

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 30, 2023

Laurie Gharis, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC-105
Austin, Texas 78711-3087

Re: TCEQ Docket No. 2023-0578-DIS; East Central Special Utility District Request to Levy Impact Fee; Request filed regarding Internal Control No. D-03302022-060.

Dear Ms. Gharis:

Transmitted herewith for filing with the Texas Commission on Environmental Quality (Commission or TCEQ) are the following items to be filed as backup materials for the July 19, 2023 Agenda on a hearing request for the East Central Special Utility District Request to Levy Impact Fee:

1. Resolution;
2. Notice; and
3. Technical memo prepared by staff

Please do not hesitate to contact me if you have any questions regarding this material. Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in black ink that reads "Bobby Salehi".

Bobby Salehi, Staff Attorney
Environmental Law Division

RESOLUTION NO. 2022001

March 10, 2022

A RESOLUTION OF THE BOARD OF THE EAST CENTRAL SPECIAL UTILITY DISTRICT RESPECTING AN IMPACT FEE PURSUANT TO LOCAL GOVERNMENT CODE CHAPTER 395, ADOPTING THE IMPACT FEE STUDY REPORT OF MARCH 2022, PREPARED BY GALLEGOS ENGINEERING, INC., PURSUANT TO LOCAL GOVERNMENT CODE §395.80, FOR APPLICATION WITHIN THE DISTRICT'S BOUNDARY, PROVIDING DIRECTION TO GIVE NOTICE AND SEEK APPROVAL OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, PROVIDING NOTICE TO THE PUBLIC AS REQUIRED, AUTHORIZING REQUEST FOR ANY APPROVALS NECESSARY, AND ESTABLISHING A SCHEDULE FOR PROCESSING AND PROVIDING A PROPOSED EFFECTIVE DATE.

WHEREAS, East Central Special Utility District ("ECSUD") has authorized an Impact Fee Study Report by Gallegos Engineering, Inc., and received the results thereof in February 2022 with a proposed maximum allowable fee of \$3,806.00 per household unit;

WHEREAS, the aforementioned report at Page 3 establishes certain land use (growth) assumptions for the period of 2019-2030 (Table 1);

WHEREAS, pursuant to TCEQ requirements, notice (once a week for two consecutive weeks) and application review by the TCEQ is based on analysis of the capacity of the existing system (Report at Page 4), and demand distribution for service and cost of water distribution improvements based on computer modeled design criteria;

WHEREAS, said Impact analysis is to be based on the number of service units expected for development within the next decade including increase in service units, future water projects with anticipated construction costs (Table 2, Page 1) [at December 2021 costs];

WHEREAS, Table 3 provides storage projections, Table 4 provides pumping capacity projections, Table 5 provides water supply source projections; Table 6 provides determination of the number of equivalent service units based on various sizes of cold water meters based on safe maximum operating capacity of the American Water Works Association (AWWA) as expressed by equivalent 5/8" or 3/4" meters pursuant to AWWA Manual M22 (3rd Edition); and

WHEREAS, the TCEQ has previously approved an Impact Fee in the amount of \$2,450 in July of 2012 per Texas Local Government Code §395.80 for service within the District's boundary.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. ECSUD resolves to comply with all requisite statutory and regulatory approvals necessary and thereafter adopt an Impact Fee as necessary to provide continuous and adequate service to the District that will conform to the latest AACOG/MPO Mobility Model projected 30-year increase in households based on an average growth rate of not less than 1.58%, the Board being aware of the fact that current growth projections have increased to 8.3% for Years 2024 to 2030.
2. ECSUD's Board further resolves and directs that notice of the completed study and intention to adopt an Impact Fee following approval by the TCEQ and accordingly authorizes the system manager, engineer, and counsel to proceed with requisite application, review, notice, and adjustments of the Impact Fee calculation set forth on Page 7 of 7 at Section 7.3 and take such further steps as may be required to conform to the requirements of this resolution and mandate of the District's requirement to provide financing and development for the continuous and adequate service for present and future delivery requirements necessary to provide for the health, safety, and environmental security of the residents and the delivery of fire fighting water necessary for the public health of the residents of the District.

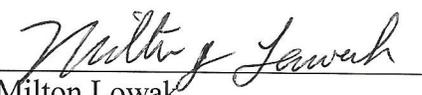
BE IT HEREBY DETERMINED THAT this Resolution is necessary and proper for compliance with the requirements of the Texas Utilities Code, Title 4, Delivery of Utility Services, Section 186.002, for the continuous service by a public utility that is essential to the life, health and safety and provide emergency operations to meet extreme weather conditions based on recent experience in 2021, including supporting electrical services to assure uninterrupted service which is declared by the Legislature to be a public calamity that cannot be endured.

{The balance of this page has intentionally been left blank.}

Upon motion of Milton Lowak, seconded by Randy Schwenn, with the following 8 voting in the affirmative, 0 voting in the negative, 1 absent, and 0 abstaining, the above Resolution is duly **PASSED and APPROVED** this 10th day of March, 2022.


Melvin Strey
President of the Board of Directors
East Central Special Utility District

Attest:


Milton Lowak
Secretary of the Board of Directors
East Central Special Utility District

CERTIFICATION BY SECRETARY

I, Milton Lowak, do hereby certify that I am the Secretary of the Board of the East Central Special Utility District (hereinafter called "ECSUD"), that the above and foregoing is a true, full and correct copy of a Resolution duly adopted by the Board of the ECSUD at its duly noticed meeting of March 10, 2022, and entered into the Minutes Book of ECSUD, that the meeting was duly held in accordance with the Texas Open Meetings Act, and that such Resolution has not been rescinded or modified.

To certify which, witness my hand and seal of the District this 10th day of March, 2022.

SEAL


Milton Lowak
Secretary of the Board of Directors
East Central Special Utility District

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF APPLICATION BY A DISTRICT FOR APPROVAL TO LEVY IMPACT FEE TCEQ Internal Control No. D-03302022-060

APPLICATION. East Central Special Utility District of Bexar, Wilson, and Guadalupe Counties (the "District") filed an application with the Texas Commission on Environmental Quality (TCEQ) for authority to levy a revised impact fee of \$3,806 per equivalent single-family connection within the District's service area. The District's service area boundaries are shown on the map that follows this notice and is marked as Exhibit "A." The Authority files this application under the authority of Chapter 395 of the Local Government Code, 30 Texas Administrative Code Chapter 293, and the procedural rules of the TCEQ.

The purpose of impact fees is to generate revenue to recover the costs of capital improvements or facility expansions made necessary by and attributable to serving new development in the District's service area. At the direction of the District, a registered engineer has prepared a capital improvements plan (impact fee study) for the system that identifies the capital improvements or facility expansions and their costs for which the impact fees will be assessed.

The impact fee application and supporting information are available for inspection and copying during regular business hours in the Districts Section of the Water Supply Division, Third Floor of Building F (in the TCEQ Park 35 Office Complex located between Yager and Braker lanes on North IH-35), 12100 Park 35 Circle, Austin, Texas 78753. A copy of the impact fee application and supporting information, as well as the capital improvements plan, is available for inspection and copying at the District's office during regular business hours.

CONTESTED CASE HEARING. The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days after the newspaper publication of this notice.

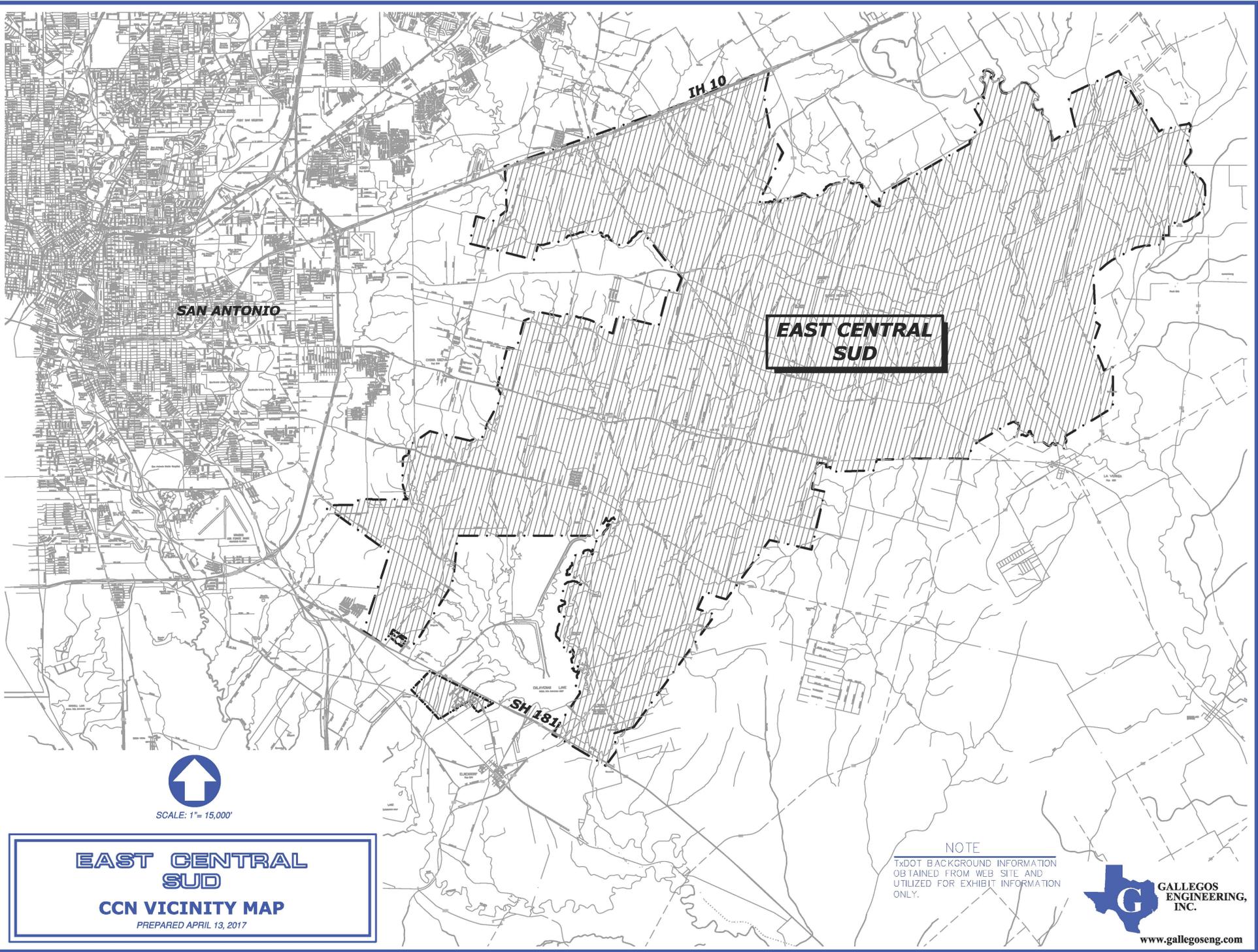
To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the application. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting to determine whether a contested case hearing will be held. If a contested

case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

INFORMATION. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Office of Public Interest Counsel, MC 103, at the same address. General information regarding the TCEQ can be found at our web site at <http://www.tceq.texas.gov/>.

Issued: September 12, 2022



SAN ANTONIO

I-10

**EAST CENTRAL
SUD**

SH 181



SCALE: 1" = 15,000'

**EAST CENTRAL
SUD
CCN VICINITY MAP**

PREPARED APRIL 13, 2017

NOTE

TXDOT BACKGROUND INFORMATION
OBTAINED FROM WEB SITE AND
UTILIZED FOR EXHIBIT INFORMATION
ONLY.



**GALLEGOS
ENGINEERING,
INC.**

www.gallegoseng.com

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To: Justin P. Taack, Manager 
Districts Section

Date: March 17, 2023
3/17/2023

Through: Dan Finnegan, Lead
Districts Bond Team

From: Daniel Harrison
Districts Bond Team

Subject: East Central Special Utility District of Bexar, Wilson, and Guadalupe Counties;
Application for Approval to Levy Impact Fees; Pursuant to Local Government
Code Chapter 395.
TCEQ Internal Control No. D-03302022-060 (TC)
CN: 602883910 RN: 104711197

A. GENERAL INFORMATION

East Central Special Utility District of Bexar, Wilson, and Guadalupe Counties (District) submitted an application requesting Texas Commission on Environmental Quality (TCEQ) approval to levy an impact fee for water capacity of \$3,806 per equivalent single-family connection (ESFC).

The District provides retail water service under Certificate of Convenience and Necessity (CCN) No. 10655 to approximately 8,073 active customer connections within its service area of approximately 120 square miles located in Bexar, Wilson and Guadalupe Counties. The District, located in a predominately rural area east of San Antonio, is generally bounded on the north by I-10, on the east by a portion of the Bexar/Wilson county line, to the south by US Highway 181 and to the west by the cities of San Antonio and China Grove. The District has indicated that the requested impact fee is necessary to provide continuous and adequate service to the District considering projected growth.

Notice Requirements

In compliance with the requirements of 30 Texas Administrative Code (TAC) Section 293.173(c) the District provided evidence that on January 3, 2023 it mailed notice of the application for approval of impact fee to each owner of property within the service area. In addition, proper notice of the application was published on December 28, 2022 and January 4, 2023 in the *Seguin Gazette* and the *Wilson County News*, newspapers regularly published or circulated in Bexar, Wilson, and Guadalupe Counties, the counties in which the District intends to levy the impact fee.

B. CAPITAL IMPROVEMENTS PLAN/IMPACT FEE CALCULATIONS

The District is located in a fast-growing suburban area east of the City of San Antonio. The District obtains its water supply pursuant to contracts with Canyon Regional Water Authority (CRWA), which provides water from the north, San Antonio Water System (SAWS), which provides water from the west, and Green Valley SUD (GWSUD), which provides water from the east. The District has contracted for a total of 3,200 acre-feet per year of water supply and has existing pump capacities of 7,205 gpm, which is sufficient to provide continuous adequate pressure throughout the water system.

The District’s engineer submitted an impact fee study report describing the projected growth within the District, proposed improvements and the future connections on which the new impact fee is based. The specific improvements and projected costs for the period 2020 through 2029 as detailed in the impact fee study (previous capital improvements plan) are as follows:

1. Water Lines

<u>Project Name</u>	<u>Description</u>	<u>Length</u>	<u>Diameter</u>	<u>Cost</u>
Abbott Road	Prop. subdivisions to Graytown Rd.	6,500	12 in.	\$ 702,000
Abbott Road	Graytown Rd to FM 1346	10,100	24 in.	2,181,600
S. Abbott Road	FM 1346 to Adkins-St. Hedwig Rd	2,000	12 in.	216,000
Adkins-St. Hedwig Rd	S. Abbott Rd to FM 1518	6,800	12 in.	734,400
FM 1518	Adkins-St Hedwig Rd-La Vernia Rd	5,500	12 in	594,000
FM 1346	FM 1518 to S. Graytown Rd	10,100	12 in	1,090,800
Pittman Road	La Vernia Rd to US Highway 87	8,950	12 in	966,600
US Highway 87	Loop 1604 to Pittman Rd	4,785	12 in	631,620
Foster Road	Calaveras Creek to US Hwy 181	14,708	12 in	1,588,464
US Highway 181	Foster Rd-Palm Park Approach Main	6,000	8 in	432,000
La Vernia Rd	Loop 1604 to FM 1518	300	12 in	32,400
La Vernia Rd	Mt. Olive Rd to Loop 1604	4,050	12 in	437,400
La Vernia Rd	Rakowitz Rd to Mt. Olive Rd	4,350	12 in	469,800
S. Abbott Rd	Loop 1604 to La Vernia Rd	2,000	12 in	216,000
La Vernia Rd	S. Abbott Rd to Rakowitz Rd	5,300	12 in	572,400
Rakowitz Rd	La Vernia Rd to US Hwy 87	11,100	12 in	1,198,800
FM 1346	S. Graytown Rd to Felix Rd	4,600	12 in	496,800
St. Hedwig Rd	Felix Rd to County Rd 345	9,992	12 in	1,071,576
Loop 1604	Roddy Rd to South J-30	2,000	12 in	216,000
US Hwy 87	Oak Park Rd to Carpenter Rd	5,750	12 in	621,000
FM 775	Zuehl Crossing to FM 467	9,350	8 in	673,200
Fruedenburg Rd	CRWA Interconnect-N Graytown Rd	12,000	16 in	1,728,000
N. Graytown Rd	CRWA Interconnect to Graytown Rd	8,120	16 in	1,169,280
Schwirth/N Graytown Rd	Loop 1604 to Abbott Rd	19,100	16 in	2,750,400
Loop 1604	Green Rd to S. Abbott Rd	18,200	24 in	3,931,200
Green Rd	Loop 1604 tot Schwirth Rd	4,000	12 in	<u>432,000</u>
	Water Line Subtotal			\$25,153,740

2. Pumps

<u>Project Name</u>	<u>Description</u>	<u>Pump Total</u>
Palm Park Booster Pumps	1,400 gpm firm pump capacity	
Loop 1604 Booster Pumps	8,000 gpm firm pump capacity	
Add System Pump Cap.	Remainder of 11,100 gpm capacity	\$3,300,000

3. Storage

Loop 1604 North ET	1,000,000 gallon elevated storage tank	\$3,850,000
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4. Booster Station	
Palm Park Booster Station Ground tank, pump house, electrical, controls	\$ 800,000
5. Contingencies (5% of Items No. 1-4)	\$1,656,687
6. Professional Fees (20% of Items N. 1-4)	\$6,626,748
Year 2020-2029 Total	\$37,567,175

The District's impact fee study projected growth rates within the service area of 14% through 2023 and 8% for the 2024 through 2030 period. It projects that the District will have a connection count of 16,081 for year 2030, representing a growth of 9,869 ESFCs for the study period. This projected growth is expected to result from the District's proximity to the cities of San Antonio, St. Hedwig, La Vernia, Elmendorf and Converse. In addition, within the District are several public schools that will effect new residential construction, and in the northern portion of the District are sewer treatment capacity and sewer mains that are major growth factors, according to the study.

The District received approval from the TCEQ to levy a water impact fee of \$2,450 per ESFC in 2012. The District issued a \$1,000,000 revenue note in 2017 that funded improvements to the water system and water contracts and repair of three ground storage tanks. The District's first revenue bond issue in the amount of \$4,200,000 funded an administration building, a maintenance building and civil site work.

Based on the total of \$37,567,175 in future project construction costs divided by 9,869 ESFCs associated with new development, the District is proposing a revised impact fee of \$3,806 per ESFC.

C. FEASIBILITY UPDATE

Information on file indicates that the District has not levied a tax. The District has relied on revenue from water customers and impact fee revenue to meet debt service requirements and operating expenses.

D. CONCLUSIONS

1. Based on a review of the application and supporting documents, the proposed revised impact fee of \$3,806 per ESFC appears to be reasonable, equitable and necessary as a mechanism to finance improvements which serve the designated service area, and is within the limits allowed by applicable statutes and TCEQ rules.
2. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

E. RECOMMENDATIONS

1. Approve a revised impact fee of \$3,806 per equivalent single-family connection for water service within the District's boundary, as identified on the attached service area map.
2. Advise the District that any increase in the amount of the approved impact fee will require TCEQ approval.

3. Upon TCEQ approval of the impact fee, advise the District that:
 - a. all funds collected through the levy of the impact fee shall be deposited in interest-bearing accounts and, combined with the interest earned, shall be utilized for repayment of debt and/or construction of improvements, as indicated in the 2022 impact fee study report; and
 - b. the records of the accounts into which impact fee revenue is deposited shall be open for public inspection and copying during normal business hours.

F. ADDITIONAL INFORMATION

The applicant's president and professional representatives are:

President: Mr. Melvin Strey, President - East Central SUD
Attorney: Mr. Louis T. Rosenberg - Law Offices of Louis T. Rosenberg, PC
Engineer: Mr. Richard Gallegos, P.E. - Gallegos Engineering, Inc.

Attachment: Service Area James Ingalls Map