

City of Houston, Texas, Ordinance No. 2021-_____

AN ORDINANCE ADOPTING AMENDED LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, AND IMPACT FEES IN ACCORDANCE WITH CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE; AMENDING CERTAIN PROVISIONS OF CHAPTER 47 RELATED TO THE ADJUSTMENT OF IMPACT FEES; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; AND PROVIDING FOR SEVERABILITY.

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WHEREAS, Chapter 395 of the Texas Local Government Code (“Chapter 395”) authorizes municipalities, counties, and other local governments to establish land use assumptions, prepare a capital improvements plan for a designated service area, and establish impact fees to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to new development; and

WHEREAS, Chapter 395 states that land use assumptions includes a description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a 10-year period; and

WHEREAS, Chapter 395 states that the capital improvements plan must include, among other things, a description of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions; and

WHEREAS, on August 30, 2005, City Council approved Ordinance 2005-958, which set the City’s current Land Use Assumptions, Capital Improvements Plan, and Impact Fees; and

WHEREAS, the City updated the land use assumptions, capital improvements plan, and water and wastewater impact fees by Ordinance No. 2010-0482, with correction of a technical error by Ordinance No. 2010-0583.

WHEREAS, the City Council passed Ordinance No. 2019-212, adopted March 27, 2019, approving contract number 4600015310 (the “Study Contract”) with Carollo Engineers, Inc. (“Carollo”) to provide services and recommendations (the “Study”) related to fees charged by the City’s combined utility system; and

WHEREAS, the Study Contract authorized and required Carollo to make recommended updates to the City’s land use assumptions, capital improvements plan, and impact fees; and

WHEREAS, Carollo prepared the Study, the 2020 Cost of Service Study – Water & Wastewater Impact Fees Update, attached hereto as Exhibit A, which includes updated

water and wastewater land use assumptions, capital improvements plans, and a calculation of maximum water and wastewater impact fees; and

WHEREAS, Houston Public Works forwarded the Study to the City Council on March 22, 2021; and

WHEREAS, the City made the Study and proposed impact fees available to the public through the City Secretary's Office on or before March 26, 2021; and

WHEREAS, on March 26, 2021, the City published Notice of Public Hearing on Amendment of Impact Fees in accordance with Chapter 395; and

WHEREAS, prior to March 26, 2021 the City Secretary exercised due diligence and determined that no person requested from the City written notice described in Chapter 395 of an amendment to impact fees; and

WHEREAS, at its April 1, 2021 meeting, the City of Houston Planning Commission ("Planning Commission") acted as the Impact Fee Advisory Committee pursuant to Chapter 395 and considered the Study and Houston Public Works' presentation regarding updates to the Land Use Assumptions, Impact Fee-Capital Improvements Plan, maximum calculated impact fees, and recommended changes to the water and wastewater impact fees; and

WHEREAS, the Planning Commission filed its written comments on the Study and Proposed Amendments on April 20, 2021, in accordance with Chapter 395;

WHEREAS, on April 28, 2021, the City Council held a public hearing on the proposed Land Use Assumptions, Capital Improvements Plan, and Impact Fees in accordance with Chapter 395; and

WHEREAS, Houston Public Works presented the proposed amendments attached to this Ordinance as Exhibit B at the April 28, 2021, public hearing ("Proposed Amendments"); and

WHEREAS, Houston Public Works recommends that City Council adopt the land use assumptions and capital improvements plan and update the water and wastewater impact fees in the City's fee schedule; **NOW, THEREFORE**,

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

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. The City Council hereby accepts and acknowledges comments from the Planning Commission, acting as the Impact Fee Advisory Committee, concerning the Proposed Amendments, which were placed on file with the City Secretary on April 20, 2021, and which are attached hereto as Exhibit C.

Section 3. City Council hereby adopts the Study, which includes the updated Land Use Assumptions and Capital Improvements Plan included in Exhibit A, which is incorporated herein by this reference for all purposes.

Section 4. Pursuant to Chapter 395, City Council hereby updates and amends the amount of the water and wastewater impact fees per service unit as set forth in the Study as follows:

NAME	DESCRIPTION	AUTHORITY	FEE/SERVICE UNIT
Calculated Maximum Water Impact Fee per Service Unit	Maximum fee per service unit before rate credit	Chapter 395, Texas Local Government Code	\$6,472.42
Water Impact Fees Assessed	Maximum fee per service unit after rate credit	Section 395.014(7)(b) Texas Local Government Code	\$3,236.21
Water Impact Fees Collected	Fee per service unit	47-384 through 47-395	\$1,618.11 (FY 2022)
Calculated Maximum Wastewater Impact Fee per Service Unit	Maximum fee per service unit before rate credit	Chapter 395, Texas Local Government Code	\$4,633.24
Wastewater Impact Fees Assessed	Maximum fee per service unit after rate credit	Section 395.014(7)(b), Texas Local Government Code	\$2,316.62
Wastewater Impact Fees Collected	Fee per service unit	47-316 through 47-326	\$1,621.63 (FY 2022)

The Director of Finance shall revise the City Fee Schedule to show the new fee amounts and insert the number of this Ordinance in the Authority column for each fee.

Section 5. For Fiscal Years 2023 through 2026, the water impact fee per service unit collected as set forth in **Section 5** of this Ordinance shall be adjusted as shown below; provided, however, that the water impact fee collected shall never exceed the maximum water impact fee per service unit assessed:

FISCAL YEAR	EFFECTIVE DATE	PERCENTAGE OF CALCULATED MAXIMUM FEE	TOTAL WATER IMPACT FEE/SERVICE UNIT COLLECTED
2023	July 1, 2022	25.6	\$1,658.56
2024	July 1, 2023	31.5	\$2,040.03
2025	July 1, 2024	32.3	\$2,091.03
2026	July 1, 2025	38.6	\$2,496.95

The Director of Houston Public Works shall ensure that the adjusted water impact fee amounts per service unit to be collected as shown in the table above is provided to the Director of Finance for incorporation into the City Fee Schedule as soon as possible.

Section 6. Subsection 47-384 of the City Code is hereby amended to add a new Subsection 47-384(d), which, reads as follows:

“(d) Effective May 19, 2021,¹ the provisions of subsection (b) of this section, establishing requirements for the calculation and adjustment of the water impact fee related to the designated index, as defined therein, are hereby suspended. No later than June 1, 2026, the director shall calculate the water impact fee per service unit that will take effect on July 1, 2026. The annual adjustment of the water impact fee shall resume, and water impact fees shall be adjusted, effective July 1, 2026, pursuant to the methodology established in subsection (b) of this section.”

Section 7. For Fiscal Years 2023 through 2026, in addition to and subject to the annual fee adjustment provided for in Section 47-316(b) of the City Code, the wastewater impact fee collected as stated in **Section 5** of this Ordinance shall be adjusted as shown

¹ City Secretary shall insert date of passage and final approval of this Ordinance.

below; provided, however, that the wastewater impact fee collected shall never exceed the maximum wastewater impact fee per service unit assessed:

FISCAL YEAR	EFFECTIVE DATE	PERCENTAGE OF CALCULATED MAXIMUM FEE	TOTAL WATER IMPACT FEE/SERVICE UNIT COLLECTED
2023	July 1, 2022	35.9	\$1,662.17
2024	July 1, 2023	36.8	\$1,703.73
2025	July 1, 2024	37.7	\$1,746.32
2026	July 1, 2025	38.6	\$1,789.98

The Director of Houston Public Works shall ensure that the adjusted wastewater impact fee amounts per service unit to be collected as shown in the table above is provided to the Director of Finance for incorporation into the City Fee Schedule as soon as possible.

Section 8. That, the City Council officially finds, determines, recites, and declares that a sufficient written notice of the date, hour, place, and subject of this meeting of the City Council was posted as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof have been discussed, considered and formally acted upon. City Council ratifies, approves, and confirms such written notice and the contents and posting thereof.

Section 9. That City Council officially finds, determines, and declares that the updates to the land use assumptions, capital improvements plan, maximum fee per service unit, and the amendments to the water and wastewater impact fees are adopted pursuant to all notice, publication, and public hearing requirements of Chapter 395.

Section 10. That, if any provision, section, subsection, 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 or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 11. That all provisions of this Ordinance shall take effect immediately upon its passage and approval by the Mayor.

PASSED on first reading this 12th day of May, 2021.

PASSED AND FINALLY APPROVED on second reading this 19th day of May, 2021.

Sylvester Turner _____
Mayor of the City of Houston

Prepared by Legal Dept. _____
[GHW/dlg] 05/11/2021 Senior Assistant City Attorney
Requested by Carol Haddock, Director, Houston Public Works
L.D. File No. 00632000081001