B. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds authorized in Section 22-414.
- C. The Director shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the account are utilized solely for the purposes authorized in Section 16. Disbursement of funds shall be authorized by the Director at such times as are reasonably necessary to carry out the purposes and intent of this Ordinance; provided, however, that any fee paid shall be expended within a reasonable period of time, but not to exceed ten (10) years from the date the fee is deposited into the account.
- D. The Director shall maintain and keep adequate financial records for each such account, which shall show the source and disbursement of all revenues, which shall account for all monies received, and which shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of uses specified in the capital improvements plan as system-related capital projects.

Sec. 22-414. Use of Proceeds of Impact Fee Accounts

- A. The impact fees collected pursuant to this Ordinance may be used to finance or to recoup capital construction costs of service. Impact fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the City to finance such capital improvements or facilities expansions.
- B. Impact fees collected pursuant to this Ordinance shall not be used to pay for any of the following expenses:
 - 1) Construction, acquisition or expansion of capital improvements or assets other than those identified for the appropriate utility in the capital improvements plan;

- 2) Repair, operation, or maintenance of existing or new capital improvements or facilities expansions;
- 3) Upgrading, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
- 4) Upgrading, expanding or replacing existing capital improvements to provide better service to existing development; provided however, that impact fees may be used to pay the costs of upgrading, expanding or replacing existing capital improvements in order to meet the need for new capital improvements generated by new development; or
- 5) Administrative and operating costs of the City.

Sec. 22-415. Appeals

- A. The property owner or applicant for new development (please see definition) may appeal the following decisions to the Director or his/her designee:
 - 1) The applicability of an impact fee to the development;
 - 2) The value of the impact fee due.
 - 3) All appeals shall be filed with the City Secretary within thirty (30) days of notice of the action from which the appeal is taken.
- B. The burden of proof shall be on the appellant to demonstrate that the fee is not applicable or that the value of the fee or the value of the offset or credit was not calculated according to the applicable impact fee schedule or the guidelines established for determining offsets and credits.
- C. The appellant may appeal the decision of the Director to the City Council. The applicant must file a notice of appeal to the City Council with the City Secretary within thirty (30) days following the Director's decision. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the City Attorney in an amount equal to the original determination of the impact fee due, the development application or tap purchase or building permit issuance may be processed while the appeal is pending.

Sec. 22-416. Updates to Plan and Revision of Fees

The City shall review the land use assumptions and capital improvements plan for wastewater treatment and water supply, pumps and storage facilities at least every three years, the first three year period to commence from the date of adoption of the capital improvements plan referenced herein. The City Council shall accordingly then make a determination of whether changes to the land use assumptions, capital improvements plan or impact fees are needed and shall, in accordance with the procedures set forth in Chapter 395, either update the fees or make a determination that no update is necessary.

Sec. 22-417. Functions Of Advisory Committee

- A. The functions of the Advisory Committee are those set forth in Chapter 395 and shall include the following:
 - 1) Advise and assist the City Council in adopting land use assumptions;
 - 2) Review the capital improvements plan regarding wastewater treatment and water supply, pumps and storage facilities capital improvements and file written comments thereon;
 - 3) Monitor and evaluate implementation of the capital improvements plan;
 - 4) Advise the City of the need to update or revise the land use assumptions, capital improvements plan and impact fees; and
 - 5) File a semiannual report evaluating the progress of the City in achieving the capital improvement plan and identifying any problems in implementing the plan or administering the

impact fees.

- B. The City Council shall make available to the Advisory Committee any professional reports prepared in the development or implementation of the capital improvement plan.
- C. The City Council shall adopt procedural rules for the Advisory Committee to follow in carrying out its duties.

Sec. 22-418. Use of Other Financing Mechanisms

- A. The City Council may finance wastewater treatment and water supply, pumps and storage facilities, and capital improvements or facilities expansions designated in the capital improvements plan through the issuance of bonds, through the formation of public improvement districts or other assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations as may be provided by law, in addition to the use of impact fees.
- B. Except as herein otherwise provided, the assessment and collection of an impact fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment which is lawfully imposed on and due against the property.

Sec. 22-419. Impact Fees as Additional and Supplemental Regulation

- A. Impact fees established by this Ordinance are additional and supplemental to, and not in substitution of, any other requirements imposed by the City on the development of land or the issuance of building permits or the sale of water or wastewater taps or the issuance of certificates of occupancy. Such fees are intended to be consistent with and to further the policies of the City's Comprehensive Plan, capital improvements plan, zoning ordinance, subdivision regulations and other City policies, ordinances and resolutions by which the City seeks to ensure the provision of adequate public facilities in conjunction with the development of land.
- B. This Ordinance shall not affect, in any manner, the permissible use of property, density of development, design, and improvement standards and requirements, or any other aspect of the development of land or provision of public improvements subject to the zoning and subdivision regulations or other regulations of the City, which shall be operative and remain in full force and effect without limitation with respect to all such development.

Section 2. REPEALING ALL ORDINANCES IN CONFLICT

This Ordinance shall be cumulative of all provisions of ordinances of the City of Rockport, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 3. PROVIDING FOR SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 4. PRESCRIBING AN EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage: and it is so ordained.

PASSED AND APPROVED ON FIRST READING this day of 26th day of OCTOBER 1999.

CITY OF ROCKPORT, TEXAS

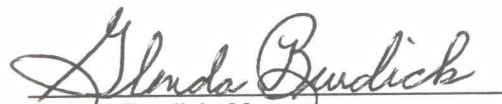

Glenda Burdick, Mayor

ATTEST:


Irma G. Parker, City Secretary

APPROVED, PASSED AND ADOPTED ON SECOND READING this 9th day of NOVEMBER 1999.

CITY OF ROCKPORT, TEXAS


Glenda Burdick, Mayor

ATTEST:


Irma G. Parker, City Secretary

**INSERT EXHIBIT A
PAGE 1 OF 2**

**EXHIBIT A
PAGE 2 OF 2**

LAND USE ASSUMPTION

The service area for the Capital Impact Fee includes all of the City of Rockport, the ETJ of the City of Rockport, the City of Fulton and its ETJ, and unincorporated areas north of Fulton on the Live Oak Peninsula. This area is more specifically defined in the service area boundary map in Exhibit D.

The future land use for the service area is depicted in the future land use plan within Exhibit D.

The population intensities and population projections for the service area are prescribed in Table 1 below:

Table 1

Population Figures

Year:	1950	1960	1970	1980	1990	1996
Population	2,266	2,989	3,879	3,686	4,753	5,851

Projections

Year	2000	2005	2010	2015	2020
Population	6,143	6,450	6,772	7,110	7,465

EXHIBIT B

MAXIMUM ASSESSABLE IMPACT FEE

The Maximum Assessable Impact Fee per living unit equivalent shall be \$593.61 for water and \$750.00 for sewer. The schedule below shall be the Maximum Assessable Impact Fee based on categories of use.

Category	Service Unit	LUE	Water CIF	Sewer CIF
Restaurant	1 person (based on Max)	0.07	\$41.55	\$52.50
Cocktail Lounge	1 person (based on Max)	0.04	\$23.74	\$30.00
Store/shop	1 restroom	0.50	\$296.81	\$375.00
Convenience Store	1 store	2.78	\$1,650.24	\$2,085.00
Self-service laundry	1 washing machine	0.66	\$391.78	\$495.00
Bath house	1 water fixture	0.06	\$35.92	\$45.00
Hospital	1 bed	0.50	\$296.81	\$375.00
Warehouse	1 restroom	0.50	\$296.81	\$375.00
Service Station	1 station	2.30	\$1,365.30	\$1,725.00
Class room (Church or School)	1 student	0.05	\$29.68	\$37.50
Office Building	150 sf	0.05	\$29.68	\$37.50
Car wash	1 stall	2.50	\$1,484.03	\$1,875.00
Movie theater	1 seat	0.02	\$11.87	\$15.00
Recreational vehicle park	1 space	0.40	\$237.44	\$300.00
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Commercial Boat docks	1 slip	0.16	\$94.98	\$120.00
Church sanctuary	1 fixture	0.13	\$77.17	\$97.50
* Dwelling unit	1 unit	1.00	\$593.61	\$750.00
* Efficiency dwelling 2 bedroom or less	1 unit	0.60	\$356.17	\$450.00
Motel with kitchen	1 unit	0.60	\$356.17	\$450.00
Nursing home/assisted care facility	1 bed	0.50	\$296.61	\$375.00

NOTE: * Dwelling units include Manufactured Homes, Apartments, Condominiums and all other residential dwelling structures not listed above.

EXHIBIT C

CAPITAL IMPROVEMENTS PLAN

It is the intent of this capital improvements plan to include only improvements, which are "system wide improvements" in the service area for wastewater facilities and water supply facilities. A Description of the existing capital improvements for each type of service and the associated cost is provided in the following:

1. WASTEWATER FACILITIES:

The existing Rockport Wastewater Treatment Plant (WWTP) will have a rated average daily capacity of 2.5 Million Gallons Per Day (MGD) after the 1999 improvements are completed. The plant has been expanded and upgraded over the last fifteen years to provide treatment capabilities to meet the City's needs, improve safety and efficiency of operation and to meet the Texas Natural Resources Conservation Commission's (TNRCC's) and U. S. Environmental Protection Agency's ever changing regulatory standards.

The Rockport WWTP total average daily flow capacity, prior to the present expansion, was 1.57 MGD. The level of current usage is an average wastewater flow of 1.2 MGD. With the completion of construction in late 1999 the plant total average daily flow capacity will be 2.5 MGD. Present TNRCC standards require that the Owner must initiate engineering and financial planning for expansion when the flow rate reaches 75% of the average daily flow for three consecutive months and begin construction of the expansion when the flow rate reaches 90% of the average daily flow. This means there is a reserve capacity of 0.675 MGD until the flow rate reaches 75% of the plant capacity and the City has to begin planning for the next expansion. Demand of new service units over the next ten years will utilize a portion of the existing reserve capacity constructed.

There have been five construction projects performed at the Rockport WWTP over the last fifteen years. These projects were undertaken to provide the necessary flow capacity to meet the needs of the City and to meet the periodically updated standards of the regulatory agencies. Impact fees can be assessed to recoup the cost of constructing facilities which will serve new development. A detailed cost analysis for each project is shown in Attachment No. 1 to this Exhibit. Line item costs were reviewed to determine whether they were eligible and ineligible to be included in the capital improvements plan. The eligible construction cost for each project was totaled and divided by the plant capacity gained or affected by the construction. A summary of the unit cost per gallon is presented in the following:

SUMMARY OF WASTEWATER COST PER GALLON

1984 EXPANSION (1.0 MGD TO 2.5 MGD)	\$	1.09/Gal.
1989 DECHLORINATION FACILITIES	\$	0.04/Gal.
1992 NEW PERMIT PARAMETERS	\$	0.03/Gal.
1993 EMERGENCY GENERATOR	\$	0.13/Gal.
1998 EXPANSION (1.57 MGD TO 2.5 MGD)	\$	1.20/Gal.
	\$	2.49/Gal.

The calculations show that the capital cost for the improvements at the existing plant to be \$2.49 per gallon. This equates to \$747 per connection (\$2.49/Gal. X 3 persons/connection x 100

gallons/person/day).

2. WATER SUPPLY FACILITIES:

The City of Rockport has a Water Certificate of Convenience And Necessity to serve potable water to the population in a large portion of the Live Oak Peninsula area of Aransas County. The facilities required to provide this service include water supply lines, Storage tanks, pumping plants and a water distribution system. The City maintains the existing system and constructs improvements as necessary to meet the potable water demand and to stay in compliance with the Texas Natural Resources Conservation Commission's regulatory standards.

The maximum demand on the City's water system has been 106 Million Gallons per month. This value includes an average unaccounted loss rate of 11%. The amount of water sold ranges from a high of 96 Million Gallons per month (equates to 3.2 MGD) to an average of 75 Million Gallons per month (equates to 2.5 MGD). In February, 1999 the City's water system had 8,164 total connections. A breakdown of the connections is as follows:

Active Taps	6,141
Water Co. Connection	891
Apartments	<u>1,132</u>
Total Connections	8,164

The maximum water demand per connection, including losses, has been 431 Gal./Conn./Day (106,000,000 Gal./30 Days per Month/8164 Connections). The water use per person, based on water sold, is provided in the following:

Maximum Months

$$\frac{3,200,000 \text{ GPD}}{8,164 \text{ Conn.}} = 392 \text{ Gal./Conn.}$$

$$\frac{392 \text{ Gal./Conn.}}{3 \text{ Persons/Conn.}} = 130.66 \text{ Gal./Cap./Day}$$

Average Months

$$\frac{2,500,000 \text{ GPD}}{8,164 \text{ Conn.}} = 306 \text{ Gal./Conn.}$$

$$\frac{306 \text{ Gal./Conn.}}{3 \text{ Persons/Conn.}} = 102.00 \text{ Gal./Cap./Day}$$

In 1994 the FM 188 Pump Station was constructed to increase the potable water delivery system capacity from the San Patricio Water District. The project included a pump station and ground storage reservoir. The construction of this pump station increased the available water supply by 567,000 Gal. Per Day (GPD). This represents 1,316 new connections based on peak demand (567,000 gpd/431 Gal./Conn./Day). The cost per connection for adding the additional capacity calculates to \$480.34/Conn. (\$635,132/1,316 Conn.)

The Ivy Street Pump Station is another of the City's potable water facilities. This pump station has a total pumping capacity of 7.2 MGD (5,000 GPM). During 1998 there were demands put on this pump station which reached the limits of available peak capacity leaving the station with no reserve capacity. The ground storage facility at this site includes two 1.5 Million Gallon reservoirs. During the 1998 peak event water supply/storage was a limiting factor to demand/use

in the City. The existing available peak storage volume, based on the 1998 peak event, amounts to 367 Gal./Conn. (3,000,000 Gal./8,164 Conn.). The volume per connection figure was used to determine future storage volumes.

The capital improvements plan includes the expansion of the Ivy Street Pump Station. The improvements to the pumping facilities includes the upsizing of pump impellers and the necessary work to the electrical controls to accommodate the additional pump load. The improvements will cost \$21,000 and will increase pumping capacity by 1,000,000 gallons per day and will serve 2,320 new connections. This equates to \$9.05/connection. Also contemplated at Ivy Pump Station is a new 1.5 Million-Gallon ground storage tank which is projected to cost \$411,250 and will serve 4,087 new connections. The per connection cost for these facilities is \$100.62/connection.

Costs associated with developing the capital impact program are also eligible. They can be charged to the rate. The following is an estimate of these costs and a per connection charge for the same.

A.	Legal and Engineering	\$	25,000
B.	Land Use Planning	\$	7,500
C.	Publication & Printing	\$	500
	TOTAL	\$	33,000

The number of connections over the next ten year planning period is estimated to be 5,000. Therefore, the per connection soft cost charge is \$6.60.

A summary of the unit cost per gallon is presented in the following:

Summary of Capital Impact Charges:

A.	Sewer Treatment		
	1) Existing plant capacity	\$	747.00/Connection
B.	Water Supply		
	1) 188 pump station	\$	480.34/Connection
	2) Ivy pump Improvements	\$	9.05/Connection
	3) Ivy ground storage facilities	\$	100.62/Connection
	6.60/Connection		
C.	Other eligible costs	\$	6.60/Connection
	TOTAL	\$	1,343.61/Connection

INSERT EXHIBIT D

ORDINANCE NO. 1162

AN ORDINANCE REPEALING ORDINANCE NO. 1148 IN ITS ENTIRETY AND FURTHER AMENDING THE CITY OF ROCKPORT CODE OF ORDINANCES RELATING TO THE IMPACT FEE BY AMENDING SECTION 22-402, "DEFINITIONS", AND SECTION 22-412, "COLLECTION OF IMPACT FEES"; CLARIFYING THE EFFECTIVE DATE; SETTING FORTH THE DATE THE IMPACT FEE WILL BE COLLECTED IRRESPECTIVE OF DATE OF ANY FINAL PLAT APPROVAL; AND PROVIDING FOR A REPEALING CLAUSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKPORT, TEXAS:

Chapter 22 Of The Code Of Ordinances Of The City Of Rockport Is Hereby Amended As Follows:

SECTION 1: That Ordinance No. 1148, an amendment to the City of Rockport Code of Ordinances relating to the impact fee by amending Section 22-412, "Collection of Impact Fees", is hereby repealed in its entirety.

SECTION 2: Chapter 22, Article XI, Section 22-402, "Definitions", shall be amended to read as follows:

Section 22-402. Definitions

As applied in this Ordinance, the following words and terms shall be used:

- | | | | |
|---|---|---|---|
| * | * | * | * |
| <p>(2) <i>Building Permit</i> – Written permission issued by the City for the construction, repair, alteration, or addition to a structure. Written permission herein shall refer to either a building permit or to a plumbing permit which are associated with an increase of one or more service units.</p> | | | |
| * | * | * | * |
| <p>(13) <i>Facility Expansion</i> – The expansion of the capacity of an existing facility, which serves the same function as an otherwise necessary new capital improvement in order that the existing facility may serve new development. Facility expansion does not include the repair, maintenance, or modernization, of an existing facility to better serve existing development.</p> | | | |
| * | * | * | * |

SECTION 3: Chapter 22, Article XI, Section 22-412, "Collection of Impact Fees", shall be amended to read as follows:

90

Section 22-412. Collection of Impact Fees

- A. No water or wastewater tap shall be allowed until all impact fees have been paid to the City except as provided otherwise by contract.
- B. Except as provided in Subsections C, ^DE, and F below, impact fees shall be collected at the time of issuance of the building permit, or if no building permit is required, at the time of tap purchase.
- C. The City shall not collect any impact fee on any service unit for which a valid building permit is issued prior to or within one (1) year after the effective date of Ordinance No. 1128.
- D. If a building permit obtained prior to or within one (1) year after the effective date of this ordinance subsequently expires, and no new application is made and approved within such period, the new development (please see definition) shall be subject to the payment of an impact fee, as provided in subsection B of this section.
- E. If a building permit is obtained prior to or within one (1) year from the effective date of Ordinance No. 1128, the water or wastewater tap, or both, must be completed within six (6) months after the building permit is issued; otherwise, the full impact fee(s) will be collected.
- F. Impact fees shall be collected if a tap was purchased within one (1) year from the effective date of Ordinance No. 1128, and any subsequent building permit is required after one (1) year from the effective date of Ordinance No. 1128, which new development ties onto said tap previously purchased.
- G. The City may, at its sole discretion, enter into contract to establish a different date of fee collection than those provided in this Section.
- H. For purposes of this Section, the effective date of Ordinance No. 1128 is November 9, 1999.

SECTION 4. REPEALING CLAUSE

All sections of the Code of Ordinances of the City of Rockport, Texas, in conflict with this ordinance are hereby expressly repealed insofar as such conflict therewith, and all other ordinances not in conflict herewith, shall remain in full force and effect.

SECTION 5. SEVERABILITY

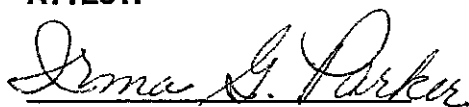
If any provision, section, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this ordinance are declared severable for that purpose.

PASSED and APPROVED ON FIRST READING this 12th day of SEPTEMBER 2000.

CITY OF ROCKPORT, TEXAS

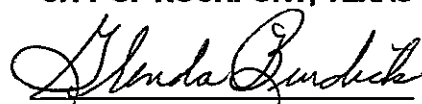

Glenda Burdick, Mayor

ATTEST:

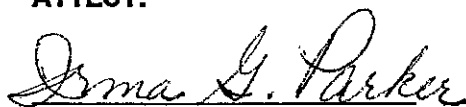

Irma G. Parker, City Secretary

PASSED, APPROVED and ADOPTED ON SECOND READING this 26th day of SEPTEMBER 2000.

CITY OF ROCKPORT, TEXAS


Glenda Burdick, Mayor

ATTEST:


Irma G. Parker, City Secretary

ORDINANCE NO. 1203

AN ORDINANCE AMENDING CHAPTER 22 "BUILDINGS AND BUILDING REGULATIONS" ARTICLE XI "WASTEWATER AND WATER IMPACT FEE" OF THE CODE OF ORDINANCES OF THE CITY OF ROCKPORT; AMENDING CERTAIN DEFINITIONS, CHANGING THE METHOD FOR CALCULATING IMPACT FEES PER SERVICE UNIT AND REVISING THE CAPITAL IMPROVEMENTS PLAN ACCORDINGLY; AMENDING THE TIME FOR COLLECTING IMPACT FEES; REQUIRING LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLANS TO BE REVIEWED EVERY FIVE YEARS; REQUIRING A CERTIFICATION OF COMPLIANCE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

- WHEREAS,** the City of Rockport adopted Ordinance No. 1128 on November 9, 1999 imposing an impact fee on new land development in the City and surrounding areas serviced by the City for providing wastewater treatment and water supply, pumps and storage facilities necessitated by such new development; and
- WHEREAS,** the City adopted Ordinance No. 1148 on April 11, 2000, amending Ordinance No. 1128; and
- WHEREAS,** the City adopted Ordinance No. 1162 on September 26, 2000, repealing Ordinance No. 1148 in its entirety and amending Ordinance 1128; and
- WHEREAS,** the Texas Legislature adopted SB 243, effective September 1, 2001, to provide additional requirements for the calculation and implementation of impact fees; and
- WHEREAS,** the City now desires to again amend Ordinance No. 1128, as amended, to bring the Impact Fee Ordinance into compliance with state law by amending certain definitions, changing the method for calculating impact fees per service unit, amending the time for collecting impact fees, requiring land use assumptions and capital improvements plans to be reviewed every five years, and requiring a certification of compliance.

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

SECTION 1. Amendment Section 22-402 "Definitions"

That Chapter 22 "Building and Building Regulations", Article XI. " Wastewater and Water Impact Fee" Section 22-402 "Definitions" is amended by making the following change to wit:

Impact Fee: Fee to be imposed upon new development, calculated based upon the costs of facilities in proportion to development creating the need for such facilities. Impact fees do not include dedication of rights-of-way or easements, or construction or dedication of on-site or off-site water distribution or wastewater collection facilities required by other ordinances of the City and necessitated by and attributable to the new development; lot or acreage fees placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or wastewater mains or lines; or other pro rata fees for reimbursement of water or sewer mains or lines extended by the City.

Service Unit: 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 ten years, expressed in living units equivalent.

SECTION 2. Amendment Section 22-409 "Impact Fees per Service Unit"

That Chapter 22 "Building and Building Regulations", Article XI. " Wastewater and Water Impact Fee" Section 22-409 "Impact Fees per Service Unit" is amended by making the following change to wit:

- (a) The maximum impact fee per service unit shall be computed by subtracting the credit for a 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, or the credit equal to fifty percent (50%) of the total projected cost of implementing the capital improvement plan, whichever is applicable, from the growth-related capital construction cost in the capital improvements plan for that category of capital improvements, and dividing that amount by the total number of projected service units anticipated within the service area which are necessitated by and attributable to new development (please see definition), based on the land use assumptions for that service area. Maximum assessable impact fees per service unit shall be established by category of capital improvements and shall be set forth in Exhibit B to this Ordinance.

SECTION 3. Amendment Section 22-412 "Collection of Impact Fees"

That Chapter 22 "Building and Building Regulations", Article XI. " Wastewater and Water Impact Fee" Section 22-412 "Collection of Impact Fees" is amended by making the following change to wit:

- (b) Except as provided in Subsections C, D, E, and F below, impact fees shall be collected at the time of issuance of the building permit. For land platted outside this City's corporate limits, the City shall collect impact fees at the time an application for an individual meter connection to the City's water and wastewater system is filed. If the City lacks authority to issue building permits in the area where the impact fee applies, the City shall collect the impact fees at the time an application is filed for an individual meter connection to the political subdivision's water or wastewater system.

- (g) Notwithstanding Subsections B through F above, the City may enter into an agreement with the owner of a tract of land for which a plat has been recorded providing for a different time and method of payment of the impact fees.

SECTION 4. Amendment Section 22-416 "Updates to Plan and Revision of Fees"

That Chapter 22 "Building and Building Regulations", Article XI. " Wastewater and Water Impact Fee" Section 22-416 "Updates to Plan and Revision of Fees" is amended by making the following change to wit:

The City shall review the land use assumptions and capital improvements plan for

wastewater treatment and water supply, pumps and storage facilities at least every five years, the first five-year period to commence from the date of adoption of the capital improvements plan referenced herein. The City Council shall accordingly then make a determination of whether changes to the land use assumptions, capital improvements plan or impact fees are needed and shall, in accordance with the procedures set forth in Chapter 395, either update the fees or make a determination that no update is necessary.

SECTION 5. Adoption Section 22-420 "Certification of Compliance"

That Chapter 22 "Building and Building Regulations", Article XI. " Wastewater and Water Impact Fee" Section 22-420 "Certification of Compliance" is hereby added to the Code of Ordinances to wit:

Sec. 22-420. Certification of Compliance

The City shall submit a written certification verifying compliance with Chapter 395 to the attorney general each year not later than the last day of the City's fiscal year. The certification shall be signed by the Mayor and include the statement: "This statement certifies compliance with Chapter 395, Local Government Code."

SECTION 6. Adoption Section 22-421 "Capital Improvements Plan"

That Chapter 22 "Building and Building Regulations", Article XI. " Wastewater and Water Impact Fee" Section 22-421 "Capital Improvements Plan" is hereby added to the Code of Ordinances to wit:

Section 22-421. Capital Improvements Plan

The Capital Improvements Plan (Exhibit C) is included for the sole purpose of enumerating a plan for awarding credits as set forth in Section 22-409 and shall not be considered to be an update of the Capital Improvements Plan as provided in Section 22-416.

SECTION 7. REPEALING CLAUSE.

All Sections of the Code of Ordinances of the City of Rockport, Texas, in conflict with this ordinance are hereby expressly repealed insofar as such conflict herewith, and all other ordinances not in conflict herewith, shall remain in full force and effect.

SECTION 8. SEVERABILITY.

Any previously adopted ordinances, and any subsequent amendments to them, which are in conflict with this Ordinance, are all hereby repealed.

SECTION 9. EFFECTIVE DATE.

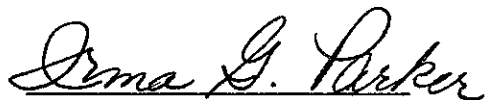
This ordinance shall be in full force and effect as soon as all necessary publication requirements have been met.

APPROVED ON FIRST READING this day 11th of DECEMBER 2001.

CITY OF ROCKPORT, TEXAS


Glenda Burdick, Mayor

ATTEST:


Irma G. Parker, City SecretaryAPPROVED, PASSED AND ADOPTED ON SECOND READING this 8th day of JANUARY 2002.

CITY OF ROCKPORT, TEXAS


Glenda Burdick, Mayor

ATTEST:


Irma G. Parker, City Secretary