



Kimberly McGehee Aldrich, Mayor

Sylvia Apodaca
Christopher Garza
Janeshia Grider

Mike Martin
Susan Street
Debbie Walczyk

**CITY COUNCIL AGENDA
REGULAR MEETING
THURSDAY, JULY 28, 2022 – 7:00 P.M.
CITY HALL COUNCIL CHAMBER
112 BAUMAN, KIRBY, TX 78219**

This meeting will also be held by videoconference call. The location where a quorum of the governmental body will be physically present is City Hall, City Council Chambers at 112 Bauman Street, Kirby, Texas 78219 and it is the intent to have a quorum present at that location and for the member of the governmental body presiding over the meeting to be physically present at that location. A member of the public may testify from a remote location by videoconference at:

Topic: Regular City Council Meeting
Date and Time: July 28, 2022 at 7:00 p.m. (Central Time)
Join Zoom Meeting:

Video Participation: Join Zoom Meeting
<https://zoom.us>
Meeting ID: 956 855 1663 and Passcode: 1955

1. **Call Meeting to Order**
2. **Invocation and Pledge of Allegiance to the Flag**
3. **Mission Statement**

“The City of Kirby is dedicated to delivering excellent municipal services to our community in a fiscally responsible manner.”

4. **Roll Call**

5. Citizen Participation

Citizens Participation Is For The City Council To Receive Information On Issues That May Be Of Concern To The Public. Citizens Participation Is Limited To Five (5) Minutes. A Purpose Of The Open Meetings Act Is To Insure That The Public Is Always Given Notice Of The Items That Will Be Discussed By The Council. Should A Member Of The Public Bring An Item To The Council For Which The Subject Was Not Posted On The Agenda For The Meeting, The Council May Receive The Information, But Cannot Discuss Or Act Upon It At The Meeting.

6. Presentation

- a. Fire Badge Pinning Ceremony, Chief William Hilburn
- b. Certificate Of Appreciation To 210Cycleriderz
- c. Certificate Of Appreciation To Team Taco
- d. Recognize Yard of the Quarter

7. Consideration Of And Action On Minutes

- a. Special Minutes – July 7, 2022
- b. Special Minutes – July 11, 2022
- c. Regular Minutes – July 14, 2022

8. Discussion And Possible Action

- a. Discussion And Possible Action On An Ordinance Of The City Of Kirby, Texas, Amending Chapter 55 Of The Code Of Ordinances In Regard To Construction Storm Water Management Practices As Required By The United States Environmental Protection Agency And The Texas Commission On Environmental Quality; And Providing That The City May Seek Injunctive Relief To Restrain Violations Or To Compel Abatement Or Remediation Of Violations; Providing For A Civil Penalty Of Up To \$1,000 Per Day For A Violation Of This Chapter; Setting A Fee For Reviewing Proposed Storm Water Pollution Prevention Plans; And Providing For An Effective Date. This Is The Second Reading.
- b. Discussion And Possible Action On A Request For The City To Waive Fees For City Services And Use Of Friendship Park For The 2022 Braylon Nelson Walk On October 15, 2022
- c. Discussion And Possible Action On Renewal Of Contract With McCreary Veselka Bragg & Allen (MVBA) For The Collection Of Delinquent Water Utility Accounts
- d. Discussion And Possible Action On Renewal Of Contract With Environmental Health Group, LLC For Health Inspection Services

- e. Discussion And Possible Action On Interlocal Agreement With Alamo Area Council Of Governments (AACOG) For Grant Writing, Administrative Services And Fiscal Services
- f. Update And Discussion On Hickory Hill Main Break
- g. Discussion And Possible Action On Establishing An American Rescue Plan Act (ARPA) Funded Water Rebate Program For City Of Kirby Account Holders
- h. Discussion And Possible Action On Rules, Policies, Procedures And Code Of Conduct For Board, Commission And Committee Members
- i. Discussion And Possible Action On A Policy And Procedure For Reimbursing City Council Member Expenses
- j. Discussion And Direction On Possible Amendments To Ordinance No. O-2018-838; Authorizing The Use Of Parks And Recreation Areas Owned And Controlled By The City Of Kirby; Regulating Possession And Consumption Of Alcoholic Beverages In Such Parks; Stating The Policies And Regulations Governing The Use Of Such Park, Establishing A Curfew For Parks Usage.
- k. Discussion And Possible Action On Ordinance No. O-2021-903 An Ordinance Of The City Council Of The City Of Kirby, Texas, Amending Chapter 30 Of The Code Of Ordinances To Provide For Certain Qualifications For Candidates For Mayor Or For Places On The City Council Or To Serve In Places On The City Council Of The City Of Kirby.
- l. Discussion And Possible Action On City Attorney Services
- m. Discussion And Possible Action On Scheduling A City Council Retreat
- n. Discussion And Possible Action To Declare A Vacancy On The Economic Development Committee Due To Absenteeism.
- o. Discussion And Possible Action To Enter Into A Contract With Dr. Stephanie Barker For Veterinary Services.
- p. Discussion And Possible Action To Consider A Vendor Agreement With Bexar County For A Residential Low Income Household Water Assistance Program

9. City Manager Announcements

- a. Announcements On City Events And Items Of Community Interest.

10. Request And Announcements

- a. Requests By Mayor And Council Members For Items To Be Placed On Future City Council Agendas And Announcements On City Events/Community Interest

11. Adjournment

Monique L. Vernon
City Manager

Patty Cox, TRMC
City Secretary

The City Council reserves the right to adjourn into executive session at any time to discuss any of the matters listed on this agenda if authorized by Texas Government Code Section 551.071, Consultation with Attorney, Texas Government Code Section 551.072, Deliberations about Real Property, Texas Government Code Section 551.074, Personnel Matters, and Texas Government Code Section 551.076, Security Devices or Security Audits.

This meeting is wheelchair parking accessible at the main entrance located at 112 Bauman. Auxiliary services are available upon request (interpreters for the deaf must be requested twenty-four (24) hours prior to the meeting) by calling 210/661-3198 or Relay Texas 800/735-2989 (hearing/speech impaired assistance)

DATE OF POSTING: July 25, 2022

TIME OF POSTING: 6:45 P.M.

DATE REMOVED

<input type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input checked="" type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 6 a.

6. Presentation

Fire Badge Pinning Ceremony, Chief William Hilburn

<input type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input checked="" type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 6. b.

6. Presentation

Certificate Of Appreciation To 210Cycleriderz

Mayor Pro-Tem Grider will recognize them for their donations.

<input type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input checked="" type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 6. c.

6. Presentation

Certificate Of Appreciation To Team Taco

Mayor Pro-Tem Grider will recognize them for their donations.

<input type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input checked="" type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 6. d.

6. Presentation

Recognize Yard of the Quarter

The Beautification and Recycle Committee will recognize 5410 Cinderella as Yard of the Quarter. Mr. and Mrs. Christian will be in attendance.

<input type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input checked="" type="checkbox"/>	CONSIDERATION OF MINUTES
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 7. a., b., c.

7. Consideration Of And Action On Minutes

Special Minutes – July 7, 2022

Special Minutes – July 11, 2022

Regular Minutes – July 14, 2022

The minutes are attached for your review. If you see any changes, please send me an email no later than 5:00 P.M. on July 27, 2022, and the minutes will be revised.



Kimberly McGehee Aldrich, Mayor

Sylvia Apodaca
Christopher Garza
Janeshia Grider

Mike Martin
Susan Street
Debbie L. Walczyk

**CITY COUNCIL MINUTES
SPECIAL MEETING/ WORKSHOP
THURSDAY, JULY 7, 2022 – 6:00 P.M.
CITY HALL COUNCIL CHAMBER
112 BAUMAN, KIRBY, TX 78219**

This meeting will also be held by videoconference call. The location where a quorum of the governmental body will be physically present is City Hall, City Council Chambers at 112 Bauman Street, Kirby, Texas 78219 and it is the intent to have a quorum present at that location and for the member of the governmental body presiding over the meeting to be physically present at that location. A member of the public may testify from a remote location by videoconference at:

1. Call Meeting to Order

Mayor Aldrich called the meeting to order at 7:00 P.M.

2. Invocation and Pledge of Allegiance to the Flag

Mayor Aldrich led the invocation and pledge of allegiance to the flag.

3. Mission Statement

"The City of Kirby is dedicated to delivering excellent municipal services to our community in a fiscally responsible manner."

4. Roll Call

PRESENT

ABSENT

Mayor Aldrich
Council Member Apodaca
Mayor Pro-Tem Grider
Council Member Martin
Council Member Street
Council Member Walczyk

Council Member Garza

5. Citizen Participation

There were not any citizens signed up to participate.

6. Workshop

a. Discussion And Direction On City Of Kirby Employee Pay

Council Member Street presented a pay plan for all hourly employees.

There was discussion about a proposed increase in all hourly employee pay. Also, discussion about cost of living pay for department heads.

b. Discussion And Direction On City Of Kirby Fiscal Year 2022-2023 Budget

City Manager Vernon presented the proposed budget. She identified recent changes.

The next budget workshop will be July 23, 2022.

7. Adjournment

Meeting adjourned at 8:26 P.M.

Kimberly Aldrich, Mayor

ATTEST

Patty Cox, City Secretary, TRMC



Kimberly McGehee Aldrich, Mayor

Sylvia Apodaca
Christopher Garza
Janeshia Grider

Mike Martin
Susan Street
Debbie L. Walczyk

**CITY COUNCIL MINUTES
SPECIAL MEETING
MONDAY, JULY 11, 2022 – 7:00 P.M.
CITY HALL COUNCIL CHAMBER
112 BAUMAN, KIRBY, TX 78219**

This meeting will also be held by videoconference call. The location where a quorum of the governmental body will be physically present is City Hall, City Council Chambers at 112 Bauman Street, Kirby, Texas 78219 and it is the intent to have a quorum present at that location and for the member of the governmental body presiding over the meeting to be physically present at that location. A member of the public may testify from a remote location by videoconference at:

1. Call Meeting to Order

Mayor Aldrich called the meeting to order at 7:00 P.M.

2. Invocation and Pledge of Allegiance to the Flag

Mayor Aldrich led the invocation and pledge of allegiance to the flag.

3. Mission Statement

“The City of Kirby is dedicated to delivering excellent municipal services to our community in a fiscally responsible manner.”

4. Roll Call

PRESENT

ABSENT

Mayor Aldrich
Council Member Apodaca
Council Member Garza (Attended by ZOOM)
Mayor Pro-Tem Grider
Council Member Martin
Council Member Street
Council Member Walczyk (Due to emergency left the meeting at 8:58 P.M.)

5. Citizen Participation

1. Ernest Spradling spoke in support of City Manager Vernon.
2. Cecilia Padilla spoke in regards to the recent water incident.
3. Eve Hatland spoke in regards to the recent water incident.
4. Jack Miller spoke in regards to the water situation, City Manager Vernon.
5. Sharon Shuler spoke in support of City Manager Vernon.
6. Stephanie Faulkner spoke in support of City Manager Vernon.
7. Patricia Baber spoke in support of City Manager Vernon.
8. Roger Romens spoke in regards to the recent water incident. He asked if City Manager had Council approval in advance.
9. Lisa Pierce spoke in support of City Manager Vernon.
10. Cory Mobley spoke in support of City Manager Vernon.

The following citizens participants had provide the City Secretary with emails.

11. Glenda Curtis wrote in support of City Manager Vernon.
12. Maria Lozano wrote in support of City Manager Vernon.
13. Celicia Garza wrote in regards to the recent water incident.
14. Roxanne Cardona spoke in support of City Manager Vernon.

6. Discussion And Possible Action

- a. Deliberation On Performance Of The City Manager. Possible Executive Session Pursuant To Texas Government Code Section 551.074, Personnel Matters.

City Manager Vernon read into record a request to be held in open session as public hearing.

Council Members addressed citizen comments from Citizen Participation.

Council Member Street identified her concerns with City Manager Vernon's performance. She and another Council Member wanted items placed on an agenda. She did not know City Manager Vernon was going on vacation week of a council meeting. Are we following the rules or not?

Council Member Garza was participating via ZOOM. He said he wanted to place an item on an agenda. He referenced rules to follow. This is about following rules. He did not know City Manager was going on vacation.

Council Member Martin said no write up. City Manager Vernon has done nothing wrong. She notified Mayor Aldrich about her vacation.

Council Member Apodaca said City Manager Vernon has always been professional and does an outstanding job. She did not support a write up.

Council Member Walczyk said she agreed with Ms. Shuler. She said this meeting should not have happened.

Mayor Pro-Tem Grider said she has not had a problem in the past.

Mayor Aldrich called a point of order to allow Mayor Pro-Tem Grider an opportunity to finish speaking.

Mayor Pro-Tem Grider continued speaking. She stated that City Manager Vernon has done nothing that warrants the way she's being treated.

Council Member Garza said he does not receive the same treatment as other Council Members.

Mayor Aldrich said she called the meeting because two Council Members wanted agenda items when City Manager Vernon would not be available to attend.

City Manager Vernon stated the issues at hand are that she has been accused of violating the Charter and Code of Ordinance. She said she is not in violation of either. There is conflicting language in the Charter, ordinance and her contract. Since Sept 19, 2014 she has taken a maximum of 32-hours vacation at one time and has only missed three council meetings. She asked Council to establish procedures or continue precedence that has been established. She was available to answer questions from Council Members. She replied to questions and comments from Council Members Street and Garza.

Mayor Aldrich apologized to City Manager Vernon and her family and stated she is an outstanding City Manager.

Council Member Martin moved to adjourn the meeting with no action taken; seconded by Council Member Apodaca. With all voting "aye" the motion carried.

7. Adjournment

Meeting adjourned at 9:51 P.M.

Kimberly Aldrich, Mayor

ATTEST

Patty Cox, City Secretary, TRMC



Kimberly McGehee Aldrich, Mayor

Sylvia Apodaca
Christopher Garza
Janeshia Grider

Mike Martin
Susan Street
Debbie Walczyk

**CITY COUNCIL MINUTES
REGULAR MEETING
THURSDAY, JULY 14, 2022 – 7:00 P.M.
CITY HALL COUNCIL CHAMBER
112 BAUMAN, KIRBY, TX 78219**

This meeting will also be held by videoconference call. The location where a quorum of the governmental body will be physically present is City Hall, City Council Chambers at 112 Bauman Street, Kirby, Texas 78219 and it is the intent to have a quorum present at that location and for the member of the governmental body presiding over the meeting to be physically present at that location. A member of the public may testify from a remote location by videoconference at:

1. Call Meeting to Order

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2. Invocation and Pledge of Allegiance to the Flag

Mayor Aldrich led the invocation and pledge of allegiance to the flag.

3. Mission Statement

“The City of Kirby is dedicated to delivering excellent municipal services to our community in a fiscally responsible manner.”

4. Roll Call

PRESENT

ABSENT

Mayor Aldrich
Council Member Apodaca
Council Member Garza
Mayor Pro-Tem Grider

Council Member Martin
Council Member Street
Council Member Walczyk

5. Citizen Participation

1. Cecilia Padilla – Attended Monday's meeting. There was disrespect through the meeting. Dysfunction and lack of communication. Infighting needs to stop. Should be a united front. Work together to make Kirby a better place.

2. Lisa Pierce – She thanked everyone who played a part in assisting Kirby through this past water event. The coming together of so many resources was nothing short of miraculous. If the City had a SCADA system to alert key personnel when the wells were working at low-capacity levels. Seek a method to rectify alerting key personnel. She urged the public to use social media to garnish hope and possibility. You can take the person out of Kirby, but you cannot take Kirby out of the person. She read an email from Debby Wilson recognizing Seth Scurlock.

3. Casey Hawkins – He asked if City Council would consider donating the Chief's old vehicle to the Volunteer Fire Department. The vehicle would be used as a support vehicle for the City.

4. Lily Martinez – City Secretary read Ms Martinez's comments. She addressed a disturbing incident from the last Council meeting. She thanked Police Chief Cardona for her inspiring speech in defense of the City Manager and other city employees. She hoped that after how the City came together to overcome the water situation that things are headed in the right direction.

6. Presentation

a. Presentation And Discussion On City Limit Signage Located On FM78 – Dale Picha, Texas Department Of Transportation

Dale Picha spoke about signage and boundaries. He answered questions from Council.

b. Presentation Of Life Saving Award, Chief Cardona

Chief Cardona recognized Police Officer Sizenbach for her recent heroic measures to save the life of a resident. Chief Cardona present Officer Sizenbach with a Life Saving Award.

c. Presentation Of Retirement Recognition To Corporal Seth Scurlock, Chief Cardona

Chief Cardona recognized Sgt. Scurlock. Sgt. Scurlock gave a heartwarming speech.

- d. Presentation And Report On Water Loss Emergency, Mayor Aldrich, Chief Hilburn, Chief Cardona

Mayor Aldrich provided a time line of the event. She thanked Universal City, Live Oak, Schertz and surrounding businesses and citizens who came together to help Kirby.

Chief Hilburn provided statistics of the event.

7. Public Hearing

- a. Crime Control And Prevention District Fiscal Year 2022-2023 Budget

Mayor Aldrich opened the public hearing at 7:46 P.M.

There were not any citizens to speak.

Mayor Aldrich closed the public hearing at 7:47 P.M.

8. Consideration Of And Action On Minutes

- a. Budget Workshop Minutes – June 23, 2022

Council Member Walczyk moved to approve the Budget Workshop Minutes – June 23, 2022; seconded by Council Member Street. With all voting “aye” the minutes carried with a 7-0 vote.

- b. Regular Minutes – June 23, 2022

Council Member Garza moved to approve the Regular Minutes – June 23, 2022; seconded by Council Member Apodaca. With all voting “aye” the minutes carried with a 7-0 vote.

9. Discussion And Possible Action

- a. Discussion And Possible Action On National League Of Cities (NLC) Service Line Warranty Program

Council discussed the pros and cons of this Program.

Council Member Walczyk moved to not support the National League of Cities Service Line Warranty Program. The motion carried with a 7-0 vote.

AYES: 7

NAYES: 0

- b. Discussion And Possible Action On Crime Control And Prevention District Fiscal Year 2022-2023 Budget.

Council discussed the Crime Control and Prevention District Fiscal Year 2022-2023 Budget. Chairperson John Houlton and Vice-Chairperson David Faulkner were present to answer questions.

Council Member Martin moved to approve the Crime Control and Prevention District Fiscal Year 2022-2023 Budget; seconded by Council Member Apodaca. The motion carried with a 7-0 vote.

AYES: 7

NAYES: 0

- c. Discussion And Possible Action On An Ordinance Of The City Of Kirby, Texas, Amending Chapter 54 Of The Code Of Ordinances In Regard To Illicit Discharge Restrictions Pursuant To U.S. Environmental Protection Agency Guidelines And Adopted Texas Commission On Environmental Quality Standards, And Providing A Penalty Upon Conviction Of A Violation Of This Chapter In An Amount Not To Exceed \$500.00 Per Violation Per Day Unless The Violator Receives Actual Notice Of The Provisions Of This Ordinance In Which Case The Penalty Upon Conviction Is Not To Exceed \$1,000 Per Violation Per Day Or Not To Exceed \$5,000 Per Violation Per Day For Certain Violations Relative To Point Source Effluent Limitations Or The Discharge Of A Pollutant (Other Than From A Non-Point Source) Into A Sewer System, Including A Sanitary Or Storm Water Sewer System, Owned Or Controlled By The City, And Establishing An Effective Date. This Is The Second Reading.

Council Member Garza moved to adopt the ordinance amending Chapter 54 of the Code of Ordinances in regard to illicit discharge restrictions pursuant to U.S. Environmental Protection Agency Guidelines and adopted Texas Commission on Environmental Quality Standards, and providing a penalty upon conviction of a violation of this chapter in an amount not to exceed \$500.00 per violation per day unless the violator receives actual notice of the provisions of this ordinance in which case the penalty upon conviction is not to exceed \$1,000 per violation per day or not to exceed \$5,000 per violation per day for certain violations relative to point source effluent limitations or the discharge of a pollutant (other than from a non-point source) into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the city, and establishing an effective date; seconded by Council Member Walczyk. The motion carried with a 7-0 vote.

AYES: 7

NAYES: 0

- d. Discussion And Possible Action On An Ordinance Of The City Of Kirby, Texas, Amending Chapter 55 Of The Code Of Ordinances In Regard To Construction Storm Water Management Practices As Required By The United States Environmental

Protection Agency And The Texas Commission On Environmental Quality; And Providing That The City May Seek Injunctive Relief To Restrain Violations Or To Compel Abatement Or Remediation Of Violations; Providing For A Civil Penalty Of Up To \$1,000 Per Day For A Violation Of This Chapter; Setting A Fee For Reviewing Proposed Storm Water Pollution Prevention Plans; And Providing For An Effective Date. This Is The First Reading.

Council Member Apodaca moved to adopt the ordinance Amending Chapter 55 Of The Code Of Ordinances In Regard To Construction Storm Water Management Practices As Required By The United States Environmental Protection Agency And The Texas Commission On Environmental Quality; And Providing That The City May Seek Injunctive Relief To Restrain Violations Or To Compel Abatement Or Remediation Of Violations; Providing For A Civil Penalty Of Up To \$1,000 Per Day For A Violation Of This Chapter; Setting A Fee For Reviewing Proposed Storm Water Pollution Prevention Plans; And Providing For An Effective Date; seconded by Council Member Street. The motion carried with a 7-0 vote.

AYES: 7

NAYES: 0

e. Reports By Council Liaisons

1. Animal Advisory Committee – Council Member Walczyk
2. Beautification And Recycle Committee – Mayor Pro-Tem Grider
3. Building And Standards Commission – Council Member Martin
4. Crime Control And Prevention District – Council Member Garza
5. Economic Development Committee Council Member Apodaca
6. Planning And Zoning Commission – Mayor Aldrich
7. Senior Center Corporation Board – Council Member Street

1. Animal Advisory Committee – Council Member Walczyk

Council member Walczyk didn't have anything to report.

2. Beautification And Recycle Committee – Mayor Pro-Tem Grider

Mayor Pro-Tem Grider provided an update.

3. Building And Standards Commission – Council Member Martin

Council Member Martin didn't have anything to report.

4. Crime Control And Prevention District – Council Member Garza

Council Member Garza didn't have anything to report.

5. Economic Development Committee Council Member Apodaca

Council Member Apodaca didn't have anything to report.

6. Planning And Zoning Commission – Mayor Aldrich

Mayor Aldrich didn't have anything to report.

7. Senior Center Corporation Board – Council Member Street

Council Member Street provided an update.

10. Request And Announcements

a. Requests By Mayor And Council Members For Items To Be Placed On Future City Council Agendas And Announcements On City Events/Community Interest

Council Member Street – She requested an item for the August 11, 2022 agenda: make final decision on water rebate for Kirby residents. She thanked all the volunteers, City employees, Council Members, Universal City, Schertz, New Berlin, Live Oak and Northeast Partnership for their assistance with our water emergency.

Council Member Garza – He addressed last Monday's meeting. He requested items to be placed on the July 28, 2022 agenda: the situation that happened on Hickory with public works to identify process on how to handle these situations; Discuss Ordinance 903; Discussion and Possible Action on city attorney's contract. Address Monique Vernon in open session about City Council Members, public hearing about water situation, revisit the rebate to give the community, accountability will be at the forefront of his discussion. Special thanks to all the volunteers, the other cities, Northeast Partnership, and everyone in the community. Officers, fire department and city employees. I truly appreciate the hard work you do. I appreciate the Council Members who sprang into action. He thanked Council Member Walczyk for helping to obtain water. This is a working Council.

Mayor Pro-Tem Grider – She thanked all of our City staff for doing a great job. She thanked all the Committees, Maria for buying lunch and all agencies. Impressive time line 10 hours. All hands on deck. Leaders create other leaders. An item for the next agenda is Council retreat. Protect yourself, family – COVID is out there.

Council Member Walczyk – She provided comments to Ms. Padilla and Ms. Pierce about the water situation. She said Mayor Aldrich and City Manager Vernon did a great job. An item for the August 11 agenda: water contingency plan. She said on Monday she had a health issue and left the meeting. We lost two fabulous officers, one retired and one has a new job.

Council Member Apodaca – She thanked all City employees, Committees. Attended Northeast Partnership and was informed Balcones Heights Festival on July 15 and July 29; in Marion Annual City Festival on August 6; Tommy Calvert mentioned on August 7 at the ATT Center 1:00 P.M. – 4:00 P.M. giving away free school supplies.

Council Member Martin – He thanked everyone for doing a great job with the water situation. Rules and regulations will be followed.

Mayor Aldrich – She thanked Sergio from Senator Menendez’ office for attending our meeting tonight. She inquired about forming a task force to help support surrounding cities if they have a natural disaster we can go help. She thanked staff and said we have the best police and fire departments. Congratulations Sgt. Scurlock and Officer Sizenbach. Check on your neighbors, kids, animals, and everyone be safe.

11. Adjournment

Meeting adjourned at 8:53 P.M.

Kimberly Aldrich, Mayor

ATTEST

Patty Cox, City Secretary, TRMC

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
AGENDA ITEM SUMMARY**

DATE: JULY 28, 2022

AGENDA ITEM: 8. a.

8. Discussion And Possible Action

Discussion And Possible Action On An Ordinance Of The City Of Kirby, Texas, Amending Chapter 55 Of The Code Of Ordinances In Regard To Construction Storm Water Management Practices As Required By The United States Environmental Protection Agency And The Texas Commission On Environmental Quality; And Providing That The City May Seek Injunctive Relief To Restrain Violations Or To Compel Abatement Or Remediation Of Violations; Providing For A Civil Penalty Of Up To \$1,000 Per Day For A Violation Of This Chapter; Setting A Fee For Reviewing Proposed Storm Water Pollution Prevention Plans; And Providing For An Effective Date. This Is The Second Reading.

The first reading was approved on July 14, 2022. A copy of the ordinance is included.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KIRBY, TEXAS, AMENDING CHAPTER 55 OF THE CODE OF ORDINANCES IN REGARD TO CONSTRUCTION STORM WATER MANAGEMENT PRACTICES AS REQUIRED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; AND PROVIDING THAT THE CITY MAY SEEK INJUNCTIVE RELIEF TO RESTRAIN VIOLATIONS OR TO COMPEL ABATEMENT OR REMEDIATION OF VIOLATIONS; PROVIDING FOR A CIVIL PENALTY OF UP TO \$1,000 PER DAY FOR A VIOLATION OF THIS CHAPTER; SETTING A FEE FOR REVIEWING PROPOSED STORM WATER POLLUTION PREVENTION PLANS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Environmental Protection Agency of the United States (the "E.P.A.") mandated the regulation of storm water discharge under the Clean Water Act (the "Act," 40 CFR 122.34); and

WHEREAS, the E.P.A. authorizes the Texas Commission on Environmental Quality ("T.C.E.Q.") to adopt rules to carry out its powers and duties under the Act (Tex. Admin. Code, Title 30, Chapt. 281.25(b)(5)); and

WHEREAS, the Act, at the discretion of the T.C.E.Q., further requires cities and towns in the State of Texas to implement and enforce water management practices to ensure that storm water pollution is minimized to the extent required by Federal Law through, inter alia, the Act; and

WHEREAS, the consulting engineer engaged by the City of Kirby has recommended amendments to Chapter 55 of the Code of Ordinances of the City of Kirby to update regulations and rules as to post-construction storm water management and related matters.

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

Section 1. Chapter 55 of the Code of Ordinances of the City of Kirby is hereby amended to read as follows:

§ 55.01 - GENERAL PROVISIONS.

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(A) Introduction/purpose/intent.

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- (1) During the construction process, soil may become vulnerable to erosion by wind and water. Eroded soil may have chemical and/or biological properties that reduce water quality in streams and lakes, thereby threatening drinking water resources and wildlife habitats. Eroded soil may also cause maintenance problems by settling out (sedimentation) in storm sewers, ditches, creeks, and other parts of the storm system, which then require maintenance and repair. The provisions and requirements contained in this chapter shall operate in conjunction with and in addition to the city's

previously existing building code, building permitting, and building code enforcement procedures.

- (2) The purpose of this chapter is to safeguard persons, protect property, and prevent damage to the environment in the city. This chapter will also promote the public health, safety and general welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other construction activity that disturbs or breaks the topsoil or results in the movement of earth on land in the city.

(B) The objectives of this chapter are:

- (1) To regulate the construction process to reduce erosion by wind and water during construction.
- (2) To reduce the degradation of water quality and the siltation of aquatic habitats for fish and other desirable species.
- (3) To reduce the necessity for repair of storm sewers and ditches and the dredging of lakes as a result of soil erosion resulting from construction activities.

Sec. 55.02 - DEFINITIONS.

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APPLICANT means a property owner or agent of a property owner who has filed a storm water management plan.

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ARID AREAS means areas with an average annual rainfall of 0 to 10 inches.

BEST MANAGEMENT PRACTICES (BMP) means ~~all generally accepted methods and techniques to prevent or reduce discharge of pollutants, including schedules of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants.~~ BMPs also include treatment requirements, operating procedures and practices to control runoff, spill or leaks, waste disposal, or drainage from raw material storage.

BUFFER means a natural or vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.

CATCH BASINS means storm drain inlets and curb inlets to the storm drain system. Catch basins typically include a grate or curb inlet that may accumulate sediment, debris, and other pollutants.

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CITY means the City of Kirby, Texas or the city council of Kirby, Texas.

CITY MANAGER means the person appointed to the position of City Manager by the City Council, of the City of Kirby, Texas or his/her duly authorized representative and authorized to act on behalf of the City and/or City Council or his/her designees such as the Building Official or City Engineer.

COMMENCEMENT OF CONSTRUCTION means the initial disturbance of soils associated with clearing, demolition, grading, excavating, filling, stockpiling, erection of forms, or any other construction-related activity. The term "commencement of construction" is also referred to as "start of construction."

COMMON PLAN OF DEVELOPMENT means a construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. A common plan of development (also known as a "common plan of development or sale") is identified by the documentation for the construction project that identifies the scope of the project, and may include plats, blueprints, marketing plans, contracts, building permits, a public notice or hearing, zoning requests, or other similar documentation and activities. A common plan of development does not necessarily include all construction projects within the jurisdiction of the city. Construction of roads or buildings in different parts of the jurisdiction would be considered separate "common plans," with only the interconnected parts of a project being considered part of a "common plan" (e.g., a building and its associated parking lot and driveways, airport runway and associated taxiways, a building complex, etc.). Where discrete construction projects occur within a larger common plan of development or sale but are located one-quarter of a mile or more apart, and the area between the projects is not being disturbed, each individual project can be treated as a separate plan of development or sale, provided that any interconnecting road, pipeline or utility project that is part of the same common plan is not included in the area to be disturbed.

CONSTRUCTION ACTIVITY includes soil disturbance activities, including clearing, grading, excavating, construction-related activity (e.g., stockpiling of fill material, demolition), and construction support activity. This does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (e.g., the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities). Regulated construction activity is defined in terms of small and large construction activity.

CONSTRUCTION SUPPORT ACTIVITY a construction-related activity that specifically supports construction activity, which can involve earth disturbance or pollutant-generating activities of its own, and can include, but are not limited to, activities associated with concrete or asphalt batch plants, rock crushers, equipment staging or storage areas, chemical storage areas, material storage areas, material borrow areas, and excavated material disposal areas. Construction support activity must only directly support the construction activity authorized under this general permit.

CONTROL MEASURE any BMP or other method used to prevent or reduce the discharge of pollutants to water in the state.

CONVEYANCE means curbs, gutters, manmade channels and ditches, drains, pipes, and other constructed features designed or used for drainage, flood control, or the transport of storm water runoff.

DEVELOPMENT means the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; or any change in use, or alteration or extension of the use, of land.

DEWATERING means the act of draining rainwater or groundwater from building foundations, vaults, and trenches.

DISCHARGE means the drainage, release, or disposal of pollutants in storm water and other surface certain non-stormwater runoff from locations areas of where soil-disturbing activities (e.g., clearing, grading, excavating, stockpiling of fill material, and demolishing), construction materials, or equipment storage or maintenance operations (e.g., fill piles, borrow areas, concrete truck wash out, and fueling), or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located. The term "discharge"

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~~also includes the drainage, release, or disposal of industrial storm water directly related to the construction process.~~

DISTURBANCE means any activity, including, but not limited to, excavation, clearing, and grading, which disturbs the natural or improved vegetative ground cover or topography of the land by any person, entity and applicable city projects. Land disturbing activity does not include any vegetative cutting and mulching. All installations and maintenance of franchise utilities such as telephone, gas, electric, etc., shall be considered land disturbing activities.

DRAINAGE EASEMENT means a legal right granted by a landowner to a grantee allowing the use of private land for storm water management purposes.

DROUGHT means a period of dry weather, usually lengthy, that is injurious to crops, as determined by city officials in accordance with established standards.

DROUGHT-STRICKEN AREA means an area in which the National Oceanic and Atmospheric Administration's U.S. Seasonal Drought Outlook indicates for the period during which the construction will occur that any of the following conditions are likely: (1) "Drought to persist or intensify", (2) "Drought ongoing, some improvement", (3) "Drought likely to improve, impacts ease", or (4) "Drought development likely". See http://www.cpc.ncep.noaa.gov/products/expert_assessment/seasonal_drought.html.

EFFLUENT LIMITATIONS GUIDELINE (ELG) Defined in 40 Code of Federal Regulations (CFR) § 122.2 as a regulation published by the Administrator under § 304(b) of the Clean Water Act (CWA) to adopt or revise effluent limitations.

ENVIRONMENTALLY SENSITIVE AREAS mean the areas designated by the City Manager that need special protection because of the landscape, wetland, riparian, wildlife, or historical value.

EROSION CONTROL means a structure or measure that limits erosion.

FACILITY or ACTIVITY means a construction site or construction support activity that is regulated under TCEQ TPDES General Permit Number TXR150000 relating to storm water discharges associated with construction activities, including all contiguous land and fixtures (e.g., ponds and materials stockpiles), structures, or appurtenances used at a construction site or industrial site described by this Chapter and/or the TCEQ general construction permit.

FINAL STABILIZATION means:

- (1) The status of a construction site when all soil disturbing activities at the site have been completed and the disturbed soil has been covered with:
 - (a) A uniform (i.e., evenly distributed, without large bare areas) perennial vegetative cover with a density of at least 70 percent of the native background vegetative cover on all unpaved areas;
 - (b) Areas not covered by Ppermanent structures such as buildings; and/or
 - (c) Equivalent Ppermanent stabilization measures such as pavement, riprap, or gabions, or geotextiles have been employed.
- (2) For individual lots in a residential construction site, final stabilization may be achieved only by either the homebuilder completing final stabilization as specified in subsection (1) of this definition; or-
- (3) The homebuilder establishing temporary stabilization for an individual lot prior to the time of transfer of the ownership of the home to the buyer and after informing the homeowner of the need for, and benefits of, final stabilization. If temporary stabilization

is not feasible, then the homebuilder may fulfill this requirement by retaining perimeter controls or BMPs, and informing the homeowner of the need for removal of temporary controls and the establishment of final stabilization. Fulfillment of this requirement must be documented in the homebuilder's stormwater pollution prevention plan (SWP3)

- (4) (3) For construction activities on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use.
- (5) (4) For construction activities on land that was not previously used for agricultural activities, such as buffer strips immediately adjacent to surface water and areas that are not being returned to their preconstruction agricultural use, must meet the final stabilization condition—final stabilization can be achieved only by meeting the conditions of subsection (1) of this definition.
- (6) (5) For the event of drought in arid, semi-arid, and drought-stricken areas only, final stabilization can be achieved only when all soil disturbing activities at the site have been completed and both of the following criteria have been met:
- (a) Temporary erosion control measures (e.g., degradable rolled erosion control products-mats) are selected, designed, and installed with an appropriate seed base to provide erosion control for at least 3 years without active maintenance by the operator; and
- (b) The temporary erosion control measures are selected, designed, and installed to achieve 70 percent of the native vegetative coverage within 3 years.

GENERAL PERMIT means TPDES General Permit No. TXR150000 for the discharge of wastes which provides a means for construction sites and other sources of soil disturbance to lawfully discharge storm water to surface water in the state in compliance with section 402 of the Clean Water Act and chapter 26 of the Texas Water Code. The provisions of the general permit are promulgated and enforced by the TCEQ.

GRADING means shaping, excavating or filling of clay, sand, rock and/or other types of soil material.

HYPERCHLORINATION OF WATERLINES means the treatment of potable water lines or tanks with chlorine for disinfection purposes, typically following repair or partial replacement of the waterline or tank, and subsequently flushing the contents.

IMPAIRED WATER means a surface water body that is identified as impaired on the latest approved CWA §303(d) List or waters with an EPA-approved or established total maximum daily load (TMDL) that are found on the latest EPA approved Texas Integrated Report of Surface Water Quality for CWA Sections 305(b) and 303(d), which lists the category 4 and 5 water bodies.

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IMPERVIOUS COVER means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INFEASIBLE means not technologically possible, or not economically practicable and achievable in light of best industry practices. (40 CFR §450.11(b)).

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LARGER COMMON PLAN OF DEVELOPMENT OR SALE means any contiguous area where multiple separate and distinct construction or land disturbing activities will occur under 1 plan. A plan is any announcement or piece of documentation (including, but not limited to, public notice or hearing, drawing, permit application, zoning request, or site design) or physical

demarcation (including, but not limited to, boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

LARGE CONSTRUCTION ACTIVITY means construction activities including clearing, grading, and excavating that result in land disturbance measuring 5 acres of land or more. The term "large construction activity" also includes the disturbance of less than 5 acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb areas measuring 5 acres of land or more. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (e.g., the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing rights-of-way, and similar maintenance activities).

LINEAR PROJECT includes the construction of roads, bridges, conduits, substructures, pipelines, sewer lines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment and associated ancillary facilities in a long, narrow area.

MINIMIZE means to reduce or eliminate to the extent achievable using stormwater controls that are technologically available and economically practicable and achievable in light of best industry practices.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) means a separate storm sewer system owned or operated by the United States, a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over the disposal of sewage, industrial wastes, storm water, and/or other wastes, including special districts under state law such as a sewer district, flood control or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, that discharges to surface water in the state.

NEW DEVELOPMENT means any development that converts any land from an unimproved to an improved state.

NON-POINT SOURCE (NPS) POLLUTION means forms of pollution caused by sediment, nutrients, organic and toxic substances originating from land use activities and carried to lakes and streams by surface runoff.

NON-STRUCTURAL BMP means preventative actions that involve management and source controls such as: policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies or ordinances that encourage infill development in higher density urban areas, and areas with existing infrastructure; education programs for developers and the public about project designs that minimize water quality impacts; and measures such as minimization of percent impervious area after development and minimization of directly connected impervious areas.

NOTICE OF CHANGE (NOC) means written notification to the executive director of the TCEQ which is also to be copied to the city manager, city building official, or city engineer from a discharger authorized under TPDES general permit TXR150000, providing changes to information that was previously provided to the agency in a notice of intent form.

NOTICE OF INTENT (NOI) means a written submission to the executive director of the TCEQ which is also to be copied to the city manager, city building official, city engineer, or his designee from an applicant requesting coverage under TPDES general permit TXR150000.

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NOTICE OF TERMINATION (NOT) means a written submission to the executive director of the TCEQ which is also to be copied to the city manager, city building official, city engineer, or his designee from a discharger authorized under a TPDES general permit TXR150000 requesting termination of coverage.

OPERATOR means the person or persons associated with a large or small construction activity that is either a primary or secondary operator as defined below:

- (1) *Primary operator* means the person or persons associated with a large or small construction activity that meets either of the following 2 criteria:
 - (a) The person or persons have on-site operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
 - (b) The person or persons have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a storm water pollution prevention plan (SWP3) for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions).
- (2) *Secondary operator*. The person or entity, often the property owner, whose operational control is limited to:
 - (a) the employment of other operators, such as a general contractor, to perform or supervise construction activities; or
 - (b) or to the ability to approve or disapprove changes to plans and specifications, but who does not have day-to-day on-site operational control over construction activities at the site.

Secondary operators must either prepare their own SWP3 or participate in a shared SWP3 that covers the areas of the construction site where they have control over the plans and specifications.

If there is not a primary operator at the construction site, then the secondary operator is defined as the primary operator and must comply with the requirements for primary operators. A secondary operator is also defined as a primary operator and must comply with the permit requirements for primary operators if there are no other operators at the construction site.

OUTFALL means a point source where storm water runoff associated with construction activity discharges to surface water in the state and does not include open conveyances connecting 2 municipal separate storm sewers, or pipes, tunnels, or other conveyances that connect segments of the same stream or other water of the United States and are used to convey waters of the United States.

OWNER means the legal or beneficial owner of land, including, but not limited to, a fee owner, mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition.

PERIMETER CONTROL means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

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PERMIT means a site development permit issued by the City of Kirby, Texas for construction or the alteration of ground.

PERMITTEE means an operator authorized under this Code to commence construction that involves disturbing the soil. The authorization may be gained by applying for a building permit and submitting a NOI.

PERSON(S) means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or the legal representatives, agents, or assigns thereof.

PHASING means clearing a parcel of land in separate, distinct steps, with the stabilization of each phase completed before the clearing of the next.

POINT SOURCE (from 40 CFR § 122.2) means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, vessel or other floating craft from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

POLLUTANT means sediment, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any surface water in the state. The term "pollutant" does not include tail water, irrigation runoff, or rainwater runoff from cultivated or uncultivated rangeland, pastureland, and farmland.

POLLUTION (from V.T.C.A., Water Code § 26.001(14)) means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any surface water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

PCSWQ means Post-Construction Storm Water Quality.

RAINFALL EROSIVITY FACTOR (R factor) the total annual erosive potential that is due to climatic effects, and is part of the Revised Universal Soil Loss Equation (RUSLE).

RECEIVING WATER A "Water of the United States" as defined in 40 CFR §122.2 into which the regulated stormwater discharges.

REDEVELOPMENT means alterations of a property that changed the "footprint" of a site or building in such a way that there is a disturbance of equal to or greater than one (1) acre of land. This term does not include such activities as exterior remodeling, routine maintenance activities, and linear utility installation, any construction, alteration or improvement where existing land is altered of previously developed land.

RESPONSIBLE PARTY means any person or legal entity, individual or corporate, including an owner, operator, contractor, or subcontractor, any or all of whom may be engaged in, consent to, or actually perform a construction project or construction activity.

REVIEW FEE means the cost charged to the applicant for the review of an application submittal, including a proposed SWP3. This fee will initially be \$200.00 plus \$100.00 per acre or portion of an acre of proposed disturbed area (e.g., the review fee for the proposed disturbance of 1 acre or less would be: \$200.00+\$100.00=\$300.00; for a 2-acre disturbance: \$200.00+\$200.00=\$400.00; for a 2½-acre disturbance: \$200.00+\$300.00=\$500.00; etc.). This fee may be increased or decreased by amendment to this chapter.

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SEDIMENT CONTROL means a structure or measure that prevents eroded sediment from leaving the site.

SEPARATE STORM SEWER SYSTEM (S4) means a conveyance or system of conveyances (including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains), designed or used for collecting or conveying storm water; that is not a combined sewer, and that is not part of a publicly owned treatment works (POTW).

SITE means a parcel of land or a contiguous combination thereof, where construction and/or grading work is performed as a single unified operation.

SITE DEVELOPMENT means any construction project that involves the disturbing of soil.

SMALL CONSTRUCTION ACTIVITY means construction activities, including clearing, grading, and excavating, that result in land disturbance measuring 1 acre or more and less than 5 acres. The term "small construction activity" also includes the disturbance of less than 1 acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb areas of land measuring 1 acre or more and less than 5 acres. The term "small construction activity" does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (e.g., the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing rights-of-way, and similar maintenance activities).

STABILIZATION means practices and measures that prevent exposed soil from eroding.

START OF CONSTRUCTION. See **COMMENCEMENT OF CONSTRUCTION**.

STATE means the State of Texas.

STEEP SLOPES are where a state, Tribe, local government, or industry technical manual (e.g. stormwater BMP manual) has defined what is to be considered a "steep slope", this chapter automatically adopts that definition. Where no such definition exists, steep slopes are automatically defined as those that are 15 percent or greater in grade.

STORM WATER, STORM WATER RUNOFF, OR RUNOFF means rainfall runoff, snow melt runoff, and surface runoff and drainage.

STORM WATER ASSOCIATED WITH CONSTRUCTION ACTIVITY means storm water runoff from a construction site where soil disturbance is of a size large enough to be regulated by this Chapter.

STORM WATER CONTROL GUIDELINES FOR CONSTRUCTION SITES means a manual containing all approved methods and design criteria for drainage and storm water control.

STORM WATER MANAGEMENT means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

STORM WATER POLLUTION PREVENTION PLAN (SWP3 or SW3P) means a set of plans prepared by or under the direction of a licensed professional engineer proposing specific best management practices, including erosion controls, sediment controls, and sequencing schedules for limiting the amount of sediment that is discharged to drainage easements, public rights-of-way, the storm drain system, waterways, and watercourses. Separate plans may be required to address conditions during and after construction.

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STRUCTURAL BMP means any storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters and filter strips; and infiltration practices such as infiltration basins and infiltration trenches.

STRUCTURAL CONTROL OR PRACTICE means a pollution prevention practice that requires the construction of a device, or the use of a device, to capture or to limit pollution in storm water runoff. Structural controls and practices may include, but are not limited to silt fences, earthen dikes, drainage swales, sediment traps, check dams, subsurface drains, storm drain inlet protection, outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

SURFACE WATER IN THE STATE means lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state (from the mean high-water mark (MHWMM) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

TCEQ means the Texas Commission on Environmental Quality.

TEMPORARY STABILIZATION means a condition where exposed soils or disturbed areas are provided a protective cover or other structural control to prevent the migration of pollutants. Temporary stabilization may include temporary seeding, geotextiles, mulches, and other techniques to reduce or eliminate erosion until permanent stabilization can be achieved or until further construction activities take place.

TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM means a program to issue authorizations to discharge pollutants into waters of the state if certain conditions are met.

TOTAL MAXIMUM DAILY LOAD (TMDL) means the total amount of a pollutant that a water body can assimilate and still meet the Texas Surface Water Quality Standards.

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TURBIDITY means a condition of water quality characterized by the presence of suspended solids and/or organic material.

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WATERCOURSE means any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water delineated by the city on its storm water map.

WATERS OF THE UNITED STATES (from 40 CFR, Part 122, § 2). Waters of the United States or waters of the U.S. means:

- (1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (2) All interstate waters, including interstate wetlands;
- (3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (a) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

- (b) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
- (c) Which are used or could be used for industrial purposes by industries in interstate commerce;
- (4) All impoundments of waters otherwise defined as waters of the United States under this definition;
- (5) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (6) ~~(f)~~ the territorial sea; and
- (7) ~~(6)~~—Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (1) through (6) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland.

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Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with the Environmental Protection Agency.

WATERWAY means a channel that directs surface runoff to a watercourse or to the public storm drain.

§ 55.03 - PERMITS; APPLICABILITY AND COVERAGE.

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Discharges eligible for authorization.

- (A) Storm water associated with construction activity discharges of storm water runoff from small and large construction activities may be authorized under this chapter.
- (B) *Discharges of storm water associated with construction support activities.* Examples of construction support activities include, but are not limited to, rock crushers, asphalt batch plants, equipment staging areas, material storage yards, material borrow areas, and excavated material disposal areas. Discharges of storm water runoff from construction support activities may be authorized under this general chapter, provided that the following conditions are met:
 - (1) The activities are located within the same city, located within 1 mile from the boundary of the permitted construction site, and directly support the construction activity;
 - (2) A Storm Water Pollution Prevention Plan is developed according to the provisions of this chapter which includes appropriate controls and measures to reduce erosion and discharge of pollutants in storm water runoff from the construction support activities;
 - (3) The activities are not a commercial operation, nor serve other unrelated construction projects; and

(4) (3) The construction support activities either do not operate beyond the completion date of the construction activity or are authorized under separate authorization. Separate authorization may include the TPDES Multi Sector General Permit, TXR050000 (related to storm water discharges associated with industrial activity), separate authorization under this chapter if applicable, coverage under an alternative chapter if available, or authorization under an individual water quality permit issued by the state.

(C) *Non-storm water discharges.* The following non-storm water discharges are not prohibited under this chapter:

- (1) Discharges from fire fighting activities (fire fighting activities do not include washing of trucks, runoff water from training activities, test water from fire suppression systems, and similar activities);
- (2) Uncontaminated fire hydrant flushings (excluding discharges of hyper chlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life), which include flushings from systems that utilize potable water, surface water, or ground water that does not contain additional pollutants (uncontaminated fire hydrant flushings do not include systems utilizing reclaimed wastewater as a source water);
- (3) Water from the routine external washing of vehicles, the external portion of buildings or structures, and pavement, where spills or leaks of toxic or hazardous materials have not occurred (unless spilled materials have been removed; and if local, state, or federal regulations are applicable, the materials are removed according to those regulations), and where the purpose is to remove mud, dirt, or dust;
- (4) Uncontaminated water used to control dust;
- (5) Potable water sources including waterline flushings (excluding discharges of hyper chlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);
- (6) Uncontaminated air conditioning condensate;
- (7) Uncontaminated ground water or spring water, including foundation or footing drains where flows are not contaminated with industrial materials such as solvents; and
- (8) Lawn watering and similar irrigation drainage.

(D) *Other permitted discharges.* Any discharge authorized under a separate permit may be combined with discharges authorized by this chapter, provided those discharges comply with the associated permit.

§ 55.04 - PERMIT REQUIREMENTS.

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(A) No person shall be granted a site development permit for a project disturbing 1 acre of land or more without the approval of a Storm Water Pollution Prevention Plan (as described more fully in this chapter) by the City Engineer or the City Building Official or his or her or their duly authorized representative(s).

(B) No site development permit is required for the following activities:

- (1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- (2) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- (3) Gardening that is associated with the maintenance and landscaping of existing facilities and that is unrelated to new construction.

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(C) Each NOI shall bear the name(s), ~~and addresses~~, and telephone numbers of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a filing fee.

(D) Each NOI shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with an approved Storm Water Pollution Prevention Plan.

(E) Each NOI shall include the TPDES CGP authorization number for existing authorizations under the construction general permit (CGP), where the operator submits an NOI to renew coverage within 90 days of the effective date of this general permit;

(F) the name (or other identifier), address, county, and latitude/longitude of the construction project or site;

(G) (E) For large construction activities, the applicant will be required to file with the city or its duly authorized representative a faithful performance bond, letter of credit, or other improvement security in an amount deemed sufficient by the City Manager or City Engineer or his or her or their duly authorized representative to cover all costs of improvements, landscaping, maintenance of improvements for such period as specified by the city, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

§ 55.05 - STORM WATER POLLUTION PREVENTION PLAN (SWP3).

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(A) General requirements.

- (1) Storm Water Pollution Prevention Plans must be prepared prior to submittal of an NOI for the purpose of limiting pollutants in discharges from small and large construction activities that will reach MS4s and privately-owned Separate Storm Sewer Systems. The SWP3 must also identify ~~and address any~~ potential sources of pollution (including off-site material storage areas, overburden and stockpiles of dirt, borrow areas, equipment staging areas, vehicle repair areas, fueling areas, and ~~the like etc.~~) that have been determined to cause, have a reasonable potential to cause, or contribute to a violation of water quality standards or have been found to cause or contribute to the loss of a designated use of surface water in the state from discharges of stormwater from construction activities and construction support activities. Where potential sources of these pollutants are present at a construction site, the SWP3 must also contain a description of the management practices that will be used to prevent these pollutants from being discharged into surface water in the state or Waters of the U.S. are reasonably expected to affect the quality of construction site discharges.

The SWP3 must describe the implementation of practices that will be used to minimize, to the extent practicable, the discharge of construction related pollutants in storm water and certain non-storm water discharges. At a minimum, such measures must be designed, installed, implemented, and maintained to:

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(a) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge.

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(b) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater.

(c) Minimize the exposure of waste materials by closing waste container lids at the end of the work day. For waste containers that do not have lids, where the container itself is not sufficiently secure enough to prevent the discharge of pollutants absent a cover and could leak, the permittee must provide either a cover (e.g., a tarp, plastic sheeting, temporary roof) to minimize exposure of wastes to precipitation, or a similarly effective means designed to minimize the discharge of pollutants (e.g., secondary containment); and

(d) Minimize the discharge of pollutants from spills and leaks, and implement chemical spill and leak prevention and response procedures.

(2) SWP3s must utilize temporary and permanent BMPs, measures, and controls complying with the city's Technical Guidance Manual.

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(3) SWP3s require maps and/or drawings. The scale of the maps and drawings must be large enough to provide a clear understanding of the site and the project. Sheet sizes must not exceed 24 inches by 36 inches. Where the amount of information required to be included on the map would result in a single map being difficult to read and interpret, the operator shall develop a series of maps that collectively include the required information.

(4) SWP3s must list MS4s receiving discharges from the subject construction activity. The same MS4s must receive copies of the SWP3 and application submittal.

(5) *Shared SWP3 development.*

(a) For more effective coordination of BMPs and opportunities for cost sharing, a cooperative effort by the different operators at a site is encouraged. Operators of small and large construction activities must independently obtain authorization, but may work together to prepare and implement a single, comprehensive SWP3 for the entire construction site.

(b) The SWP3 must clearly list the name, - and - for large construction activities, the permit authorization numbers, for each operator that participates in the shared SWP3. (or the date that the NOI was submitted to TCEQ by each operator that has not received an authorization number for coverage under the CGP). Until the city responds to receipt of the NOI with a permit authorization number, the SWP3 must specify the date that the NOI was submitted to the city by each operator. ~~Each~~ All operators participating in the shared plan must also sign the SWP3.

(c) The SWP3 must clearly indicate which operator is responsible for satisfying each shared requirement of the SWP3. If the responsibility for satisfying a requirement

is not described in the plan, then each permittee is entirely responsible for meeting the requirement within the boundaries of the construction site where it performs construction activities. The SWP3 must clearly describe responsibilities for meeting each requirement in shared or common areas.

- (d) Individual operators may develop separate SWP3s that apply only to their portion of the project, provided reference is made to the other operators working on the site. Where there is more than 1 SWP3 for a site, permittees must coordinate to ensure that BMPs and controls are consistent and do not negate or impair the effectiveness of other controls. Regardless of whether a single comprehensive SWP3 is developed or separate SWP3s are developed for each operator, it is the responsibility of each operator to ensure compliance with the terms and conditions of this chapter in the areas of the construction site where that operator has control over construction plans and specifications or day-to-day operations.

(6) Responsibilities of Operators

(a) Secondary Operators and Primary Operators with Control Over Construction Plans and Specifications

All secondary operators and primary operators with control over construction plans and specifications shall:

- 1.) ensure the project specifications allow or provide that adequate BMPs are developed to meet the requirements of Part III of this general permit;
- 2.) ensure that the SWP3 indicates the areas of the project where they have control over project specifications, including the ability to make modifications in specifications;
- 3.) ensure that all other operators affected by modifications in project specifications are notified in a timely manner so that those operators may modify their BMP s as necessary to remain compliant with the conditions of this general permit; and
- 4.) ensure that the SWP3 for portions of the project where they are operators indicates the name and site-specific TPDES authorization number(s) for operators with the day-to-day operational control over those activities necessary to ensure compliance with the SWP3 and other permit conditions. If a primary operator has not been authorized or has abandoned the site, the secondary operator is considered to be the responsible party and must obtain authorization as a primary operator under the permit, until the authority for day-to-day operational control is transferred to another primary operator. The new primary operator must update or develop a new SWP3 that will reflect the transfer of operational control and include any additional updates to the SWP3 to meet requirements of the permit.

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(7) Primary Operators with Day-to-Day Operational Control

Primary operators with day-to-day operational control of those activities at a project that are necessary to ensure compliance with an SWP3 and other permit conditions must ensure that the SWP3 accomplishes the following requirements:

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- (a) meets the requirements of this general permit for those portions of the project where they are operators;
- (b) identifies the parties responsible for implementation of BMPs described in the SWP3;

(c) indicates areas of the project where they have operational control over day-to-day activities; and

(d) the name and site-specific TPDES authorization number of the parties with control over project specifications, including the ability to make modifications in specifications for areas where they have operational control over day-to-day activities.

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(B) *Small and large construction activities.* For small and large construction activities, the SWP3 must include, at a minimum:

(1) A site or project description, which includes the following information:

- (a) The address and lot description of the site;
- (b) A description of the nature of the construction activity;
- (c) A list of potential pollutants and their sources;
- (d) A description of the best management practices (BMPs) that will be used to minimize pollution in runoff;
- (e) The intended schedule or sequence of activities that will disturb soils for major portions of the site; the schedule of sequence must provide dates for beginning and ending construction activities such as stripping and clearing, rough grading, installing utilities, constructing infrastructure, constructing buildings, final grading, landscaping, and installing erosion and sediment controls, including temporary and permanent measures;
- (f) The total number of acres of the entire project property and the total number of acres where construction activities will occur, including off-site material storage areas, overburden and stockpiles of dirt, and borrow areas that are authorized under the permittee's NOI;
- (g) Data describing the soil or the quality of any discharge from the site;
- (h) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of mineral and fertilizer, kind and quantity of mulching for both temporary and permanent vegetative control measures; and
- (i) A maintenance plan for BMPs.

(2) A general map showing the general location of the site (e.g. a portion of a city or county map);

(3) A detailed topographic site map (or maps) indicating the following:

- (a) North arrow;
- (b) Identifying property lines;
- (c) Easements;
- (d) Designated points on the site where vehicles will exit onto paved roads (for instance, this applies to construction transition from unstable dirt areas to exterior paved roads); Access to the site;
- (e) Existing site conditions;
- (f) The areas and extent of proposed soil disturbance;
- (g) Proposed project conditions;

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- (h) Conveyances and watercourses;
- (i) Drainage patterns and approximate slopes anticipated after major grading activities;
- (j) Locations of all planned or in-place structural controls and buffers;
- (k) Locations of temporary and permanent stabilization measures;
- (l) Locations of construction support activities, including off-site activities, that are authorized under the permittee's NOI, including material, waste, borrow, fill, equipment storage, asphalt plants, and concrete plants;
- (m) Surface waters (including wetlands) either at, adjacent to, or in close proximity to the site;
- (n) Locations where storm water discharges from the site directly to a surface water body or MS4; and
- (o) Vehicle wash areas.

§ 55.06 - MAINTENANCE AND INSPECTION OF CONTROLS.

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(A) *Maintenance of controls.*

- (1) All protective measures identified in the SWP3 must be maintained in effective operating condition. If, through inspections or other means, the permittee determines that BMPs are not operating effectively, then the permittee shall perform maintenance as necessary to maintain the continued effectiveness of storm water controls, and prior to the next rain event if feasible. If maintenance prior to the next anticipated storm event is impracticable, the reason shall be documented in the SWP3 and maintenance must be scheduled and accomplished as soon as practicable. Erosion and sediment controls that have been intentionally disabled, run over, removed, or otherwise rendered ineffective must be replaced or corrected immediately upon discovery.
- (2) If periodic inspections or other information indicates a control has been used incorrectly, is performing inadequately, or is damaged, then the operator must replace or modify the control as soon as practicable after making the discovery.
- (3) Sediment must be removed from sediment traps and sedimentation ponds no later than the time that design capacity has been reduced by 50%. For perimeter controls such as silt fences, berms, and the like, the trapped sediment must be removed before it reaches 50% of the above-ground height.
- (4) If sediment escapes the site, accumulations must be removed at a frequency that minimizes off-site impacts, and prior to the next rain event, if feasible. If the permittee does not own or operate the off-site conveyance, then the permittee must work with the owner or operator of the property to remove the sediment.

(B) *Inspection of controls.*

- (1) Personnel provided by the permittee must inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, discharge locations, and structural controls for evidence of, or the potential for, pollutants entering the drainage system. Personnel conducting these

inspections must be knowledgeable of this chapter, any permit issued under it, and the TCEQ general construction permit, familiar with the construction activities at the site, and knowledgeable of the SWP3 for the site. Personnel conducting these inspections are not required to have signatory authority for inspection reports under 30 TAC §305.128.

(2) Requirements of Inspections.

- (a) Sediment and erosion control measures identified in the SWP3 must be inspected to ensure that they are operating correctly.
- (b) Identify locations on the construction site where new or modified stormwater controls are necessary.
- (c) Check for signs of visible erosion and sedimentation that can be attributed to the points of discharge where discharges leave the construction site or discharge into any surface water in the state flowing within or adjacent to the construction site.
- (d) Identify any incidents of noncompliance observed during the inspection.
- (e) Locations where vehicles enter or exit the site must be inspected for evidence of off-site sediment tracking.
- (f) If an inspection is performed when discharges from the construction site are occurring: identify all discharge points at the site, observe and document the visual quality of the discharge (i.e., color, odor, floating, settled, or suspended solids, foam, oil sheen, and other such indicators of pollutants in stormwater).
- (g) Complete any necessary maintenance needed, based on the results of the inspection and in accordance with the requirements listed in this chapter.

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(3) Inspection Frequencies.

- (a) Inspections must be conducted at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.
- (b) (2) Where sites have been finally or temporarily stabilized or where runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice, or frozen ground exists), inspections must be conducted at least once every month until thawing conditions begin to occur. The SWP3 must also contain a record of the approximate beginning and ending dates of when frozen conditions occurred at the site, which resulted in inspections being conducted monthly, while those conditions persisted, instead of at the interval of once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.
- (c) (3) As an alternative to the above-described inspection schedule of once every 14 calendar days and within 24 hours of a storm event of 0.5 inches or greater, the SWP3 may be developed to require that these inspections will occur at least once every 7 calendar days. If this alternative schedule is developed, then the inspection must occur on a specifically defined day, regardless of whether or not there has been a rainfall event since the previous inspection. The inspections may occur on either schedule provided that the SWP3 reflects the current schedule and that any changes to the schedule are conducted in accordance with the following provisions: the schedule may be changed a maximum of 1 time each month, the schedule change must be implemented at the beginning of a calendar month, and the reason for the schedule change must be documented in the SWP3 (e.g., end of "dry" season and beginning of "wet" season).

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- (4) In the event of flooding or other uncontrollable situations which prohibit access to the inspection sites, inspections must be conducted as soon as access is practicable.

(5) Inspection Reports.

- (5) The SWP3 must be modified based on the results of inspections, as necessary, to better control pollutants in runoff. Revisions to the SWP3 must be completed within 7 calendar days following the inspection. If existing BMPs are modified or if additional BMPs are necessary, an implementation schedule must be described in the SWP3 and wherever possible those changes implemented before the next storm event. If implementation before the next anticipated storm event is impracticable, these changes must be implemented as soon as practicable.

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- (6) A report summarizing the scope of the inspection, the date(s) of the inspection, and major observations relating to the implementation of the SWP3 must be made completed within 24-hours following the inspection and retained as part of the SWP3. The report must also include the date(s) of the inspection and major observations relating to the implementation of the SWP3. Major observations should include: the locations of discharges of sediment or other pollutants from the site; locations of BMPs that need to be maintained; locations of BMPs that failed to operate as designed or proved inadequate for a particular location; and locations where additional BMPs are needed.

- (7) Actions taken as a result of inspections must be described within, and retained as a part of, the SWP3. Reports must identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report must contain a certification that the facility or site is in compliance with the SWP3 and this permit. The report must be signed by the person and in the manner required by 30 TAC 305.128 (relating to Signatories to Reports). The names and qualifications of personnel making the inspections for the permittee may be documented once in the SWP3 rather than being included in each report.

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- (8) The SWP3 must identify and ensure the implementation of appropriate pollution prevention measures for all eligible non-stormwater components of the discharge, as listed in section 55.03 of this chapter.

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- (9) The SWP3 must include the information required in section 55.02 of this chapter.

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- (10) The SWP3 must include pollution prevention procedures that comply with section 55.02 of this chapter.

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§ 55.07 - REVIEW, APPROVAL, OBTAINING AUTHORIZATION TO DISCHARGE.

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- (A) *Submissions*. In order to apply for a permit for site development and to obtain an approval for a small or large construction activity, the applicant must complete or develop and submit the following application documents to the city for review:

- (1) Small construction activity (submit at least 15 calendar days prior to the date to commence work):

(a) ~~NOI~~.

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(a) (b) Copies of any prior related permits.

- (b)(e) SWP3 meeting requirements for a small construction activity.
 - (c)(d) Small construction site notice.
 - (d)(e) Review fee.
- (2) Large construction activity (submit at least 30 calendar days prior to the date to commence work):
- (a) NOI.
 - (b) Copies of any prior related permits.
 - (c) SWP3 meeting requirements for a large construction activity.
 - (d) Large construction site notice.
 - (e) Review fee.
- (B) *Review and approval.* The City Engineer or Building Official will review each submittal for a site development permit to determine its conformance with the provisions of this chapter. After receiving a complete submittal, the City Engineer or Building Official within 15 calendar days for a small construction activity and 30 calendar days for a large construction activity, shall, in writing:
- (1) Approve the permit;
 - (2) Approve the permit subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
 - (3) Disapprove the permit, indicating the reason(s) for disapproval and the procedure for submitting a revised application or submission.
- (C) *Minor modifications.* Minor modifications to an approved SWP3 shall be documented by the permittee on a form provided by the city and shall be approved or disapproved by the City Engineer or Building Official, with such decision so indicated on the form, within 5 business days of receiving the completed form.
- (D) *Major modifications.* Major modifications to an approved SWP3 shall be processed and approved or disapproved in the same manner as for first-time submittals of this chapter, and may be authorized by the City Engineer and/or Building Official by written authorization to the permittee.
- (E) *Additional primary operators.* If an additional primary operator is added or changed after the initial NOI is submitted, the new primary operator must submit an NOI at least 10 calendar days prior to assuming operational control.
- (F) *Posting NOI.* All primary operators and permittees must post a copy of the signed NOI at the construction site in a location where it is readily available for viewing by the general public, local, state, and federal authorities prior to commencing construction activities, and must maintain the NOI in that location until completion of the construction activity.

Two days prior to commencing construction activities, all primary operators must:

- (1) provide a copy of the signed NOI to the operator of any MS4 receiving the discharge and to any secondary construction operator, and
- (2) list in the SWP3 the names and addresses of all MS4 operators receiving a copy.

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(G) *Posting site notice.* All operators and permittees must post a site notice. The site notice must be located where it is safely and readily available for viewing by the general public, local, state, and federal authorities prior to commencing construction, and must be maintained in that location until completion of the construction activity.

(H) *Secondary operators.* All secondary operators are regulated under this chapter, but are not required to submit an NOI, provided that ~~another~~ the primary operator(s) at the site has submitted an NOI, or is required to submit an NOI and the secondary operator has provided notification to the primary operator(s) of the need to obtain coverage (with records of notification available upon request). Any secondary operator notified under this provision may alternatively submit an NOI under this chapter as set forth above, may seek coverage under an alternative TPDES individual permit, or may seek coverage under an alternative TPDES general permit if available.

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~~(I)~~ all secondary operators of large construction activities must post a copy of the signed and certified Secondary Operator construction site notice and provide a copy of the signed and certified site notice to the operator of any MS4 receiving the discharge at least two days prior to the commencement of construction activities. Posted site notices may have a redacted signature as long as there is an original signed and certified Secondary Operator construction site notice, with a viewable signature, located on-site and available for review by an applicable regulatory authority.

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~~(J)~~ ~~(H)~~ *Date of coverage.* Operators of construction activities are authorized and their construction activities are permitted after the required submittals are received by the city, reviewed by the city, and written notification, including a stamped SWP3 and city authorization number are issued by the city to the operator/permittee.

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~~(K)~~ ~~(J)~~ *Late NOIs.* Operators are not prohibited from submitting late NOIs or posting late notices to obtain authorization under this chapter. The city reserves the right to take appropriate enforcement actions for any unpermitted activities that may have occurred between the time construction commenced and authorization was obtained.

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~~(L)~~ ~~(K)~~ *Notice of change (NOC).*

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(1) If relevant information provided in the NOI changes, the following items must be submitted:

~~(a)~~ ~~For small construction activities—an NOC at least 10 calendar days prior to the change occurring; and~~

~~(a)~~ ~~(b)~~ For large construction activities—an NOC at least 14.5 calendar days prior to the change occurring.

(2) When the required advance notice is not possible, the operator must submit an NOC within 14.5 days of discovery of the change. If the operator becomes aware that it failed to submit any relevant facts or submitted incorrect information in an NOI, the correct information must be provided to the City Manager, the City Engineer, or Building Official in an NOC within 14.45 days after discovery. The NOC shall be submitted on a form provided by the ~~executive director~~ City Manager, the City Engineer, or Building Official, or by letter if an NOC form is not available. A copy of the NOC must also be provided to the operator of any MS4 receiving the discharge, most notably the city. A list that includes the names and addresses of all MS4 operators receiving a copy of the NOC (or NOC letter) must be included in the SWP3.

(3) Information that may be included in an NOC includes, but is not limited to, the following: the description of the construction project, an increase in the number of

acres disturbed (for increases of 1 or more acres), and the operator name. A transfer of operational control from 1 operator to another, including a transfer of the ownership of a company, must be included in an NOC. Coverage under the CGP is not transferable from one operator to another or one company to another, and may not be included in an NOC. A transfer of ownership of a company includes changes to the structure of a company, such as changing from a partnership to a corporation or changing corporation types, so that the filing number (or charter number) that is on record with the Texas Secretary of State must be changed. An NOC is not required for notifying the city of a decrease in the number of acres disturbed. This information must be included in the storm water pollution prevention plan (SWP3) and retained on site.

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- (M) (L) *Signatory requirements.* Signatory requirement for NOI Forms, Notice of Termination (NOT) Forms, NOC Letters, and Construction Site Notices. NOI forms, NOT forms, NOC letters, and Construction Site Notices that require a signature must be signed according to 30 TAC § 305.44 (relating to Signatories for Applications).

§ 55.08 - INSPECTIONS BY CITY.

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- (A) *City inspections.* The City Engineer, the City Building Official, or his or her or their designated agent, shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Storm Water Pollution Prevention Plan as approved. Plans for grading, stripping, excavating, and filling work and an SWP3 bearing the stamp of city approval shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the City Engineer or the Building Official at least 3 working days before the following:
- (1) Start of construction
 - (2) Installation of sediment and erosion measures
 - (3) Completion of site clearing
 - (4) Completion of rough grading
 - (5) Completion of final grading
 - (6) Close of the construction season
 - (7) Completion of final landscaping
- (B) *Permittee inspections.* The permittee or his or her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Storm Water Pollution Prevention Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the Storm Water Pollution Prevention Plan and the need for additional control measures. All inspections shall be documented on forms provided by the city and submitted to the City Engineer or the Building Official at the time interval specified in the approved permit.
- (C) *Entry permitted.* The City Manager, the City Council, the City Engineer, the Building Official, or their designated agents shall be permitted to enter the construction site or disturbed area as deemed necessary to make inspections to ensure the validity of the reports filed by the permittee.

- (D) *Refusal of access.* If the City Manager, City Engineer, Building Official, or his or her or their designee, has been refused access to any part of the premises from which storm water is discharged, and he or she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City Manager may seek issuance of a search warrant from any court of competent jurisdiction.

§ 55.09 - LIMITATIONS ON PERMIT COVERAGE.

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- (A) *Post-construction discharges.* Discharges that occur after construction activities have been completed, and after the construction site and any supporting activity site have undergone final stabilization, are not eligible for coverage under a permit issued in accordance with this chapter. Discharges originating from permitted sites are not authorized under this chapter following the submission of the notice of termination (NOT) for the construction activity.
- (B) *Prohibition of non-storm water discharges.* Except as otherwise provided, only discharges that are composed entirely of storm water associated with construction activity may be authorized under this chapter.
- (C) *Compliance with water quality standards.* Discharges to surface water in the city that would cause or contribute to a violation of water quality standards or that would fail to protect and maintain existing designated uses are not eligible for coverage under this chapter. The City Manager, Building Official, or City Engineer may require an application for a TPDES individual permit to authorize discharges to surface water in the state from any activity that is determined to cause a violation of water quality standards or is found to cause, or contribute to, the loss of a designated use. The City Manager, the City Engineer, or Building Official may also require an application for a TPDES individual permit considering factors described in this chapter.
- (D) *Discharges to water quality-impaired receiving waters.* New sources or new discharges of the constituents of concern to impaired waters are not authorized by a permit granted under this chapter unless otherwise allowable under 30 TAC Chapter 305 and applicable state law. Impaired waters are those that do not meet applicable water quality standards and are listed on the EPA approved Clean Water Act Section 303(d) list. Constituents of concern are those for which the water body is listed as impaired. Discharges of the constituents of concern to impaired water bodies for which there is a total maximum daily load (TMDL) are not eligible for a permit unless they are consistent with the approved TMDL. Permittees must incorporate the limitations, conditions, and requirements applicable to their discharges, including monitoring frequency and reporting required by Texas Commission on Environmental Quality (TCEQ) rules, into their storm water pollution prevention plan in order to be eligible for coverage under this chapter.
- (E) *Discharges to specific watersheds and water quality areas.* Discharges otherwise eligible for coverage cannot be authorized by this chapter where prohibited by 30 TAC Chapter 311 (relating to Watershed Protection) for water quality areas and watersheds.
- (F) *Protection of streams and watersheds by other governmental entities.* This chapter does not limit the authority or ability of federal, state, or other local governmental entities from

placing additional or more stringent requirements on construction activities or discharges from construction activities.

- (G) Oil and gas production and transportation. Storm water runoff from construction activities associated with the exploration, development, or production of oil or gas or geothermal resources, including transportation of crude oil or natural gas by pipeline, are not under the authority of the city and are not eligible for coverage under this chapter. If discharges of storm water require authorization under federal NPDES regulations, authority for these discharges must be obtained from the EPA.
- (H) Storm water discharges from agricultural activities. Storm water discharges from agricultural activities that are not point source discharges of storm water are not subject to the requirements or restrictions of this chapter. Where properly zoned for such uses, these activities may include clearing and cultivating ground for crops, construction of fences to contain livestock, construction of stock ponds, and other similar agricultural activities.
- (I) Other. Nothing in this chapter is intended to negate any person's ability to assert the force majeure (act of God, war, strike, riot, or other catastrophe) defenses found in 30 TAC § 70.7.

§ 55.10 - CONCRETE BATCH PLANTS PROHIBITED.

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Concrete batch plants are prohibited in the city.

§ 55.11 - CONCRETE TRUCK WASH-OUT REQUIREMENTS.

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Wash-out of concrete trucks at construction sites is permitted provided that the following requirements are satisfied.

- (A) Land disposal of concrete truck wash-out water is permitted only from concrete trucks that are associated with off-site production facilities. Disposal of concrete truck wash-out water associated with on-site concrete production facilities is specifically prohibited within the city.
- (B) Direct discharge of concrete truck wash-out water to surface water in the state, including discharge to storm sewers, is prohibited.
- (C) Concrete truck wash-out water shall be discharged to areas at the construction site where structural controls have been established to prevent direct discharge to surface waters, or to areas that have a minimal slope that allow infiltration and filtering of wash-out water to prevent direct discharge to surface waters. Structural controls may consist of temporary berms, temporary shallow pits, temporary storage tanks with slow rate release, or other reasonable measures to prevent runoff from the construction site.
- (D) Wash-out of concrete trucks during rainfall events shall be minimized. The direct discharge of concrete truck wash-out water is prohibited at all times, and the operator shall insure that its best management practices are sufficient to prevent the discharge of concrete truck washout as the result of rain.
- (E) The discharge of wash-out water shall not cause or contribute to ground water contamination.

- (F) If a Storm Water Pollution Prevention Plan (SWP3) is required to be implemented, the SWP3 shall include concrete wash-out areas on the associated map.

§ 55.12 - DEADLINES FOR OBTAINING DISCHARGE AUTHORIZATION.

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(A) *Large construction activities.*

- (1) *New construction.* Discharges from sites where the commencement of construction occurs on or after the effective date of this chapter must be authorized, either according to this chapter or a separate permit issued by the city, prior to the commencement of those construction activities.
- (2) *Ongoing construction.* Operators of large construction activities operating prior to the effective date of this chapter, and continuing to operate after the effective date of a permit issued under this chapter, must submit an NOI or NOT to the City Manager, the City Engineer, or Building Official to renew authorization of any permit issued under any previous law, chapter or rule under which construction activity began within 90 days of this chapter. During this interim period, as a requirement of issuance of such permit under this chapter, the operator must continue to meet the conditions and requirements of any previous permit.

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(B) *Small construction activities.*

- (1) *New construction.* Discharges from sites where the commencement of construction occurs on or after the effective date of this chapter must be authorized under this chapter prior to the commencement of those construction activities.
- (2) *Ongoing construction.* Discharges from ongoing small construction activities that commenced prior to the effective date of this chapter, and that would not meet the conditions to qualify for termination of a permit issued under this chapter must meet the requirements to be authorized under this chapter within 90 days of the effective date of this chapter. During this interim period, as a requirement of a permit issued under this chapter, the operator must continue to meet the conditions and requirements of any previous permit issued by the city under which construction activities began.

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§ 55.13 - PERMIT EXPIRATION.

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- (A) *Initial term.* A permit issued under this chapter is issued for a term not to exceed 1 year. Unless otherwise specified in the permit issued, all active discharge authorizations expire 1 year from the date provided in the permit. The city, through the City Council or City Manager, may amend, revoke, or cancel a permit issued under this chapter at any time.
- (B) *Notice of intent to renew.* If the city officially provides, in writing, a notice of the intent to renew or amend a permit before the expiration date, the permit will remain in effect for existing, authorized discharges until the city takes final action on the permit. Upon issuance of a renewed or amended permit, permittees may be required to submit an NOI within 90 days following the effective date of the renewed or amended permit, unless that permit provides for an alternative method for obtaining authorization. A renewal or amended permit may not be for a period in excess of 6 months. The fee for issuance of a renewal or

amended permit shall be equal to one-half of the review fee for the permit being renewed or amended.

- (C) *New permit.* If the city does not propose to renew or amend a permit within 90 days before the expiration date, permittees shall apply for authorization under a new permit if activity requiring a permit will continue after expiration of the initial permit. If the NOI for a new permit is submitted before the expiration date, authorization under the expiring permit remains in effect until the issuance or denial of a new permit. No new NOIs will be accepted nor new authorizations honored under the original permit after the expiration date. If a new permit is requested, the permittee shall submit an application in accordance with § 55.07 and a new review fee must be paid.

§ 55.14 - RETENTION OF RECORDS.

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The permittee must retain the following records for a minimum period of 3 years from the date that an NOT is submitted as required by this chapter. For activities in which an NOT is not required, records shall be retained for a minimum period of 3 years from the date that the operator terminates coverage as provided under this chapter. Records include:

- (A) A copy of the SWP3;
- (B) All reports and actions required by this permit, including a copy of the construction site notice;
- (C) All data used to complete the NOI, if an NOI is required for coverage under this general permit; and
- (D) All records of submittal of forms submitted to the operator of any MS4 receiving the discharge and to the secondary operator of a large construction site, if applicable.

§ 55.15 - STANDARD PERMIT CONDITIONS.

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- (A) *Duty to comply.* The permittee has a duty to comply with all permit conditions. Failure to comply with any permit condition is a violation of the permit and statutes under which it was issued, and is grounds for enforcement action, for terminating, revoking and reissuance, or modification, or denying coverage under a permit issued under this chapter, or for requiring a discharger to apply for and obtain an individual permit under this chapter.
- (B) *Permit suspension or revocation.* Authorization under a permit issued under this chapter may be modified, suspended, or revoked and reissued, terminated or otherwise suspended for cause, based on rules located in TWC §23.086, 30 TAC §305.66 and 40 CFR §122.41(f). Filing a notice of planned changes or anticipated noncompliance by the permittee does not stay any permit condition imposed by this chapter. The permittee must furnish to the City Manager, the City Engineer, or Building Official, upon request and within a reasonable time, any information necessary for the City Manager, the City Engineer, or Building Official to determine whether cause exists for modifying, revoking and reissuing, terminating or, otherwise, suspending, or terminating authorization under any permit issued in compliance with this chapter. Additionally, the permittee must provide to the City

Manager, the City Engineer, or Building Official, upon request, copies of all records that the permittee is required to maintain as a condition of this chapter.

- (C) *Limit on defense.* It is not a defense for a discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the permit conditions.
- (D) *Inspection and entry.* Inspection and entry by the city shall be allowed under Tex. Water Code Chapters 26-28, Tex. Health and Safety Code § 361.032-361.033 and 361.037, and 40 CFR § 122.41(i4).
- (E) *Water code penalties apply.* The discharger is subject to administrative, civil, and criminal penalties, as applicable, for violations including, but not limited to, the following:
 - (1) Negligently or knowingly violating the federal Clean Water Act (CWA) §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under CWA § 402, or any requirement imposed in a pretreatment program approved under CWA § 402(a)(3) or 402(b)(8);
 - (2) Knowingly making any false statement, representation, or certification in any record or other document submitted or required to be maintained under a permit, including monitoring reports or reports of compliance or noncompliance; and-
 - (3) Knowingly violating CWA §303 and placing another person in imminent danger of death or serious bodily injury.
- (F) *Signing of reports.* All reports and other information requested by the City Manager, the City Engineer, or Building Official must be signed by the person and in the manner required by 30 TAC § 305.128 (relating to Signatories to Reports).
- (G) *Authorization does not convey property or waive rights.* Authorization under this chapter does not convey property or water rights of any sort and does not grant any exclusive privilege.
- (H) *Additional provisions.* Nothing in this chapter shall be construed to allow storm water runoff from any construction and/or land-disturbing activity onto any other public or private property except as expressly provided by this chapter. Additionally, any permittee under this chapter is specifically required to complete internal final stabilization of the entirety of a permitted construction and/or land disturbance area prior to the city's acceptance of an NOI, or the issuance by the city of any certificate of occupancy.

§ 55.16 - FEES.

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- (A) *Review fee.* A review fee as defined by this chapter must be submitted along with the NOI.
- (B) *When fees are due.* Fees are due upon submission of the application documents, including the NOI. An application will not be declared administratively complete unless the associated fee has been paid in full.
- (C) *Fees of other entities.* Any fee assessed under the terms of the TCEQ general construction permit, or any other permit required by any other federal, state or local governmental entity or agency, is a separate fee, and it is the sole responsibility of the prospective permittee to satisfy any such fee requirement(s).

§ 55.17 - NOTICE OF VIOLATION.

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- (A) Whenever the City Building Official or his or her designee finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the city may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:
- (1) The performance of monitoring, analysis, and reporting;
 - (2) The elimination of construction site storm water runoff;
 - (3) That violating construction practices or operations shall cease and desist;
 - (4) The abatement or remediation of construction storm water runoff and the restoration of any affected property;
 - (5) Payment of a fine to cover administrative and remediation costs; and/or
 - (6) The implementation of construction storm water runoff BMPs.
- (B) If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor, and the expense thereof shall be charged to the violator.

§ 55.18 - APPEAL OF NOTICE OF VIOLATION.

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Any person receiving a Notice of Violation from the Building Official or his or her designee may appeal the determination to the City Manager by filing a Notice of Appeal with the City Secretary not later than 10 days after the date of the Notice of Violation. The City Manager shall conduct a hearing on the appeal within 30 days of the date of filing of the Notice of Appeal. Notice of the date, time, and place of such hearing will be sent by first class mail to the person submitting the Notice of Appeal not less than 7 days prior to the date of the hearing. The City Building Official and/or his or her designee and the person submitting the Notice of Appeal may present evidence at the hearing. The decision of the City Manager will be rendered at the close of the hearing or within 30 days thereafter. The decision of the City Manager shall be final.

§ 55.19 - ENFORCEMENT MEASURES.

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If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then representatives of the City shall enter upon the subject construction site and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, partnership, corporation, agent or person in possession of any premises to refuse to allow the City Manager, the City Engineer and/or any contractor or employee designated by the City, the City Manager and/or the City Engineer to enter upon the premises for the purposes set forth above.

§ 55.20 - COST OF ABATEMENT OF VIOLATIONS.

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Within 10 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 5 days. If the amount due is not paid within a timely manner as determined by the decision of the City Manager, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this chapter shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments.

§ 55.21 - INJUNCTIVE RELIEF.

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It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the city may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 55.22 - VIOLATIONS DEEMED A PUBLIC NUISANCE.

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In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§ 55.23 - ENFORCEMENT.

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- (A) *Stop work order; revocation of permit.* In the event that any person holding a site development permit pursuant to this chapter violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City Manager or the City Council may suspend or revoke the site development permit.
- (B) *Violation and penalties.* No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this chapter. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this chapter is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than \$500 for each offense. In addition to any other

penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this chapter shall be required to bear the expense of such restoration. Each day that a violation occurs shall be a separate offense.

§ 55.24 - PROSECUTION.

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Any person that has violated or continues to violate this chapter shall be liable to prosecution to the fullest extent of the law, and shall be subject to a fine or penalty of \$500 per violation per day. Each day that a violation occurs shall be a separate offense. The city may recover all attorneys' fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

§ 55.99 - PENALTY.

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(A) *Civil penalty.* In an action against the owner of property or the owner's representative with control over the premises or property (including, without limitation, a site), the city may recover a civil penalty of up to \$1,000 per day for a violation of this chapter if the defendant was actually notified of the provisions of this chapter and thereafter committed acts in violation of this chapter or failed to take action necessary for compliance with this chapter. Each day that a violation occurs shall be a separate offense.

(B) *Remedies not exclusive.*

- (1) The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies.
- (2) If any section, subsection, phrase, sentence or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be stricken from the chapter, and such holding shall not affect the validity of the remaining portions thereof. The balance of the chapter shall be construed as 1 instrument and as if the offending portion had not been included.

Section 2. This Ordinance shall be in full force and effect upon passage and adoption on second reading. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Passed on first reading on the 14th day of July, 2022.

Passed and adopted on second reading on the 28th day of July, 2022.

KIMBERLY MCGEHEE ALDRICH, Mayor

ATTEST:

Patty Cox, City Secretary,

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<input type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input checked="" type="checkbox"/>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
AGENDA ITEM SUMMARY**

DATE: JULY 28, 2022

AGENDA ITEM: 8. b.

8. Discussion And Possible Action

Discussion And Possible Action On A Request For The City To Waive Fees For City Services And Use Of Friendship Park For The 2022 Braylon Nelson Walk On October 15, 2022

Ms. Candice Matthews will attend to make this request.

The fees she will incur are:

Security: 4 hours = \$120

Deposit: \$150

Lease: 4 hours = \$75 + \$15x3 = \$120

TOTAL: \$390

CITY OF KIRBY
PARK LEASE AGREEMENT

ORDINANCE # O-2014-749

I, Candice Matthews, (Name of Park User)
have read and agree to abide by the regulations stated in this agreement. I
understand that violation of certain of these regulations may result in:

- (1) loss of my deposit,
- (2) a citation being issued for violation of a City Ordinance, and
- (3) prohibition on future usage of the City Park by myself and/or my group organization.

Candice Matthews
SIGNATURE OF USER

Brayton Nelson Walkathen
NAME OF GROUP

10/15/22
DATE OF USAGE

30
CITY AUTHORIZATION

Friendship Park
EXPECTED NUMBER OF PEOPLE

Friendship Park
FACILITY TO BE USED

Is the Following Required?

☐ Lights
☒ Security/Life Guards
☐ Keys

[REDACTED]
ADDRESS

[REDACTED]
CITY STATE ZIP

[REDACTED]
PHONE NUMBER

FACILITY DEPOSIT _____

*PAVILION RENTAL _____

BASEBALL FIELD RENTAL _____

ELECT (PAV) _____ (BB) _____

*POOL/JOHN STERLING RENTAL _____

Total _____

DEPOSIT RECEIPT # _____

*USAGE RECEIPT # _____

* USAGE FEE IS NON-REFUNDABLE.

Per Ordinance No. O-2014-749

- 1) Renter will be responsible for asking people to leave once the maximum expected amount of people has been reached.
- 2) Additional officers will be brought in at additional expense to the renter if more people show up, or if a non-alcohol function becomes an alcohol function.
- 3) Officer will be allowed to force an early shut down to the party if the renter will not comply with items 1 and 2.
- 4) No Balloons _____

BE SURE TO PICK UP THE KEY ON
_____ AFTER 3:00 P.M.

Rental Hours: 10 AM - 2 PM

Alcoholic Beverages: _____

Y or N

If Yes, Officer's Badge Number: _____

Deposit Refunded: _____

Y or N

Candice Matthews
Signature of User

Patty Cox

From: Candice Matthews
Sent: Thursday, July 21, 2022 4:24 PM
To: Patty Cox
Subject: Request to waive fees

To whom it may concern, I am writing to request to waive fees for the use of Friendship Park. The Park will be used to host an annual fundraiser for Braylon Nelson who was severely injured in a car accident in Kirby.

Total Control Panel

[Login](#)

To: pcox@cityofkirby.org

[Remove](#) this sender from my allow list

You received this message because the sender is on your allow list.

<u> X </u>	DISCUSSION AND POSSIBLE ACTION ITEMS
<u> </u>	SPECIAL CONSIDERATION
<u> </u>	CONSENT AGENDA
<u> </u>	PUBLIC HEARING
<u> </u>	PRESENTATION
<u> </u>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 8. c.

8. Discussion And Possible Action

Discussion And Possible Action On Renewal Of Contract With McCreary Veselka
Bragg & Alen (MVBA) For The Collection Of Delinquent Water Utility Accounts

Our current contract is expired. If approved on July 28th, the new contract will commence August 1, 2022 for three year.

**CONTRACT FOR THE COLLECTION
OF
DELINQUENT ACCOUNTS RECEIVABLE**

STATE OF TEXAS

§

§

COUNTY OF BEXAR

§

THIS CONTRACT is made and entered into by and between the **CITY OF KIRBY, TEXAS**, acting herein by and through its governing body, hereinafter styled, "**City**", and **MVBA, LLC dba ACCOUNTS RECEIVABLE COLLECTIONS GROUP**.

I.

The City agrees to retain and does hereby retain **MVBA, LLC dba ACCOUNTS RECEIVABLE COLLECTIONS GROUP** to provide services related to the collection of delinquent accounts receivable, including, but not limited to, delinquent utility bills; emergency medical services; and the cost incurred by the City or authorized by the City Code to be imposed by the City to bring any property into compliance with the City Code including, assessments for the mowing of vacant lots, removal of trash and debris from vacant lots, demolition of substandard structures and abatement of other nuisances by the City ("Delinquent Accounts Receivable") pursuant to the terms and conditions described herein. MVBA, LLC may use its dba, Accounts Receivable Collections Group, on collection notices and telephone communications with debtors. The City authorizes MVBA, LLC to execute all documents that are reasonably necessary to pursue collection of the City's claims in connection with the collection of delinquent accounts receivable that are subject to this contract. This contract supersedes all prior oral and written contracts between the parties regarding delinquent accounts receivable and can only be amended if done so in writing and signed by all parties. Furthermore, this contract cannot be transferred or assigned by either party without the written consent of all parties.

II.

For purposes of this contract Delinquent Accounts Receivable shall be considered delinquent and referred to MVBA, LLC when not timely paid in accordance with any applicable contract, ordinance or statute providing for the payment of the underlying debt.

At least once each month on a date or dates agreed upon by the parties, the City will provide MVBA, LLC with copies of, or access to, the information and documentation necessary to collect the Delinquent Accounts Receivable that are subject to this contract. The City shall furnish the information to MVBA, LLC by electronic transmission, magnetic medium.

III.

MVBA, LLC shall forward to the City copies of any correspondence regarding a disputed debt received from a debtor and the request for verification of the debt. The City will provide to MVBA, LLC within ten (10) days of the receipt for the request for verification of the debt, copies of all records which will verify the debt which in turn will be forwarded to the debtor by MVBA, LLC. All collection activity will be suspended on any disputed debt until the appropriate verification of the debt is delivered to the debtor.

IV.

Upon consultation and agreement by both parties hereto, MVBA, LLC may employ an attorney, at its expense, to make a recommendation to the City to take legal action to collect a Delinquent Accounts Receivable or represent the City in any dispute or challenge of its collection authority. Upon consultation and agreement by both parties hereto, MVBA, LLC may employ an attorney, at its expense, to institute civil legal proceedings on behalf of the City, including seeking writs of execution to collect Delinquent Accounts Receivable. The City shall pay in advance of the initiation of any writ of execution or collection lawsuit any filing fees charged by the Court or Clerk of the Court in which the writ of execution is to be issued or the collection lawsuit is to be filed including the costs for service of citation. MVBA, LLC may also, after consultation and agreement by both parties, employ an attorney, at its expense, file proofs of claims in the United States Bankruptcy Court on behalf of the City for Delinquent Accounts Receivable.

V.

MVBA, LLC shall forward all cashier checks or money order payments made payable to the City and any correspondence from debtor directly to the City. Cashier checks or money order payments made payable to MVBA, LLC will be deposited daily into the MVBA, LLC Trust Account. MVBA, LLC may also collect the amount due from the debtor by credit card or electronic draft which is deposited directly into the MVBA, LLC Trust Account. MVBA, LLC may set up payment arrangements and accept partial payments on any delinquent accounts receivable. MVBA, LLC shall remit to the City all payments received into the MVBA, LLC Trust Account weekly, along with an invoice detailing the account number, name of debtor, amount paid to MVBA, LLC or City, MVBA, LLC fee percentage and fees earned for each account.

VI.

MVBA, LLC shall indemnify and hold the City harmless from and against all liabilities, losses and/or costs arising from claims for damages, or suits for losses or damages, including reasonable costs and attorney's fees, which may arise as a result of MVBA, LLC's performance of the services described in this Contract. The indemnity provision of this Contract shall have no application to any claim or demand which results from the sole negligence or fault of the City, its officers, agents, employees or contractors. And furthermore, in the event of joint and/or shared negligence or fault of the City and MVBA, LLC, responsibility and indemnity, if any, shall be apportioned in accordance with Texas law and without waiving any defenses of either party. The provisions of this paragraph are intended for the sole benefit of the parties hereto and are not intended to create or grant any right, contractual or otherwise, to any other persons or entities.

VII.

For the collection of Delinquent Accounts Receivable in which the data files are transmitted to MVBA, LLC by electronic media, the City agrees to pay to MVBA, LLC as compensation for services provided, pursuant to this contract, a fee of twenty percent (20%) of the amount of the Delinquent Accounts Receivable collected.

All compensation shall become the property of MVBA, LLC at the time of payment. The City shall pay to MVBA, LLC said compensation on a monthly basis by check or ACH.

Pursuant to Texas Government Code Sec. 2254.106(c) the contingent fee is computed by multiplying .20 by the base fee of the total amount of accounts receivable that MVBA recovers for the City of Kirby. The .20 multiplier is based upon difficulties inherent in collecting owed accounts receivable. MVBA will be required to send out mailings and make phone calls to all persons who are listed in the data provided by the City of Kirby, and knowing that many of those letters and phone calls will result in the necessity to conduct skip-tracing efforts to locate the debtor. Many of these letters and phone calls will not result in recovery for the City of Kirby, or any fee for MVBA. The risk of no recovery on many accounts is very high; furthermore, the delay in recovery may be several years or months. The .20 multiplier is typical for this type of work. No attorneys, law clerks or paralegals will be performing work under this contract.

VIII.

The City recognizes and acknowledges that MVBA, LLC owns all right, title and interest in certain proprietary software that MVBA, LLC may utilize in conjunction with performing the services provided in the contract. The City agrees and hereby grants to MVBA, LLC the right to use and incorporate any information provided by the City ("account or debtor information") to update the databases in this proprietary software, and, notwithstanding that the case or defendant information has been or shall be used to update the databases in this proprietary software, further stipulates and agrees that the City shall have no rights or ownership whatsoever in and to the software or the data contained therein, except that the City shall be entitled to obtain a copy of such data that directly relates to the City's accounts at any time.

MVBA, LLC agrees that it will not share or disclose any specific confidential account or debtor information with any other company, individual, organization or agency, without the prior written consent of the City, except as may be required by law or where such information is otherwise publicly available. It is agreed that MVBA, LLC shall have the right to use account or debtor information for internal analysis, improving the proprietary software and database, and generating aggregate data and statistics that may inherently contain account or debtor information. These aggregate statistics are owned solely by MVBA, LLC and will generally be used internally, but may be shared with MVBA, LLC's affiliates, partners or other third parties for purposes of improving MVBA, LLC's software and services.

MVBA, LLC and the City agrees that collection activity will not continue or commence on any accounts that are time-barred by the four-year statute of limitations in accordance with Section 16.004(a)(3) of the Texas Civil Practice and Remedies Code. MVBA, LLC and the City agree that the time-barred accounts will be returned to the City. Upon return of these accounts, neither party will have any obligation to the other party to this contract.

MVBA, LLC reserves the right to return to the City all accounts not collected within one (1) year of referral by the City or identified as being in bankruptcy. Upon return of these accounts, neither party will have any obligation to the other party to this contract.

IX.

The initial term of this contract is **three years, beginning on the first day of the month following the execution of this contract by both parties**, and shall automatically renew on the anniversary date and continue in full force and effect thereafter from year to year for additional twelve month periods on the same terms and conditions unless either party delivers written "Notice of Termination of Contract" to the other party of its intent to terminate this contract at least sixty (60) days prior to each anniversary date of this contract.

In the event that the City terminates this contract, MVBA, LLC shall be entitled to continue its collection activity on all accounts previously referred to MVBA, LLC for six (6) months from the date of receipt of the "Notice of Termination of Contract" and to payment of its fee, pursuant to Paragraph VII of this contract for all amounts collected on accounts referred to MVBA, LLC. The City may, at its discretion, refer additional accounts to MVBA, LLC after notice of termination has been received by MVBA, LLC. At the end of the six (6) month period, all accounts shall be returned to the City by MVBA, LLC.

Interlocal Agreement

MVBA, LLC agrees to extend prices and terms to all entities or other political subdivisions or municipalities who have entered or will enter into joint purchasing interlocal cooperation agreement(s) with the City.

X.

For purposes of sending notice under the term of this contract, all notices from the City shall be sent to MVBA, LLC by certified United States mail to the following address:

MVBA, LLC, dba Accounts Receivable Collections Group.
Attention: Harvey M. Allen
P.O. Box 849
Round Rock, Texas 78680

or delivered by hand or by courier, and addressed to 700 Jeffrey Way, Suite 100, Round Rock, Texas 78664-2425. All notices to the City shall be sent by certified United States mail or delivered by hand or courier to the following address:

City of Kirby, Texas
Attention: City Manager
112 Bauman
Kirby, Texas 78219

XI.

This contract is made and is to be interpreted under the laws of the State of Texas. Exclusive venue for any action, lawsuit, claim, dispute or another legal proceeding concerning or arising out of this contract shall be in Bexar County, Texas.

In the event that any provision(s) of this contract shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of that provision(s) shall not affect any other provision(s) of this contract, and it shall further be construed as if the invalid or unenforceable provision(s) had never been a part of this contract.

Every provision of this Contract is intended to be severable. If any term or provision of this Contract is deemed to be invalid, void, or unenforceable for any reason by a District Court, to the extent possible such invalidity or unenforceability shall not affect the validity of the remainder of this Contract, it being intended that such remaining provisions shall be construed in a manner most closely approximating the intention of the Parties with respect to the invalid, void, or unenforceable provision or part thereof. In accordance with the requirements of Chapter 2271, Texas Government Code, the signatory executing this Contract on behalf of MVBA, LLC does hereby verify that MVBA, LLC does not boycott Israel and will not boycott Israel during the term of this Contract.

XII.

In consideration of the terms and compensation herein stated, MVBA, LLC hereby agrees to undertake performance of said contract as set forth above.

The City has authorized by order heretofore passed and duly recorded in its minutes the chief executive officer to execute this contract.

This contract may be executed in any number of counterparts, and each counterpart shall be deemed an original for all purposes. Signed facsimiles shall be binding and enforceable.

WITNESS the signatures of all parties hereto this, the ____ day of _____, A.D. 2022.

CITY OF KIRBY, TEXAS

Mayor

MVBA, LLC dba ACCOUNTS RECEIVABLE COLLECTIONS GROUP

Harvey M. Allen
Manager

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 8. d.

8. Discussion And Possible Action

Discussion And Possible Action On Renewal Of Contract With Environmental
Health Group, LLC For Health Inspection Services

Our current contract expired. A new contract is included with a term of July 1, 2022 – June 30, 2024.

Food Establishment Inspections Agreement

This agreement between City of Kirby represented by _____

And Environmental Health Group, LLC (EHG) represented by Rebecca Vera, R.S. for the period of July 1, 2022- June 30, 2024. EHG shall inspect the retail food establishment and temporary food events as instructed by the City of Kirby. Retail food establishments shall be inspected twice per year. Complaints, follow ups and meetings as requested to be covered by monthly rate. Temporary food events at a separate rate.

EHG shall provide all inspection supplies and transportation.

Kirby shall provide a list of establishments to be inspected, inspection forms, issue permits and collect any fees from food establishments.

EHG shall perform inspection according to the Texas Food Establishment Rules and submit completed original inspection forms to Kirby. With no records being held by EHG. *If an establishment is deemed to have met the criteria for closure City of Kirby shall be notified prior to this action being taken.

City of Kirby shall pay EHG at a rate of:

- a. Monthly rate of \$1100
- b. Each temporary food booth \$20 * (1 booth = 10' x 10')

Kirby shall pay EHG for services rendered with 30 days of completed work being submitted.

Kirby does not require any insurance coverage of any kind of EHG.

Rebecca Vera, R.S., Owner

Environmental Health Group, LLC

Dated July 7, 2022

City of Kirby, Texas

<u> X </u>	DISCUSSION AND POSSIBLE ACTION ITEMS
<u> </u>	SPECIAL CONSIDERATION
<u> </u>	CONSENT AGENDA
<u> </u>	PUBLIC HEARING
<u> </u>	PRESENTATION
<u> </u>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 8. e.

8. Discussion And Possible Action

Discussion And Possible Action On Interlocal Agreement With Alamo Area Council Of Governments (AACOG) For Grant Writing, Administrative Services And Fiscal Services

City Manager Vernon met with Ms. Claudia Mora, AACOG Regional Services Administrator to discuss grant writing services. A proposed Interlocal Agreement is included for review and consideration. Our City Attorney provided the following requested revisions.

Please ask your contact at AACOG to add the following provision to be Section 10.7 to the proposed Interlocal Agreement:

“10.7 Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.”

Section 791.011(d) of the Interlocal Cooperation statute requires that the above language be in Interlocal Agreements.

INTER-LOCAL AGREEMENT

Provision of Grant Writing, Administrative Services and Fiscal Services by the Alamo Area Council of Governments (AACOG) to City of Kirby, Texas

This Interlocal Agreement (the "Agreement") is entered into this ____ day of July, 2022, by and between City of Kirby, a home rule city and political subdivision of the State of Texas ("CITY") and the Alamo Area Council of Governments ("AACOG"), a regional planning commission and political subdivision of the State of Texas, pursuant to the Interlocal Cooperation Act, Chapter 791 Government Code.

Article 1. Purpose

- 1.1 AACOG is a regional planning commission and political subdivision of the State of Texas organized and operating under the Texas Regional Planning Act of 1965, as amended, Chapter 391 of the Local Government Code.
- 1.2 The CITY is part of the AACOG Region.
- 1.3 The CITY wishes to retain a contractor to provide grant writing services, grant administrative and fiscal services.
- 1.4 In coordination with the CITY, AACOG will apply for grants from various government agencies and private foundations, as identified by the CITY.
- 1.5 This Inter-local Agreement (the "Agreement") is for provision of services by AACOG to act as the grant writer, grant administrator, and fiscal agent for awarded grants to the CITY.

Article 2. Definitions

- 2.1 Grant Administrator (GA): Administers grants according to the granting agency's criteria and requirements. Provides critical support in grant, program and fiscal management.
- 2.2 Fiscal Agent (FA): Acts on behalf of the grant recipient and the grant beneficiaries in various financial duties and needs.
- 2.3 Technical assistance (TA): The process of providing targeted professional support to an organization with a development need or problem.
- 2.4 Technical Assistance Principles: The technical assistance will be carried out in accordance with the following principles:
 - a. Work jointly with the CITY's staff to prepare grant application(s) which addresses the need for funding assistance to develop, implement and complete a project

Article 5. Nondiscrimination and Equal Opportunity

- 5.1. Neither AACOG nor the CITY shall exclude anyone from participating in and receiving benefits of the services provided under this Agreement, or otherwise unlawfully discriminate against anyone in carrying out this Agreement because of race, color, religion, sex, age, disability, veteran status, or national origin.

Article 6. Early Termination of Agreement

- 6.1 If either AACOG or the CITY breaches a material provision of this Agreement, the other party may notify the breaching party, describing the breach and demanding corrective action be taken. The breaching party shall have five (5) business days from its receipt of notice to correct the breach or to begin and continue with reasonable diligence and in good faith to correct the breach. If the breach cannot be corrected within a reasonable time, despite the breaching party's reasonable diligence and good faith effort to do so, the parties may agree to terminate this Agreement or either party may invoke the dispute resolution process of Article 8.
- 6.2 Termination for breach under Section 6.1 does not waive either party's claim for damages resulting from the breach.
- 6.3 Either party may terminate this Agreement by providing 30-day's notice to the other party of the early termination date.

Article 7. Dispute Resolution

- 7.1 The parties desire to resolve disputes arising under this Agreement without litigation. Accordingly, if a dispute arises, the parties agree to attempt in good faith to resolve the dispute among them. To this end, the parties agree not to sue one another, except to enforce compliance with this Article 7, until they have exhausted the procedures set out in this Article.
- 7.2 At the written request of a party, each party shall appoint one representative to negotiate informally and in good faith to resolve any dispute arising under the Agreement. The representatives appointed shall determine the location, format, frequency, and duration of the negotiations.
- 7.3 If the representatives cannot resolve the dispute within thirty (30) calendar days after the first negotiation meeting, the parties agree to refer the dispute to the Bexar County Dispute Resolution Center for mediation in accordance with the Center's mediation procedures. A mediator assigned by the Center will conduct the

profits, loss of business, or other loss arising out of or resulting from this agreement even if AACOG has been advised of the possibility of such damages.

Article 10. Miscellaneous

- 10.1 Each individual signing this Agreement on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.
- 10.2 This Agreement states the entire agreement of the parties. An amendment to it is not effective unless in writing and signed by both parties.
- 10.3 This Agreement is binding on and inures to the benefit of the parties' successors in interest.
- 10.4 This Agreement is executed in duplicate originals.
- 10.5 The invalidity, illegality, or unenforceability of any provision of this Agreement shall not affect the validity, legality, or enforceability of any other provision of this Agreement.
- 10.6 Nothing in this Agreement shall be construed as a waiver of either Party's statutory or common law immunities.

CITY OF KIRBY

BY	NAME
	TITLE

DATE _____

ALAMO AREA COUNCIL OF
GOVERNMENTS

BY **DIANE RATH**
EXECUTIVE DIRECTOR

DATE _____

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 8. f.

8. Discussion And Possible Action

Update And Discussion On Hickory Hill Main Break

Council Members Garza, Street and Walczyk requested this item.

Monique Vernon

From: Monique Vernon
Sent: Friday, June 24, 2022 11:28 AM
To: fred
Cc: Patty Cox
Subject: RE: Busted Water Main Hickory Hill after affects

Good morning Mr. Saenz,

Our Interim Public Works Director is out of town. He informed me before leaving yesterday that staff would go back and clean up your yard. Unfortunately, they are working two new main breaks on other streets today so they have not made it to your house yet. If they are unable to get there today, it will be Monday.

I apologize for the inconvenience. Thank you for your patience.

Monique L. Vernon
City Manager

From: fred <fred@cityofkirby.org>
Sent: Friday, June 24, 2022 11:17 AM
To: Monique Vernon <MVernon@cityofkirby.org>
Subject: Busted Water Main Hickory Hill after affects

City Manager,

My name is Fred Saenz and I live on 4310 Hickory Hill. A water main broke across the the street from my house and most of the water came into my yard. The water had a lot of mud which accumulated along the street curb, lawn and driveway, I was told by one of the workers that they would remove all stagnant water and mud. This was supposed to be done today. Well it has not been done. I have called the director of public works several times and asked to return my calls. Never happened; city secretary same thing. My last resort is to contact you. The damage to my yard is going to put a financial burden on me because I am going to have hire someone to help correct this issue. I am 77 years old with multiple medical problems and I am unable to do the work. Could YOU PLEASE help me get this problem resolved?

Fred Saenz

Total Control Panel

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To: mvernon@cityofkirby.org

Message Score: 1

High (60): **Pass**

From: [\[redacted\]](#)

My Spam Blocking Level: Custom

Medium (75): **Pass**

Low (90): **Pass**

[Block](#) this sender

Custom (45): **Pass**

[Block](#) aol.com

This message was delivered because the content filter score did not exceed your filter level.

Monique Vernon

From: fred <fred@cityofkirby.org>
Sent: Tuesday, June 28, 2022 3:18 PM
To: Monique Vernon
Subject: City Water Leak Hickory Hill

City Manager,

My name is Fred Saenz and I live on 4310 Hickory Hill. Finally, the public works came and scraped most of the dirt/clay from in the street and curb today. My issue now is the clay on my yard. I talked to two workers and they told me to deal with City Hall. In my opinion, there is no sense of urgency on their part. I have put a great amount of money into maintaining the front and back of the house. This water and mud was not caused by nature but by the city. This hard clay will smother the grass. I have already contacted a city council person and given options. Please help resolve this issue.

Fred Saenz

Total Control Panel

[Login](#)

To: mvernon@cityofkirby.org

[Remove](#) this sender from my allow list

From: 

You received this message because the sender is on your allow list.

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 8. g.

8. Discussion And Possible Action

Discussion And Possible Action On Establishing An American Rescue Plan Act
(ARPA) Funded Water Rebate Program For City Of Kirby Account Holders

Mayor Pro-Tem Grider requested a follow up on this item previously discussed by
Council.

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
AGENDA ITEM SUMMARY**

DATE: JULY 28, 2022

AGENDA ITEM: 8. h.

8. Discussion And Possible Action

Discussion And Possible Action On Rules, Policies, Procedures And Code Of
Conduct For Board, Commission And Committee Members

In June 2015 Council approved O-2015-769 establishing City Council Rules, Policies and Procedures. A Manual was created for Council, Commissions and Boards. A Code of Conduct document for Board, Commission and Committee members was later created and all appointees were asked to sign it. Council has since revised procedures through O-2022-911. The Code of Conduct and 2015 Policy Manual have not been provided to Board, Commission and Committee members since 2017. Staff is asking Council to review and discuss how they wish to handle this going forward. We have received inquiries recently about these documents.

CITY OF KIRBY, TEXAS

Timothy Wilson, Mayor



Stephanie Faulkner, Mayor Pro-Tem
Mike Grant
Jerry Lehman

Roger A. Romens
Ernest Spradling
Debra Wilson

CITY COUNCIL MINUTES
REGULAR MEETING
THURSDAY, JUNE 11, 2015 – 7:00 P.M.
CITY HALL COUNCIL CHAMBER
112 BAUMAN, KIRBY, TX 78219

1. **Call Meeting to Order:**

Mayor Wilson called the meeting to order at 7:00 P.M.

2. **Invocation and Pledge of Allegiance to the Flag:**

Mayor Wilson led the invocation and followed with the pledge of allegiance to the flag.

3. **Mission Statement:**

Mayor Wilson read a quote encouraging people to give 100% regardless of what you are doing.

4. **Roll Call:**

Present

Mayor Wilson
Mayor Pro-Tem Faulkner
Council Member Grant
Council Member Lehman
Council Member Wilson
Council Member Romens

Absent

Council Member Spradling, Excused

Mayor Wilson informed the Council Mrs. Elisa Major submitted her application to be placed on the Ordinance Review Committee.

Mayor Pro-Tem Faulkner moved to appoint Lisa Pierce, and Elisa Major as members to the Ordinance Review Committee, seconded by Council Member Lehman.

The motion carried with a 6- 0 vote.

AYES: 6

NAYES: 0

Although Mayor Wilson deviated from the agenda, the minutes will be prepared in the order the agenda was posted.

b. Discussion And Possible Action To Consider Digital Sign Guidelines And Application

Council Member Grant addressed the Council regarding the digital sign and suggested guidelines for use of the sign. He suggested the sign be made available to all 501(c)3 organizations in the City of Kirby. The organizations which include churches, VFW, scouts, and little league would sign a simple application, present a copy of their certificate and write the information they want on the sign, and indicate dates they want the message on the sign.

There was extensive discussion regarding the digital sign. Discussion included the number of times an organization can use the sign per year, restrict to Kirby 501(c)3 organizations, the number of characters that can be used, and how to prioritize use, event must be open to the citizens of Kirby.

Mayor Wilson asked staff to create the guidelines and application and bring to Council for consideration.

c. Discussion And Possible Action To Consider Facade Improvement Grant Program


City Manager Vernon introduced the proposed Façade Improvement Grant Program to the Council. Currently there is \$10,000 budgeted for Economic Development and the Committee would like to use \$5,000 for the grant program. This will be a reimbursable grant program. Council was asked to consider if they would like the grant to be a 100% grant or a matching percent grant and how much money would you like each grant to be, i.e. five \$1,000 grants. Also, would Council want to be notified of the funding for each grant? Council was briefed on the guidelines and contributed their ideas. The Economic Development Committee would meet to address these items to develop the guidelines and application, which will be brought back to Council at a later date.

9. Council Updates:



Timothy Wilson
Mayor

ATTEST:



Patty Cox, TRMC
City Secretary



RULES, POLICIES AND PROCEDURES

CITY COUNCIL, CITY COMMISSIONS AND BOARDS

JUNE 11, 2015

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CITY COUNCIL RULES OF PROCEDURES

Section 1.0. RULES OF PROCEDURE ADOPTED. The following Rules of Procedure (the "Rules") are adopted by the City Council (the "Council") in accordance with Section 2.11 of the City Charter of the City of Kirby which states that the Council shall, by ordinance, determine its own rules and order of business and rules shall provide that citizens of the City shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration.

Additionally, these principles, parliamentary procedures, and rules for citizen participation shall be adhered to by all City Commissions and Boards, to the extent such rules of procedure are not inconsistent with the public business to be conducted by such a body.

All meetings of the City Council shall be conducted in accordance with the Texas Open Meetings Act, Tex. Gov't Code §§551.001 et seq.

Meetings shall be conducted in accordance with Robert's Rules of Order, unless such rules shall conflict with Ordinance or State law, in which case Ordinance or State law shall control.

Section 2.0. PURPOSE AND GUIDING PRINCIPLES. These rules are simple, and meant to be kept simple. Strict technical rules tend to impede rather than advance the legislative process. Reason, common sense, and cooperation must prevail in the conduct of City business. Dissent and debate are essential and beneficial elements of our system of free and open government, but rules should not be used to hinder the process however the ultimate outcome is viewed by an individual or group.

Section 3.0. MEETINGS.

3.1. Regular Meetings. In accordance with Section 2.09 of the City Charter, the Council shall hold at least two regular meetings each month and as many called meetings as it deems necessary to transact the business of the City and its citizens. The Council shall fix, by ordinance, the day and time of the regular meetings. Emergency meetings of the Council shall be held on the call of the Mayor or of a majority of the Council members, and upon no less than two (2) hours posted notice to each member subject to the requirements of the Texas Open Meetings Act.

Any time a regular meeting date falls on a holiday observed by the City of Kirby the Council shall take action in advance to reschedule such meeting.

All regular meetings shall begin promptly at 7:00 p.m. (See Workshop meetings below).

Regular meetings shall be held at the City Hall as required by the Charter.

3.2. Special Meetings. Special meetings may be called upon written request of the Mayor or any three (3) Council members. If a majority of the City Council members at a public meeting request a subsequent special meeting, a special meeting shall be scheduled at the earliest practical time as requested.

Special meetings may be called to address and act on matters which should not be delayed until a regular meeting.

Special meetings shall be called to begin promptly at 7:00 P.M., unless circumstances reasonably require a different starting time, in which event the circumstances shall be stated on the meeting agenda.

Except in unusual circumstances, which shall be stated on the meeting agenda, special meetings will be held at the City Hall.

3.3. Workshop Meetings. Workshop meetings may be called upon written request of the Mayor or any three (3) Council Members. If a majority of the City Council members at a public meeting request a subsequent workshop meeting, a workshop meeting shall be scheduled at the earliest practical time as requested.

The purpose of workshop meetings is to give the City Council the opportunity to discuss in depth or explore in detail subjects of interest to the City.

No action item(s) shall be placed on the agenda for a workshop meeting.

Except in unusual circumstances, which shall be stated on the meeting agenda, workshop meetings will be held at the City Hall.

3.4. Public Meetings: Executive Sessions. All meetings of the City Council are open to the public, in compliance with the Texas Open Meetings Act, provided that the City Council may conduct closed executive sessions in compliance with the Texas Open Meetings Act.

Section 4.0. AGENDA.

4.1. Items on the Agenda. An item may be placed on the agenda by the Mayor or City Manager. The City Manager, working in conjunction with the Mayor, will exercise his or her best judgment in determining what other items of City business should come before the Council. City staff seeking to have an item placed on an agenda shall submit that item to the City Manager's office for consideration. If two (2) or more of the City Council members make a request in writing that an agenda item be placed on the agenda for any subsequent meeting, then such item shall be placed on the agenda for discussion and/or action as requested. A City

Council member, in accordance with Section 551.042 of the Texas Government Code, may propose an item be placed on the agenda for a subsequent meeting, and any deliberation or decision on such item shall be limited to the proposal to place the item on the agenda for a subsequent meeting.

If a Council member has a question regarding an agenda item, the Council member should contact the City Manager no later than two (2) days prior to the scheduled meeting for clarification.

4.2. Submission of Items and Backup Materials. Items to be placed on the agenda, including the materials to be distributed to Council in connection with the items, must reach the City Secretary's office at the City Hall before noon on the Wednesday of the week preceding the Council meeting.

4.3. Packets. The agenda packets for all Regular meetings will be emailed after 4:00 P.M. on the Monday preceding the Thursday meeting. This should afford ample time for all Council members to inquire into the nature of each matter to be discussed.

Section 5.0. COUNCIL PROCEEDINGS. In accordance with Section 2.10 of the City Charter, four (4) persons holding Council positions shall constitute a quorum for the purpose of transaction of business and no action of the Council except as provided in Section 2.06 of the City Charter, shall be valid or binding unless adopted by the affirmative vote of four (4) or more persons holding Council positions.

Section 6.0. PARLIAMENTARY PROCEDURES. In all City Council meetings the following rules of parliamentary procedure in Section 6.1 through 6.18 will be followed. In the event that conflict results in gridlock and reasonable compromise fails to move the Council forward in the conduct of City business, or if a situation arises that is not covered by the rules of parliamentary procedure in Sections 6.1 through 6.17, then Robert's Rules of Order will be followed as necessary. After the Council has heard all of the facts, reviewed the supporting data, and listened to the arguments for and against each agenda item, it acts by approving or disapproving a motion. In the event that there is no motion or no second to a motion, no action will be deemed taken. Robert's Rules of Order would require a motion to act prior to any discussion of any item on the agenda, this policy permits introduction of an item and discussion prior to making a motion for action. There may be situations in which the presiding officer concludes that there is a consensus among the Council and that the issue is one that would not require an official vote and states for the record the determination of the Council (e.g., hearing no objection, so ordered).

The rules of parliamentary procedure are as follows:

6.1. Questions to Contain One Subject. All questions (motions) submitted for a vote shall contain only one subject. If a question contains two or more points under one subject, any member may require a division, if the question reasonably admits of a division.

6.2. Main Motion. A subject is introduced by a main motion. Once seconded, no other topics should be taken up until after the motion is disposed of.

6.3. Second. Any motion requires a second or it dies for lack of a second.

6.4. Motion to Amend. This motion is used when the intention is to change, add, or omit some part of a main motion. This motion is debatable and requires a majority vote of the members present for passage. A motion to amend is not amendable. First a vote is held on the motion to amend. If that vote is affirmative, the second vote is held on the main motion as amended.

6.5. Motion to Table or Postpone to a Certain Time. This motion would require that consideration of a main motion be delayed until a certain, stated time – for, among other reasons, to obtain more information. A future date certain should be set when the subject would be considered. This motion is debatable and requires a majority vote of the members present for passage.

6.6. Motion to Move the Question or Call the Question. This motion is made to end discussion that has become lengthy or repetitious. When seconded, the presiding officer immediately moves or calls the vote on the question of closing the discussion. This motion is not debatable and requires a two-thirds vote of the members present for passage.

6.7. Motion to Reconsider. A vote may be reconsidered during the same meeting on a motion made by a member who votes on the prevailing (winning) side of the issue. This motion is debatable and requires a majority of vote of the members present for passage. First a vote is held on the motion to reconsider. If that vote is affirmative, the second vote is held on the issue to be reconsidered.

6.8. Reconsideration of a Subject When Defeated. When an ordinance, resolution, motion, or other measure has been placed on the agenda, voted on, and defeated, the same question shall not again be placed on the agenda for a subsequent meeting to be considered by the Council until a lapse of ninety (90) days, unless a majority of Council present vote, at a public meeting, that the question be placed on the agenda of a subsequent meeting, stating the date.

6.9. Suspension of Rules or Order of Agenda. Subject to compliance with the Texas Open Meetings Act and the City Charter, any one or all of these rules of parliamentary procedure may be suspended in order to allow a particular consideration of a subject or matter, provided a majority of the members present vote in favor of such suspension; provided further, the order of business on an agenda may also be modified by such majority vote. A motion to suspend the rules or to modify the order of business on an agenda is debatable and requires a majority vote of the members present for adoption.

6.10. Voting. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the minutes.

All members of the Council present, including the Mayor, may vote upon every resolution or ordinance, except where there is a conflict of interest, the reason for which shall be stated concisely in the records.

6.11. Frivolous or Delaying Motions. The presiding officer shall not entertain any motion which is frivolous or clearly made for the purpose of delay. In the event a conflict develops, any member may call for a vote (requiring the affirmative vote of a majority of the members present for adoption) to consider the matter or to move to the next item of business.

6.12. Point of Order. A point of order can be raised at any time and supersedes any issue being discussed at the time. A member who believes the rules are not being followed may use this mechanism to call attention to the problem. The presiding officer must rule on the point of order before proceeding. When the presiding officer makes a ruling on a point of order and one of the Council members states, "I appeal the ruling of the chair," or words to such effect, no other business shall be transacted until the question, "Shall the ruling of the chair be sustained?" is voted on. The presiding officer shall immediately put such question to vote without debate, and, if the presiding officer fails to do so immediately, any member of the City Council may put the question to a vote.

6.13. Questions and Inquiries. A member may ask about correct procedures, ask for facts, ask to speed things along, ask for a recess for comfort and convenience, or other relevant questions and inquiries. The presiding officer shall respond to the question or refer it to the proper person.

6.14. Limit Debate. The Council may agree to limit debate on any subject before it is discussed or debated. The agreement to limit debate should be formalized by majority vote of the members present.

6.15. Recessed Meetings. Recessing a meeting is not a favored practice. However, if circumstances require, any meeting of the Council may be recessed to a later time or date, provided that no recess shall be for a longer period than until the next scheduled meeting. Prior to the recess the presiding officer shall announce the time, date, and subject(s) of the meeting to be reconvened. Except for a meeting recessed to the following regular business day, a new agenda shall timely be posted for the reconvened meeting, making clear reference to the recessed meeting and otherwise in compliance with the Texas Open Meeting Act. The presiding officer may declare the meeting recessed without waiting for a motion. A member may make a motion to recess the meeting. When the meeting is recessed, the meeting is immediately halted. The motion to recess made by a member is not debatable and a majority vote of the members present is required for passage.

6.16. Motion to Adjourn. If the time set for adjournment has arrived or if there is no further business, the presiding officer may declare the meeting adjourned without waiting for a motion. A member may make a motion to adjourn. When the meeting is adjourned, the meeting is immediately halted. The motion to adjourn made by a member is not debatable and a majority vote of the members present is required for passage.

6.17. Procedural Summary. The following summary of these procedural rules is included for ease of reference. In the event of an interpretation conflict between this summary and the narrative provisions of these procedural rules, the narrative procedural rules shall control.

<u>MOTION</u>	<u>DEBATABLE</u>	<u>AMENDABLE</u>	<u>MAJORITY VOTE OF MEMBERS PRESENT</u>
Main Motion	yes	yes	yes
Motion to Amend	yes	no	yes
To a Certain Time	yes	yes	yes
Table Indefinitely	no	no	yes
Move or Call Question	no	no	two-thirds
Reconsider	yes	yes	yes
Suspend Rules	yes	yes	yes

Point of Order	no	no	(Presiding Officer)
Limit Debate	no	no	yes
Recess	no	no	yes
Adjourn	no	no	Yes

Section 7.0. CITY COUNCIL MEMBERS DECORUM AND DEBATE. When a measure is presented for consideration to the Council, the presiding officer shall recognize the appropriate individual to present the matter. When two (2) or more members wish to speak, the presiding officer shall name the member who is to speak first. No member of the Council shall interrupt another while speaking, except to make a point of order. The presiding officer shall not be obligated to recognize any Council member for a second comment on the subject or amendment until every Council member wishing to speak has been allowed a first comment. Council members shall also have the right to yield the floor to another member.

If, during debate upon any ordinance, resolution, motion or other matter before the Council, any member moves that the subject under discussion be put to a vote without further debate, and the motion is seconded, the presiding officer shall immediately and without debate put the question, "Shall the subject being discussed be put to a vote?" to a vote of the Council, and if two thirds of the Council members present vote in favor of ordering the vote, debate on the question shall be closed and a vote on the ordinance, resolution, motion or other measure shall be taken immediately.

Council members should not indulge in personal attacks, use personally offensive language, arraign motives of Council members or staff, charge deliberate misrepresentation, or use language tending to hold a member of the City Council or staff up to contempt.

If a Council member is transgressing the rules of the Council, the presiding officer shall, or any Council member may call such member to order, in which case such member shall immediately be quiet unless permitted to explain. The Council shall, if appealed to, decide the matter by majority vote of the members present without debate. If the decision is in favor of the member called to order, such member shall then be at liberty to proceed, but not otherwise, and in any event only in compliance with these rules.

No member shall speak more than five minutes on any question or amendment to the question except as further provided in this rule.

No member shall speak more than the time limits provided on any subject or amendment, but such member may use such member's time in any combination, in separate speech or comments totaling the number of minutes permitted.

Any member deciding to speak more than five minutes on any question or more than five minutes on any amendment to the question shall be accorded the privilege only upon motion supported by a majority of the Council.

If a member is speaking without being recognized or otherwise violating any of the rules of the Council, the presiding officer shall, or any Council member may, call such member to order in which case such member shall immediately be quiet unless permitted to explain. The Council shall, if appealed to, decide the matter without debate. If the decision is in favor of the member called to order, such member shall be at liberty to proceed, but not otherwise, and if the disruption continues, such member shall be liable to censure or to such punishment as the Council deems proper and consistent with applicable State statutes or city ordinances.

In accordance with Robert's Rules of Order, the majority of the City Council may override any decision of the presiding officer regarding the conduct and handling of the Council meeting. In order for a decision of the presiding officer to be overruled, there must be a motion, a second, and a vote by the majority of Council overruling the decision of the presiding officer.

Section 8. DUTIES OF PRESIDING OFFICER. At all meetings it is the responsibility of the presiding officer to use the rules of procedure appropriately so that good order and reasonable decorum are maintained and the business of the meeting goes forward. The presiding officer's duties include:

1. Calling the meeting to order at the time set.
2. Following the agenda and clarifying to the members what is being voted on at all times.
3. Ensuring that the rules and procedures for the conduct of meetings are followed.
4. Dealing firmly with whispers, commotion, disruptions, and frivolous motions.
5. Ensuring that debate is confined to the merits of the question and that personal comments are avoided.
6. Ensuring that the rules for citizen participation are followed.
7. Remaining calm and dealing fairly with all sides of an issue, regardless of personal opinion.
8. Ensuring that City business is handled expeditiously during Council meetings.

Section 9. CONDUCT OF MAYOR AND COUNCIL MEMBERS.

Any member of the City Council including the Mayor, who fails to observe decorous and orderly behavior during a meeting or who disturbs a meeting of Council with such disorderly conduct is subject to being expelled from such meeting upon motion passed by a two-thirds vote of the Council members present at such meeting. Any member reprimanded by motion or expelled from a meeting by motion who thereafter commits another breach of decorous and orderly behavior during a subsequent meeting and again disturbs any meeting of the Council by such disorderly conduct shall be subject to the same power of Council to reprimand him/her, expel him/her from the meeting, or submit such member to complaint or investigation of official misconduct.

Except as provided below, no member of the Council, including the Mayor, shall be permitted to address the Council during a public hearing held by the Council or to address any Board or Commission of the City during a public hearing held by such Board or Commission. Notwithstanding the foregoing, any member of Council, including the Mayor, who has a conflict of interest as defined by Chapter 171, Texas Local Government Code, and who has fully complied with the affidavit filing provisions of said Chapter 171, may be permitted to address the Council, or Board or Commission of the City, during a public hearing if the subject matter of the public hearing is the basis for the filing by the member of Council or the Mayor of the conflict of interest affidavit described above. Provided further, unless otherwise prohibited by law, nothing in this rule shall be construed to prevent any member of the Council, including the Mayor, from addressing the Council, or participating in Council discussions and deliberations, relating to any item on an agenda of a meeting of the City Council, including items that were the subject of public hearings before the Council or any Board or Commission of the City.

A Council member prevented from voting by a conflict of interest, shall step down from the dais and leave the room, shall not vote on the matter, shall not participate in discussions regarding the matter or attempt to influence the Council's deliberation of the matter in any way, shall not attend executive sessions regarding the matter, and shall otherwise comply with the State law and city ordinances concerning conflicts of interest including Chapter 171 of the Texas Local Government Code.

Section 10. CITIZEN PARTICIPATION AT MEETINGS.

10.1 Rules for Speakers. Citizens will be allowed to speak at a meeting; provided, however, before a member of the public may address City Council or speak at a meeting, the presiding officer must first recognize the member of the public who wishes to speak and announce that the person may proceed. All guests and other persons who are to speak to the City Council, including staff members, other than the City Manager, City Attorney, or City

Secretary, shall wait in the audience until recognized. When called by the presiding officer for an opportunity to be heard, that person shall move immediately to the podium and make their comments.

No placards, banners, or signs will be permitted in the City Council chamber or in any other room in which the City Council is meeting. Exhibits, displays, and visual aids used in connection with presentation to the City Council are permitted.

10.2. Time Limit. The presiding officer, or the City Council by majority vote of the Council members present, may set a reasonable time limit for any citizen or person in attendance who desires to address the Council or speak at a meeting.

Total time for public comment on any subject under Citizen Participation shall be three (3) minutes. All persons are only allowed to speak once and their time allotted shall not be transferred to another individual to accumulate their speaking time. A majority vote of the members of the Council present may extend the time limitations of this rule.

10.3. Identification. All members of the public speaking before Council shall preface their statements with their name and home address for the record.

10.4. Speaking from the Podium. The speaker shall remain at the podium until all Council questions have been answered and the Mayor has dismissed the speaker. Speaking from the podium will assure that the recording equipment picks up the presentation.

10.5. Spokesperson. Speakers with similar or common interests are encouraged to select someone to act as a spokesperson in order to move the proceedings along. The presiding officer may urge the implementation of this rule at any time.

10.6. Public Comments and Receipt of Petition. Any person desiring to be heard by the City Council on any matter shall be heard during that part of the meeting reserved for public comments and receipt of petition or, on matters related to the subject of a public hearing, during the time scheduled for a public hearing.

10.7. Scheduled Speakers. Speakers may request, in writing, an opportunity to be placed on the agenda to speak at a meeting concerning a specific matter, as identified in their written request. A written request to be placed on the agenda to speak must be delivered to the City Secretary, or the City Secretary's designee, by noon on Wednesday the week preceding the regular, special, or workshop meeting of the City Council. In the event that the number of speakers who request to be scheduled on the agenda indicates that the comments will be lengthy or repetitious, the presiding officer may schedule such matter for a public hearing or make other appropriate arrangements to ensure that the conduct of the City's business is not

unduly impeded. The City Manager or the Mayor shall determine whether to put a specific item on an agenda as requested by a speaker.

10.8. Speaking During Consideration of Agenda Items. The presiding officer at his or her own discretion, or by majority vote of the Council members present, may recognize a person or persons in attendance and allow such persons(s) to speak prior to or during consideration and discussion of an agenda item by the City Council.

10.9. Rules Not to Restrict the City. These rules for speakers will not be construed or applied in such a manner that they restrict the ability of the Mayor, or the City Council by majority vote of the members present, to reasonably limit or expand the debate and discussion of any item, when necessary in the City's best interest.



Code of Conduct for Board, Commission and Committee Members

1. During meetings, Board, Commission and Committee Members (Members) shall preserve order and decorum, shall not interrupt or delay proceedings, and shall not refuse to obey the requests of the presiding officer or any procedures and policies adopted by the City of Kirby.
2. Members shall demonstrate respect and courtesy to each other, to City staff members and to members of the public appearing before them.
3. Members shall refrain from rude and derogatory remarks and shall not belittle other Members, City staff members, or members of the public.
4. Members will not use their position to secure special privileges and shall avoid situations that create a perception of bias or partiality in regard to a question before them.
5. Members will not condone any unethical or illegal activity. All members agree to uphold the intent of this policy and govern their actions accordingly.

I, _____ received the City of Kirby Board, Commission and Committee Member Code of Conduct on _____ upon appointment to the _____. I recognize that any violation of this policy may result in my removal and could prevent future appointments.

X _____

<u> X </u>	DISCUSSION AND POSSIBLE ACTION ITEMS
<u> </u>	SPECIAL CONSIDERATION
<u> </u>	CONSENT AGENDA
<u> </u>	PUBLIC HEARING
<u> </u>	PRESENTATION
<u> </u>	WORKSHOP

C I T Y O F K I R B Y
CITY COUNCIL MEETING
A G E N D A I T E M S U M M A R Y

DATE: JULY 28, 2022

AGENDA ITEM: 8. i.

8. Discussion And Possible Action

Discussion And Possible Action On A Policy And Procedure For Reimbursing City
Council Member Expenses

Council Member Street agreed to work on this.

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

C I T Y O F K I R B Y
CITY COUNCIL MEETING
A G E N D A I T E M S U M M A R Y

DATE: JULY 28, 2022

AGENDA ITEM: 8. j.

8. Discussion And Possible Action

Discussion And Direction On Possible Amendments To Ordinance No. O-2018-838; Authorizing The Use Of Parks And Recreation Areas Owned And Controlled By The City Of Kirby; Regulating Possession And Consumption Of Alcoholic Beverages In Such Parks; Stating The Policies And Regulations Governing The Use Of Such Park, Establishing A Curfew For Parks Usage.

Council postponed this item on June 9, 2022 and Council Member Street is going to provide recommendations for this ordinance.

AN ORDINANCE REPEALING AND
ORDINANCE NO. O-2008-652; AUTHORIZING
THE USE OF PARKS AND RECREATION
AREAS OWNED AND CONTROLLED BY THE
CITY OF KIRBY; REGULATING POSSESSION
AND CONSUMPTION OF ALCOHOLIC
BEVERAGES IN SUCH PARKS; STATING THE
POLICIES AND REGULATIONS GOVERNING
THE USE OF SUCH PARK, ESTABLISHING A
CURFEW FOR PARK USAGE; AND
PROVIDING A PENALTY FOR VIOLATION OF
THIS ORDINANCE

WHEREAS, the City Council of the City of Kirby, Texas, finds a need for guidelines concerning the use of public parks and recreational areas, the swimming pool, ball fields and picnic areas; and

WHEREAS, it is hereby declared to be the policy of the City of Kirby to provide, improve and maintain together with suitable recreational facilities therein, city parks, for the use and benefit of the public, and in connection therewith to fix and collect such reasonable charges as the governing body shall deem fit for the use of such facilities by members of the public; and

WHEREAS, there is a need to establish that no alcoholic beverages be permitted in or consumed within the pool area, except it may be consumed elsewhere in city parks or facilities during normal hours; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirby that:

SECTION 1. HOURS OF CLOSING

All City Parks will be closed between the hours of 11:00PM and 8:00AM with the exception of the John Sterling Building which must be vacated by 12:00AM. It shall be unlawful for any person or persons to occupy or use any parts of the parks or facilities therein during said closed hours. Provided however, it shall be unlawful for any person or persons to use the parks or facilities therein during said hours without prior written permission, said permission to be considered only for the following uses:

1. For large groups, special use activities, such as fairs, etc, when approved by the City Manager.
2. For special activities, i.e. scouting groups, when approved by the City Manager.
3. For other presently unforeseen special events, when approved by the City Manager and only when such permission would not constitute a nuisance to

residences adjacent to any park and recreational area.

SECTION 2. REGULATIONS AND FEES FOR OBTAINING RESERVATIONS

A. REGULATIONS:

1. Lease agreements will be made with a minimum of 72 hours notice by adults only and in person.
2. Renters will be responsible for the clean-up of the park area or facility used.
3. Reservation must be made with the City of Kirby if party exceeds 25 people under the large pavilion area at Friendship Park and Hugo Lentz Park.
4. City Administration will notify the Police Department and the Public Works Department of date, time, and type of reservation.
5. Gambling. The only games permitted are those which have merchandise prizes. (Absolutely no gambling permitted.)
6. Renters will be required to engage at their expense duly sworn peace officers (arrangement for officers will be appointed by the Chief of Police or his/her designee) to maintain order and help with parking. The number of peace officers required shall be in accordance with the schedule in Exhibit "A" attached hereto and incorporated herein for all purposes.
7. Rules, policies, and fees for utilization of the baseball/softball areas are outlined in Exhibit "B".
8. Any activity where alcoholic beverages are to be sold must have a permit from the Texas Alcohol and Beverage Commission (TABC) and said permit shall be visibly displayed at the location where the alcoholic beverages are sold. No alcoholic beverages will be sold to, consumed by or in the possession of minors.

B. FEES:

A deposit will be required from all renters at the time said agreement is granted. Said deposit will be refunded if the City Manager's office determines that the area is left in a clean and orderly manner. The amount of the deposit is as outlined in Exhibit "C". A non-refundable usage fee will be charged in accordance with Exhibit "C".

SECTION 3. In consideration of neighboring residents, volume from musical instruments or PA systems must be kept reasonable. All activity, music and PA systems must be turned off at 11:00PM and the park vacated by 12:00AM. Exceptions to this rule must be approved by the City Manager.

SECTION 4. No motorized vehicles, with the exception of maintenance or emergency vehicles, will be allowed in any part of the park, except in designated parking areas.

Bicycles and skateboards are hereby prohibited from park pavilions and ballfields. Dirt motorcycles, four wheelers, go-carts and other recreational vehicles are prohibited in city parks; any exceptions to this rule must be approved by the City Manager.

SECTION 5. Horses and other livestock are hereby prohibited in the park, unless in conjunction with a special function approved by the City Manager. The City of Kirby has an animal control ordinance that will be enforced. Pets should be on a leash at all times. In addition, all pet owners will be responsible for clean-up of their pet.

SECTION 6. Each facility should be used only for the purpose it was intended, unless prior approval is granted by the City Manager. Ex. The ballfields should be used for ballgames and practices. The pavilion should be used for picnics, birthday parties and other similar uses.

SECTION 7. Glass containers are hereby prohibited from city parks and the swimming pool.

SECTION 8. *Littering.* No person shall litter in any city park. Littering as used in this ordinance means the discarding of garbage, paper, cans and other forms of refuse in any place other than officially designated refuse containers or disposal units.

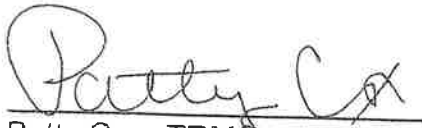
SECTION 9. All groups under the age of 17 must have proper adult supervision in attendance at all times during the gathering at the discretion of officer on duty or the Chief of Police.

SECTION 10. Any person, firm, or corporation violating the terms and provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in a sum not to exceed Five Hundred Dollars (\$500.00).

SECTION 11. If for any reason any section, paragraph, subdivision, clause, phrase or provision of this or any other ordinance shall be held invalid, it shall not affect any valid provisions of this or any other ordinance of the City of Kirby to which these rules and regulations relate. This ordinance repeals Ordinance No. O-2014-749.

PASSED AND APPROVED for the first reading this the 10th day of May 2018.

PASSED AND APPROVED for the second reading this the 24th day of May 2018.



Patty Cox, TRMC
City Secretary

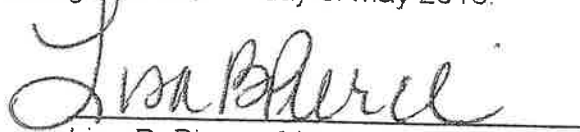

Lisa B. Pierce, Mayor

EXHIBIT "A"

SECURITY

NO ALCOHOLIC BEVERAGES CONSUMED

NUMBER OF PEOPLE

NUMBER OF OFFICERS

1-49

No officer required

50-100

1 officer required

101 and above

Discretion of Chief of Police and City Manager

ALCOHOLIC BEVERAGES CONSUMED

NUMBER OF PEOPLE

NUMBER OF OFFICERS

1-49

1 officer required

50-100

2 officers required

101 and above

Discretion of Chief of Police and City Manager

EXHIBIT "B"

REGULATIONS APPLICABLE FOR THE UTILIZATION OF THE BASEBALL/SOFTBALL AREAS IN FRIENDSHIP PARK

1. RESERVATION OF FIELDS:

Baseball/softball areas, hereafter referred to as ballfields, will be available to the public on a "first come" basis except as follows:

a. Two types of agreements may be entered into under these regulations:

- Annual – One year agreement approved by the City Council for use of the ballfields on specific days/times.
- Tournament – Agreement approved by the City Manager for the purpose of conducting a tournament on specific days/times.

b. Organized leagues sponsored by organizations from Kirby will have first priority on the use of ballfields as outlined by schedules approved by and on file with the City Manager or the City Manager's designee.

c. Organizations desiring use of a field or fields will be required to submit game and practice schedules to the City Manager or the City Manager's designee for review and approval.

d. Whenever league schedules conflict (e.g. different local organizations request use of fields for the same time period), the City Manager or the City Manager's designee will contact the affected organizations and work out a mutual agreement.

e. Organizations or individuals without proper documentation may be asked to vacate the ballfields.

f. When fields are not reserved, they are open to the public except when City personnel are working or preparing to work on the fields.

g. Persons or organizations not holding field reservations must relinquish to reservation holders.

2. FIELD CHARGES FOR ORGANIZED LOCAL LEAGUES

Groups, leagues, individuals and organizations will be assessed an Annual fee of \$500.00 to defray cost of field equipment, pre-season field preparation and season field maintenance.

Groups, leagues, individuals and organizations will be assessed a Tournament fee of \$25.00 per day.

Groups, leagues, individuals and organizations must:

- provide necessary field equipment (i.e. home plate, pitching plate, chalk, chalker, etc.)
- Leagues provide daily conditioning of playing area (i.e. keep infield smooth and clean, etc).
- Leagues maintain parking area and field complex, to be cleaned after each day's use.

3. RESERVATION REQUEST PROCEDURES

All groups, leagues, individuals, or organizations wishing to use the fields for individual practice or play, league play, or tournament play, must submit a written request to the City Manager or the City Manager's designee outlining prescribed times listed within this ordinance. The following information must also be provided:

- a. Individual, group, organization, and type of agreement requested (Annual or Tournament).
- b. Name of League (if applicable).
- c. Name, address, phone numbers of all league representatives.
- d. Number of teams and players in league.
- e. Date of season or tournament.
- f. Number and type of games that will be played on each field.
- g. Number of fields required.
- h. Schedule of dates and time of games.
- i. Leagues must provide the City Manager or the City Manager's designee a copy of their liability insurance policy before an agreement will be considered.

4. PAYMENT PROCEDURES

Payment in full is due to the City of Kirby for Annual agreements upon approval by the City Council. Payment for Tournament agreements is due upon approval by the City Manager.

The deadline for canceling Tournament reservations without forfeiture of the reservation fee is 48 hours prior to reserved day or time. Team or tournament representative must have a copy of the agreement "in hand" during reservation. If games are rained out, the fee will be refunded on a pro-rated basis for games that have not been played, provided that the City Manager or the City Manager's designee is notified the next business day.

5. ADVERTISING SIGNS

Local leagues may install commercial advertising signs on the outfield fence during the scheduled league season. However, signs must be secured in such a manner as not to endanger players or create a condition harmful to users of fields. In addition, when signs become damaged or unsuitable (as determined by the City Manager or the City Manager's designee) for their advertisement value because of weather or other conditions, they shall be replaced or removed. Signs must be removed from the fence at the end of each season.

6. RESERVED RIGHTS

The City of Kirby reserves the right to adjust schedules submitted for approval to provide equal participation of and use of ballfields. (i.e. Reserving one field one night for an adult league, etc)

8. INSURANCE REQUIREMENTS

Insurance and Indemnification: As a condition precedent to the use of the permission granted, Renter agrees to indemnify and hold harmless City, its officials, employees, and agents from and against any and all costs, claims, and damages (including attorney's fees) that may be caused by the use of said property, and shall protect and indemnify City from any and all claims costs, expenses, judgments, and causes of action arising out of the use of said property, and shall defend any litigation arising in connection with such use at its own cost and expense. In addition, Renter agrees to obtain an insurance policy protecting City from any liability and to have City named as co-insured in said policy. Such policy shall be for not less than \$500,000.00 per person for bodily injuries and \$1,000,000.00 per occurrence and \$50,000.00 for property damages and proof of payment of premium for said policy (or said policy) shall be delivered to and kept by the City Manager or the City Manager's designee and such insurance policy shall be maintained in full force so long as this agreement is in effect.

EXHIBIT "C"

FEES

DEPOSIT FEES

A deposit of \$150.00 will be required from all Park and Facility renters at the time said application is granted. Said deposit will be refunded if the City Manager's office determines that the area is left in a clean and orderly condition. Deposits not picked up 60 days after an event will be forfeited by the renter. A non-refundable usage fee will be charged as listed below.

USAGE FEE

Friendship Park

(Resident of Kirby Rate)

\$75.00 for the first hour

\$10.00 for each additional hour

(Non-Resident of Kirby Rate)

\$75.00 for the first hour

\$15.00 for each additional hour

Hugo Lentz Park

\$30.00 for the first hour

\$5.00 for each additional hour

John Sterling Hall

(Resident of Kirby Rate)

\$75.00 for the first hour

\$10.00 for each additional hour

(Non-Resident of Kirby Rate)

\$75.00 for the first hour

\$15.00 for each additional hour

John Sterling Pool

\$40.00 per hour up to 50 people

(Minimum 2 hours)

\$15.00 per hour will be assessed for each additional 25 people

Pool Season – Memorial Day Weekend until Labor Day

Daily entry fee – \$2.00 per person

Baby to 2 years old – no charge

Lifeguards – Minimum of two (2) lifeguards

More may be required based on Red Cross requirements

Cost is \$25 per lifeguard

All fees must be paid up front in order to lock in a reservation. The City is not able to "hold" dates and times for renters.

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 8. k.

8. Discussion And Possible Action

Discussion And Possible Action On Ordinance No. O-2021-903 An Ordinance Of The City Council Of The City Of Kirby, Texas, Amending Chapter 30 Of The Code Of Ordinances To Provide For Certain Qualifications For Candidates For Mayor Or For Places on the City Council Or To Serve In Places On The City Council Of The City Of Kirby.

Council Members Garza and Street requested this item.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KIRBY, TEXAS, AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES TO PROVIDE FOR CERTAIN QUALIFICATIONS FOR CANDIDATES FOR MAYOR OR FOR PLACES ON THE CITY COUNCIL OR TO SERVE IN PLACES ON THE CITY COUNCIL OF THE CITY OF KIRBY

WHEREAS, the City of Kirby is a Texas Home Rule Municipality; and

Whereas, Section 26.041 of the Texas Local Government Code provides that Texas Home Rule Municipalities may create offices, determine the method for selecting officers, and prescribe the qualifications, duties, and tenure of office for officers; and

WHEREAS, Chapter 30 of the Code of Ordinances of the City of Kirby covers matters related to the City Council; and

WHEREAS, the City Council believes that it reflects adversely on the City Council and on the City itself if a person who is a candidate for public office for Mayor or for another place on the City Council or is to serve on the City Council is a person who has been convicted of a felony, a child abuse related offense, family violence related offense, a misapplication of fiduciary property offense, or a sexually-related offense and has not been pardoned; and

WHEREAS, the City Council finds that it should be a qualification to be a candidate for Mayor or for a place on the City Council or to serve on the City Council that a person shall not have been convicted of a felony, a child abuse related offense, family violence related offense, a misapplication of fiduciary property offense, or a sexually-related offense unless the person has been pardoned; and

WHEREAS, the City Council finds that a person who has been convicted of a felony, a child abuse related offense, family violence related offense, a misapplication of fiduciary property offense, or a sexually-related offense and has not been pardoned should be declared ineligible to be a candidate for Mayor or for a place on the City Council or to serve on the City Council.

NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF KIRBY, TEXAS, THAT:

Section 1. Chapter 30 of the Code of Ordinances of the City of Kirby is hereby amended by the addition of Section 30.07 reading as follows:

30.07 QUALIFICATIONS FOR CANDIDATES FOR MAYOR OR FOR A PLACE ON THE CITY COUNCIL OR TO SERVE AS MAYOR OR ON THE CITY COUNCIL

In addition to any other qualifications to be a candidate for Mayor or for a place on the City Council or to serve on the City Council, a person who has been convicted of a felony, a child abuse related offense, family violence related offense, a misapplication of fiduciary property offense, or a sexually-related offense and has not been pardoned is declared ineligible to be a candidate for a place on the City Council or to serve on the City Council.

Section 2. This Ordinance shall be in effect on passage and adoption on second reading.

PASSED on first reading on the 9th day of September, 2021.

PASSED AND ADOPTED on second reading on the 23rd day of September, 2021.



Kimberly Aldrich, Mayor

ATTEST:



Patty Cox, City Secretary

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 8. I.

8. Discussion And Possible Action

Discussion And Possible Action On City Attorney Services

Council Members Garza and Street requested this item. City Attorney Marc Schnall will be available to answer questions.

<u> X </u>	DISCUSSION AND POSSIBLE ACTION ITEMS
<u> </u>	SPECIAL CONSIDERATION
<u> </u>	CONSENT AGENDA
<u> </u>	PUBLIC HEARING
<u> </u>	PRESENTATION
<u> </u>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 8. m.

8. Discussion And Possible Action

Discussion And Possible Action On Scheduling A City Council Retreat

Mayor Pro-Tem Grider requested Council revisit this item.

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 8. n.

8. Discussion And Possible Action

Discussion And Possible Action To Declare A Vacancy On The Economic
Development Committee Due To Absenteeism.

Committee Member Robert Boyd has been unable to attend meetings due to personal
reasons.

The Committee members wish to remove him and consider new applicants.

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 8. o.

8. Discussion And Possible Action

Discussion And Possible Action To Enter Into A Contract With Dr. Stephanie Barker
For Veterinary Services.

Kirby Family Vet informed us they could no longer service our shelter and Dr. Hill retired. Staff is recommending Dr. Barker as our new Vet. She will provide onsite services per the proposed contract. We will also ask her to serve on the Animal Advisory Committee to replace Dr. Hill.

Stephanie R Barker DVM PLLC
Veterinarian

6502 New Sulphur Springs Rd A7

San Antonio, TX 78222

steviebarker@msn.com

404-310-5857

Texas License: 8228

Accreditation: 030486

To Perform Veterinary Services for City of Kirby Animal Control Facility

Period of Performance - The services shall commence on 06/15/2022, and shall continue through 1 year.

Engagement Resources

To be determined pending necessity of an additional DEA license for the facility.

Authorization with a veterinary supply distributor to obtain non-controlled, prescription medications, products and supplies necessary for non-surgical medical treatment/prevention of illness, injury, parasitism and other applicable conditions.

Authorize release of quarantined animals in compliance with local, state and public health requirements and guidelines regarding Rabies.

Contractor Responsibilities

Veterinarian will provide personal liability insurance, DEA license if needed, be actively licensed veterinarian in the state of Texas and accredited with USDA-APHIS. Copies of liability insurance, licenses will be submitted prior to any scheduled work dates.

Services will provided on an as needed basis mutually agreeable to veterinarian and animal control staff.

Client Responsibilities

All supplies will be provided by The City of Kirby Animal Facility. Veterinarian is not responsible for any costs or expenses for medications or supplies that are purchased from the authorized veterinary supply vendor.

Fee Schedule

SERVICE	COST
DEA License	To be determined
HEALTH CERTIFICATE	\$28.00
MISCELLANEOUS SERVICE	COST
Professional Veterinarian during normal work 7AM to 5PM Monday through Saturday	\$75.00/hour. \$75 dollar minimum for facility visit. Telephone consultations up to \$10.00 per call
Professional Veterinarian during hours other than normal as described above	Telephone consultation only. up to \$15.00 per call.
Attendance in legal proceeding by Professional Veterinarian	\$80.00/hour
Reimbursement of controlled medications and other veterinarian provided medications	Cost + 10%
If travel to a remote site is required, travel will be reimbursed.	\$.55/mile

<u> X </u>	DISCUSSION AND POSSIBLE ACTION ITEMS
<u> </u>	SPECIAL CONSIDERATION
<u> </u>	CONSENT AGENDA
<u> </u>	PUBLIC HEARING
<u> </u>	PRESENTATION
<u> </u>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: JULY 28, 2022

AGENDA ITEM: 8. p.

8. Discussion And Possible Action

Discussion And Possible Action To Consider A Vendor Agreement With Bexar
County For A Residential Low Income Household Water Assistance Program

The Bexar County Community Impact Division of their Economic and Community Development Department administers this program. If Kirby signs up our residents will be able to apply for water bill assistance through this program.

LOW INCOME HOUSEHOLD WATER ASSISTANCE PROGRAM WATER PROVIDER AGREEMENT

PURPOSE. The purpose of the Low Income Household Water Assistance Program ("LIHWAP") Water Provider Agreement ("Vendor Agreement") is to provide a grant for emergency assistance to low-income households, particularly those with the lowest incomes that pay a high proportion of household income for water, storm water, drinking water, wastewater/sewer, and groundwater services, said services herein collectively referred to as "Water Services".

The Water Services Provider identified below, agrees to the terms of the LIHWAP grant and to accept payment from LIHWAP agencies only for eligible LIHWAP clients to whom Vendor continues to provide Water Services. The Water Assistance Provider identified below, agrees to make payments only for eligible LIHWAP clients.

PARTIES. This Vendor Agreement is by and between:

Water Assistance Provider ("Agency")

Water Services Provider ("Vendor")

The Agency and Vendor are each a party to this Vendor Agreement and herein each referred to as "Party" or collectively referred to as "Parties".

SERVICE AREA. Vendor and Agency agree to assist eligible LIHWAP clients in the following Texas counties:

WATER SERVICES. Water Services provided and billed by Vendor:

- ☐ Water Fees
- ☐ Stormwater Fees
- ☐ Wastewater
- ☐ Sewer Fees
- ☐ Groundwater Fees
- ☐ Other: _____

TERM. This Vendor Agreement shall be effective from _____, 20____, and shall terminate on the earlier date of _____ or September 30, 2023. Either of the Parties may terminate this Vendor Agreement by written notice. Such written notice of termination shall not affect any obligation by either of the Parties incurred prior to the receipt of such notice.

NOTICE. Notice shall be sent via certified mail to the addresses below with return receipt requested.

Vendor: _____

(Vendor Name)

(Vendor Mailing Address)

(Vendor Certificate of Convenience and Necessity # ("CCN"))

Agency:

(Agency Name)

(Agency Mailing Address)

AGENCY REPRESENTATIONS. The Agency represents and warrants to Vendor that it is an entity under contract with the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas ("TDHCA") and as such is authorized and has received funding from the TDHCA to provide bill payment assistance service for eligible LIHWAP clients. In addition, the Agency further represents and warrants to Vendor that it has determined eligible LIHWAP clients to be eligible under the LIHWAP guidelines. The funds will be used to cover and/or reduce arrearages, rates and fees associated with reconnection, or prevention of disconnection of service, and to pay either partially or in full an eligible LIHWAP client's current due water bill, known as "**Eligible Costs**" related to Water Services.

VENDOR'S REPRESENTATIONS. The Vendor represents and warrants that it will apply any payments received from Agency to the eligible LIHWAP client's account related to Eligible Costs.

AGENCY AND VENDOR ACKNOWLEDGEMENT. Both Parties acknowledge that this Vendor Agreement and the services provided by the Vendor are governed by and subject to the federal and state laws and regulations in accordance with the LIHWAP.

Both Parties acknowledge that TDHCA may select other entities to serve LIHWAP clients in the identified Texas Counties, and that Vendor shall not refuse to enter into other Agreements with these entities because of the existence of this Vendor Agreement.

AMENDMENTS. Any and all amendments to this Vendor Agreement shall be in writing, approved by TDHCA, and agreed upon by both Parties.

VENDOR'S RESPONSIBILITIES. Vendor will, with reference to an eligible LIHWAP client:

- Provide the Agency with at least one designated contact person who shall be available to respond by telephone and email to all reasonable inquiries regarding eligible LIHWAP clients and client accounts including but not limited to bills, payments, and services.
- Provide water services to each eligible and approved household for which payment is provided under LIHWAP.
- Extend the potential LIHWAP application for water services for up to ten calendar days while the Agency determines whether the potential LIHWAP applicant is eligible pursuant to the LIHWAP.
- Upon accepting payment from Agency for the eligible LIHWAP client, continue or restore water services to eligible LIHWAP with no increases in charges, service charges, or other charges or fees affecting the total cost of the bill, except for increases approved by the Water Provider's governing body applicable to all Water Provider's customers.
- In the event the Agency requires the eligible LIHWAP client to pay a portion of the bill prior to having a pledge made on their account on or before the disconnect date, nothing in this agreement requires the Vendor to delay a disconnect if the eligible LIHWAP client has not paid their required portion.
- Invoice the eligible LIHWAP client in accordance with Vendor's normal billing practices.

- Upon verbal or written request from Agency, provide at no cost to the Agency the eligible LIHWAP client's billing and usage history for previous twelve (12) months, or available history plus monthly estimates if less than twelve (12) months of billing history and usage is available. Vendor will transmit such billing history via electronic mail or facsimile as soon as possible, but no later than forty-eight hours following the request.
- Work with Agency and eligible LIHWAP client to explore the feasibility of offering flexible payment arrangements that may include, without limitation, waiving security deposits, reconnect fees, application fees, and all other fees whenever possible.
- Not discriminate against eligible LIHWAP client in price or services, including the availability of deferred payment plans, level or average payment plans, discount, budget, advance payment or other credit plans.
- Not refuse to provide water service or otherwise discriminate in the marketing and provision of water service to any eligible LIHWAP client because of race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income, level of income, disability, financial status, location of client in an economically distressed geographic area, or qualification for low-income or water-efficiency services.
- Allow Agency thirty (30) days from the date of pledge for assistance payment to forward payment to the Vendor. Vendor agrees not to consider the portion of the eligible LIHWAP client's account to be paid by the Agency delinquent if said payment is received within the above mentioned thirty (30) day period, and Vendor is provided with a verbal or signed pledge from the Agency within thirty (30) days of identifying an eligible LIHWAP client.
- Not interrupt service if eligible LIHWAP client is eligible under other state agency regulations (as applicable), and enters into an agreement with the Vendor concerning how the eligible LIHWAP client will pay the balance owed Vendor and the eligible LIHWAP client is meeting the obligation under such agreement.
- If the Agency has paid for an initial deposit or similar refundable instrument, upon the termination of service to the eligible LIHWAP client, the Vendor shall return funds including interest (after any balance owed) to the Agency in accordance with 10 Texas Administrative Code §6.312(f) (as applicable).
- Not apply LIHWAP payments to account balances that have previously been written off or paid with other funds.
- Not apply LIHWAP payments to commercial accounts. LIHWAP payments must only be applied to residential accounts.
- Clearly enter, on LIHWAP household bills, the amount of LIHWAP payment(s) received in a manner which identifies the payment as received from LIHWAP or at least the amount paid by LIHWAP shown as credited.
- Continually maintain accurate records of LIHWAP credit balances and annually reconcile accounts. After one year, credit balances must be refunded to the Agency, in compliance with LIHWAP Vendor Refund Policies.
- Not exchange the household's credit authorization for cash or give any cash equivalent for excess credit.
- Cooperate with any Federal, State, or local investigation, audit, or program review. Understand that failure to cooperate with any Federal, State, or local investigation, audit, or program review may result in the immediate disqualification from participation in the LIHWAP.

- Vendor's application materials should include language that authorizes the Vendor to release the applicant's information as described below to the Agency, Texas Department of Housing and Community Affairs, Texas State Auditor's Office, Office of the Attorney General of Texas, U.S. Department of Health and Human Services, the U.S. Department of Health and Human Services Internal Auditor, or the designee of any of these governmental agencies.
- Data related to a eligible LIHWAP client's Water Services and payments must be provided within a timeframe specified by the Agency at no cost and must be provided in the format requested by the Agency. The data must be provided to the Agency for the purposes of verification, research, evaluation, analysis, and reporting. The eligible LIHWAP client's signed LIHWAP application will authorize the Vendor to release this information to the Agency.

AGENCY RESPONSIBILITIES. The Agency will:

- Accept written referrals for LIHWAP benefits by the Vendor, and evaluate whether the referral is eligible as an eligible LIHWAP client.
- Obtain written permission for Agency to request and have access to eligible LIHWAP client information, including confidential or personal account information, credit and payment history, from eligible LIHWAP client's seeking Agency assistance. Social Security numbers are not required for the LIHWAP program and may not be disclosed to Agency.
- Provide to Vendor, at Vendor's request, eligible LIHWAP client's written permission for Agency's access to eligible LIHWAP client's information as stated above.
- Review invoice(s) submitted by the Vendor. The Agency may request additional documentation and/or clarification of charges as needed. No payment will be made without all required documentation/clarification of charges.
- Not provide payments on behalf of an eligible LIHWAP client to Vendor without having adequate funds to pay such payments.
- Provide payment to the Vendor after receipt of proper invoices, and any additional required documentation or clarification, for services rendered pursuant to this Vendor Agreement, upon full compliance by the Vendor with the terms herein within thirty (30) days.
- Determine if a client is LIHWAP eligible within ten calendar days of contacting Vendor.
- Provide Vendor a list of names, telephone numbers and e-mail addresses of Agency staff designated to make payments on behalf of the Agency and eligible LIHWAP clients, if requested from Vendor.
- Comply with all relevant state and federal laws and regulations in its implementation of the LIHWAP. Follow all supplemental terms and conditions as set forth by the U.S. Department of Health and Human Services. The Agency shall provide notice of any changes or amendments to policies or guidelines for the LIHWAP.

ASSIGNMENT. Agency's obligations under this Vendor Agreement are contingent upon the receipt and availability of funding by TDHCA under a contract for Water Services by and between Agency and TDHCA. If funding for Water Services under said contract is not available to make payments to Vendor under this Vendor Agreement, Agency or TDHCA will notify Vendor in writing within a reasonable time after such fact is determined. Agency shall then assign its responsibilities under this Vendor Agreement to TDHCA by executing an assignment on a form approved by TDHCA. If an assignment under this provision is required, the Parties hereby agree to execute any and all instruments in order to facilitate the assignment of the Agency's responsibilities to TDHCA under this Vendor Agreement.

CONFIDENTIALITY. The terms of any confidential transaction under this Vendor Agreement or any other information exchanged by the Agency and Vendor relating to any transaction shall not be disclosed to any person not employed or retained by the Agency or Vendor, their affiliates, or brokers, except to the extent disclosure is 1) required by law; 2) necessary to disclose to the other Party in connection with a dispute between the Parties; 3) otherwise permitted by written consent of the other Party; 4) required by guarantors to be disclosed; 5) information which must be disclosed to a third party to transmit water; 6) to meet reliability council, regulatory, administrative, judicial, governmental, or regulated commodity exchange requirements where necessary; or 7) information which was or is hereafter in the public domain (except by breach of this Vendor Agreement).

Executed to be effective on _____.

VENDOR:

Authorized Vendor Signature

Date

Typed Name of Authorized Signature

Title

()

Vendor Telephone Number

Vendor Email Address

AGENCY:

Authorized Agency Signature

Date

Typed Name of Authorized Signature

Title

()

Agency Telephone Number

Agency Email Address

Register as a New Supplier

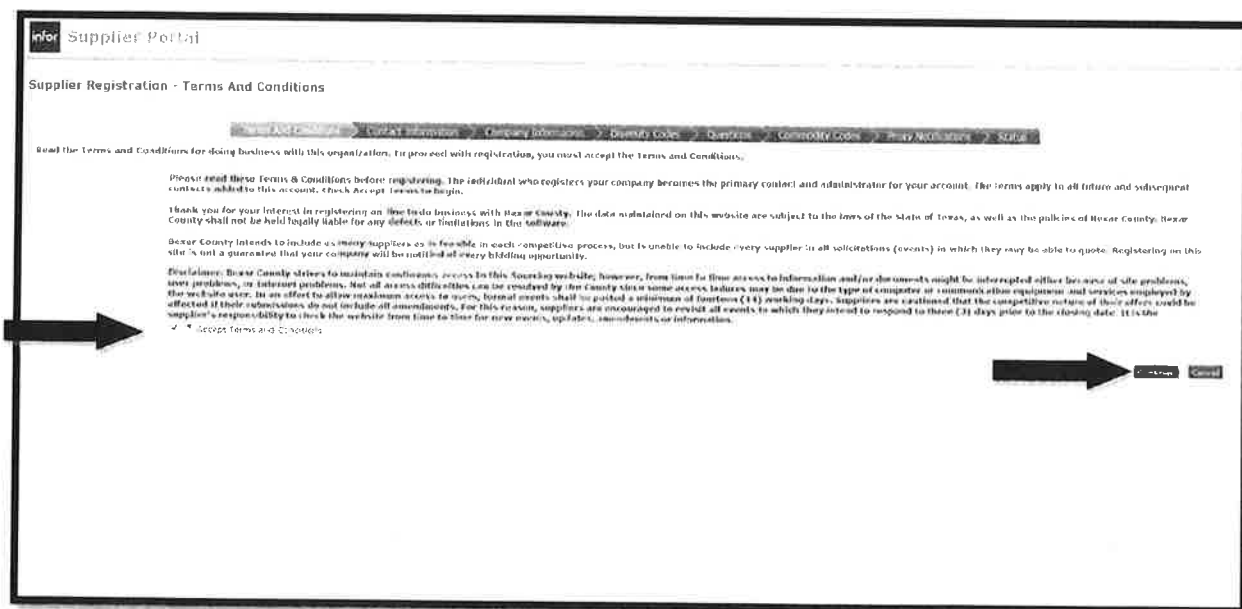
This document provides step-by-step instructions on how to register as a new supplier with Bexar County. The below link will direct you to the Bexar County Supplier Portal.

<https://bexarprod-lm01.cloud.infor.com:1442/lmscm/SourcingSupplier/controller.servlet?dataarea=lmscm&context.session.key.SupplierGroup=100>

Click **Register**.



You will be transferred to the **Terms and Conditions** screen. *Note: Fields with a red * asterisk are required.* Click the **Accept Terms and Conditions** checkbox and click on the **Continue** button.



You will be transferred to the **Contact Information** screen. In this screen you will need to identify yourself and you will need to create an account starting with your User Name (case-sensitive).

Starting with the section titled *Enter Information About Yourself* – and all subsequent sections– please fill all requested fields using CAPITAL LETTERS .

*Note: Fields with an * asterisk are required.*

Once all fields have been populated click on the **Continue** button.

Supplier Portal

Supplier Registration - Contact Information

Terms And Conditions | Contact Information | Company Information | Diversity Codes | Questions | Community Codes | Privacy Policy | Status

Enter the login and primary contact information for your business.

Become A Supplier - Create An Account

* User Name (case sensitive)

* Password

* Confirm Password

Enter Information About Yourself

Title

* First Name

* Last Name

* Phone Number

* Mobile Phone

* Fax Number

* Email Address

GO! Have an email address? Create one here! [Create Email Address](#)

Back

Continue

Next, you need to provide information about your company.

Once all fields have been populated click on the **Continue** button.

Supplier Portal

Supplier Registration - Company Information

Terms And Conditions | Contact Information | Company Information | Diversity Codes | Questions | Community Codes | Privacy Policy | Status

Enter your company information.

Company Information

* Company Name

Dun & Bradstreet

* EIN Tax ID

* Business Type

* Business Type Description

Address Information

Mailing address

* Address Line 1

* Address Line 2

* Address Line 3

* Address Line 4

* City

* State Province

* Zip Code

Billing name and address

* Billing Name

* Billing Address Line 1

* Billing Address Line 2

* Billing Address Line 3

* Billing Address Line 4

* City

* State Province

* Zip Code

Back

Continue

Next, you will need to enter diversity codes for your company. Click the **Add** button.

infor Supplier Portal

Supplier Registration - Diversity Codes

Terms And Conditions > Contact Information > Company Information > Diversity Codes > Products > Commodity Codes > Heavy Notifications > Status

Please select a description for the following: Ethnicity, Handicap, Sex, and Size. Failure to do so will delay your registration process.

Selected Diversity Codes

Add

No data available

Success

Continue Cancel

The **Active Diversity Codes** screen will appear. Here you can search or scroll to find a **Diversity Code**. Use the drop-down arrow to change the page size to 20. This will allow you to view all the commodity codes at once.

infor Supplier Portal

Supplier Registration

Please select a description for the following: Ethnicity, Handicap, Sex, and Size. Failure to do so will delay your registration process.

Selected Diversity Codes

Add

Active Diversity Codes

Search

Diversity Code Description

Diversity Code	Description
ET A	Ethnicity - Native American
ET B	Ethnicity - African American
ET H	Ethnicity - Hispanic
ET M	Ethnicity - Middle Eastern
ET S	Ethnicity - Asian - South
ET W	Ethnicity - White - Western
ET Z	Ethnicity - Other
HD N	Handicap - No
HD Y	Handicap - Yes

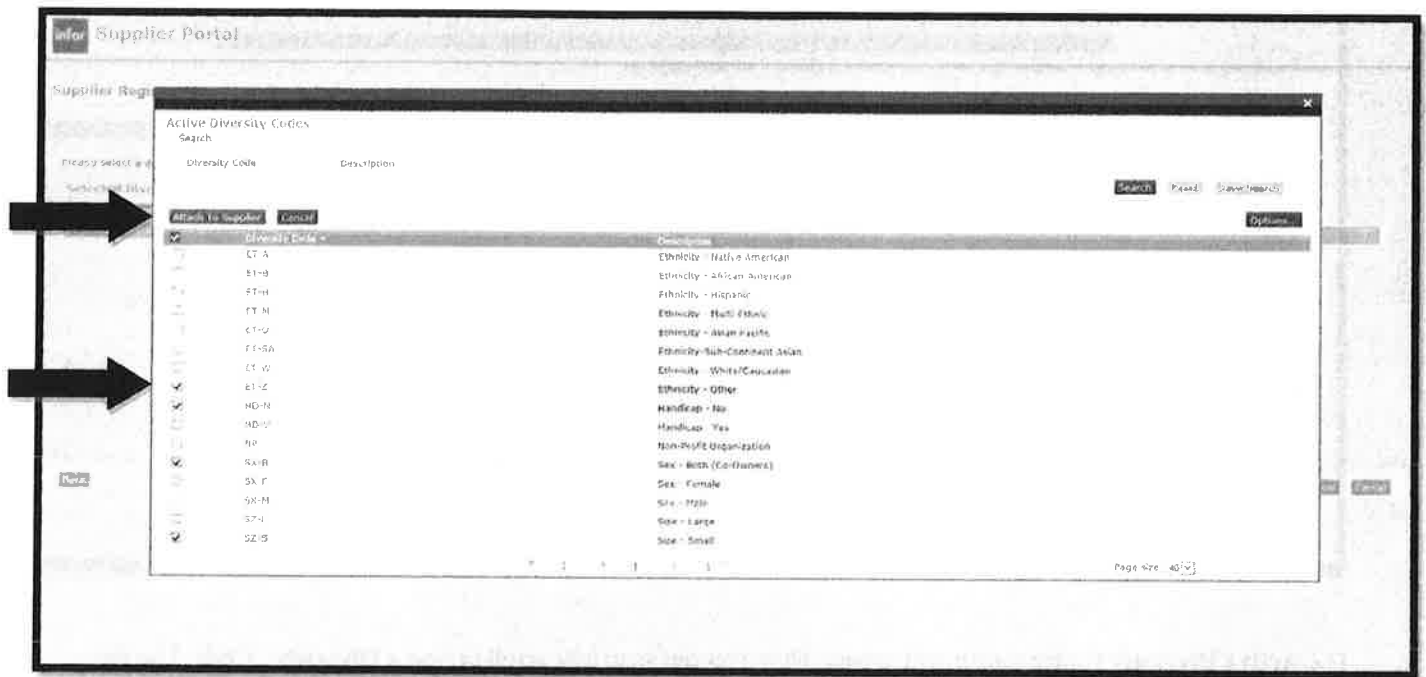
Page Size: 20

Success

Continue Cancel

Check at least one Diversity Code from the **Ethnicity**, **Handicap**, **Sex** and **Business Size** sections. For Non-Profit organizations, selecting **Non-Profit Organization** will be the only Diversity Code needed. These codes apply to the owner of the company.

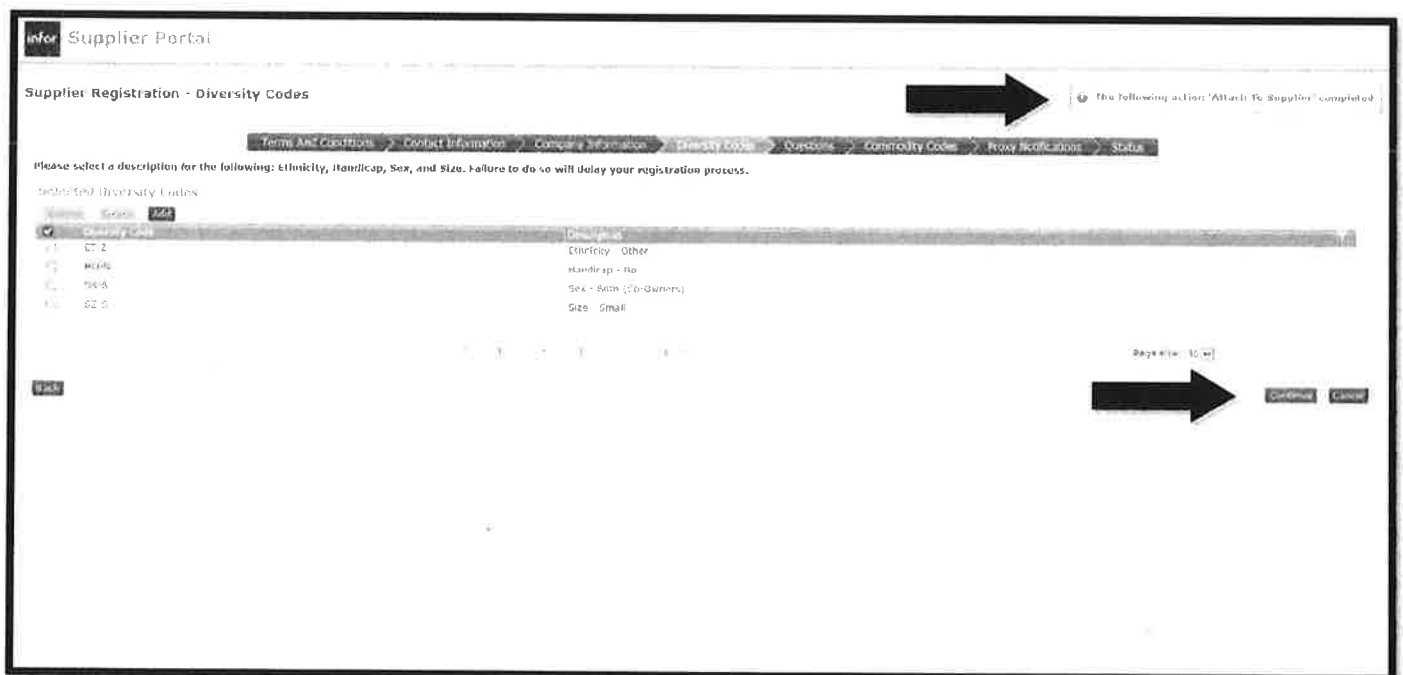
Then click on the **Attach to Supplier** button.



Diversity codes are now attached to your profile.

See message on the upper right hand corner: The following action '**Attach To Supplier**' completed.

Click on the **Continue** button to proceed to the next screen.



Next, you will need to answer a few questions about your company.

*Note: Fields with an * asterisk are required.*

Once complete click on the **Continue** button to proceed to the next screen.

Supplier Portal

Supplier Registration - Questions

Terms And Conditions / Contact Information / Company Information / Diversity Codes / Questions / Commodity Codes / Proxy Notifications / Status

Answer the following questions related to your company. An * before the question indicates that an answer is required.

1. Does your company maintain a physical presence in Bexar County?
Response is required
Answer: Yes
Attach Document: [Browse]

2. Do you have any diversity certifications? If yes, please attach certifications.
Response is required
Answer: No
Attach Document: [Browse]

3. Have you attached a copy of your company's W-9? If no, please attach. ***Failure to attach a W-9 may delay processing of your application.***
Response is required
Answer: No
Attach Document: [Browse]

[Back] [Continue] [Cancel]

Next, you will need to enter commodity codes for your company.

Click the **Add** button.

Supplier Portal

Supplier Registration - Commodity Codes

Terms And Conditions / Contact Information / Company Information / Diversity Codes / Questions / Commodity Codes / Proxy Notifications / Status

Select the commodity codes for which you want to get future event notifications.

Selected Commodity Codes

Add

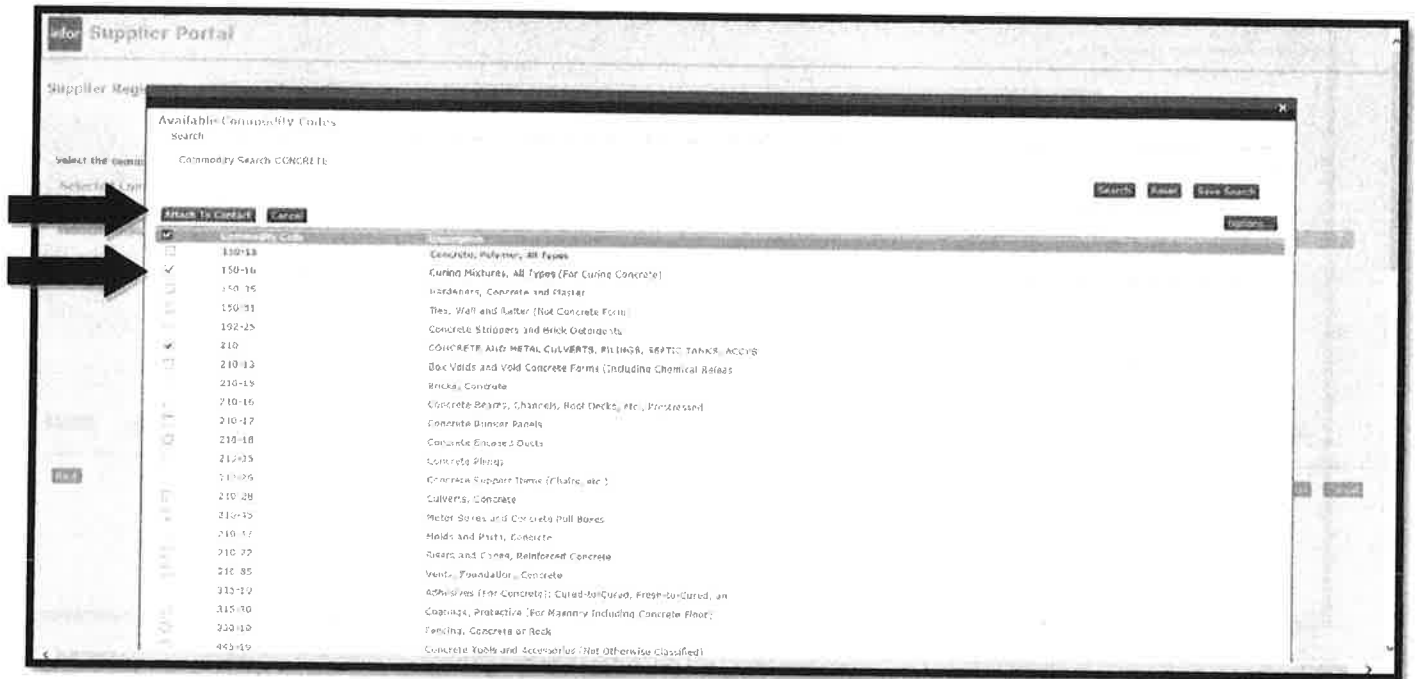
Commodity Codes

No data available

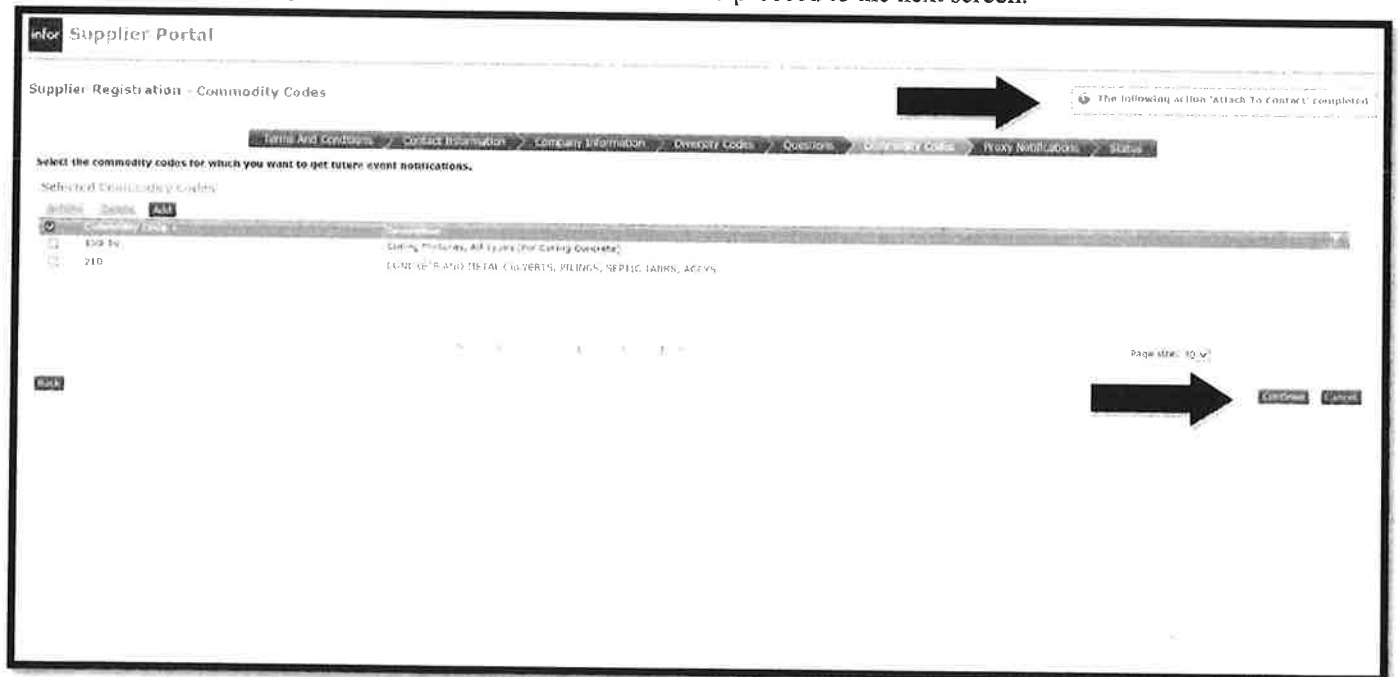
[Back] [Continue] [Cancel]

The **Available Commodity Codes** screen will appear. In this screen, you can register for multiple commodity codes. In the **Commodity Search** field type in a word that matches your commodity or services and click on the **Search** button.

You can either select an entire top-level commodity code (3 digit), or you can expand the top level code to pick and choose from sub-level codes (5 digit). Check commodity codes that apply to your company and then click on the **Attach to Contact** button. Once done, click the **Continue** button.



Commodity codes are now attached to your profile. See message on the upper right hand corner: The following action 'Attach To Contact' completed. Click on the **Continue** button to proceed to the next screen.



In the next screen, you can optionally add individuals who can act as a proxy.

Note: A proxy will be notified of events/bidding opportunities but will not be able to perform actions. If you wish not to add a proxy, click the **Continue** button to proceed to the next screen.

Or

If you wish to add a proxy, click on the **Add** button.

infor Supplier Portal

Supplier Registration - Proxy Notifications

Terms And Conditions > Contact Information > Company Information > Identify Roles > Overview > Company's Code > Proxy Notifications > Add

Enter contacts to be notified of event updates, but cannot take action on these events and do not have a separate user name and password.

First Name	Last Name	Email Address	Phone Number
No data available			

Continue Cancel

The **Proxy Notifications** screen will appear.

Note: Fields with an * asterisk are required.

Once done, click the **Continue** button.

infor Supplier Portal

Proxy Notification - Proxy Notifications

Terms And Conditions > Contact Information > Company Information > Identify Roles > Overview > Company's Code > Proxy Notifications > Add

Enter contacts to be notified of event updates, but cannot take action on these events and do not have a separate user name and password.

Supplier Group: 160 BEXAR COUNTY
Supplier: 2356 BEXAR COUNTY PURCHASING
* First Name: DAN
* Last Name: REYES
* Email Address: REYES@TAMU.EDU
☒ Receive Email Notification

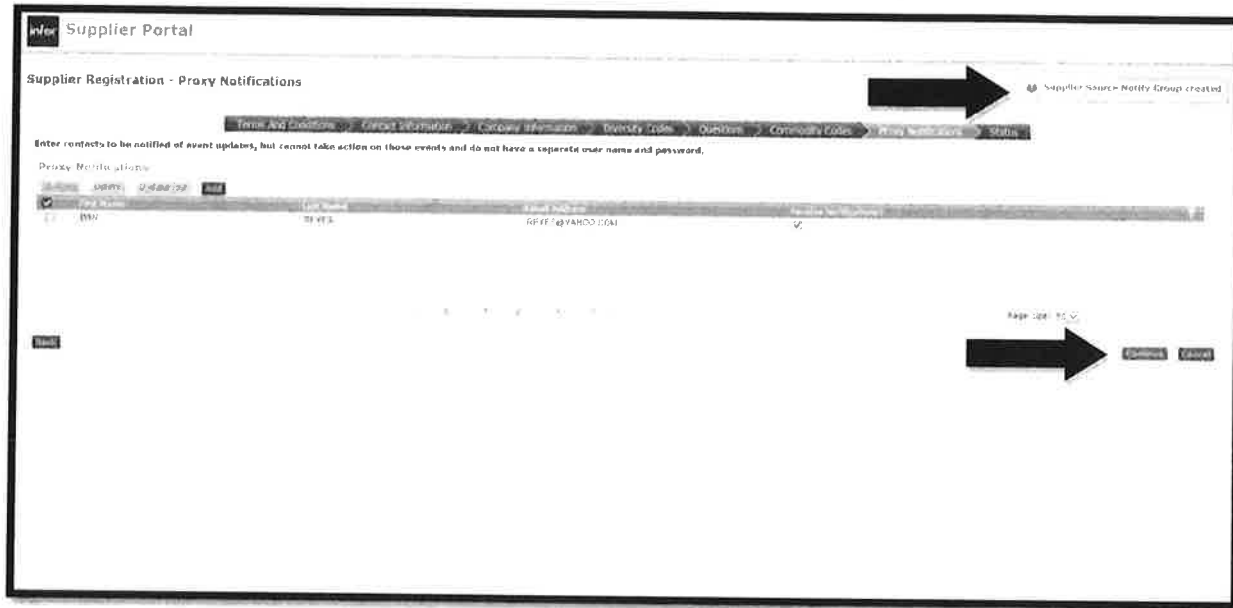
* Required

Continue Cancel

Proxy Notifications are now attached to your profile.

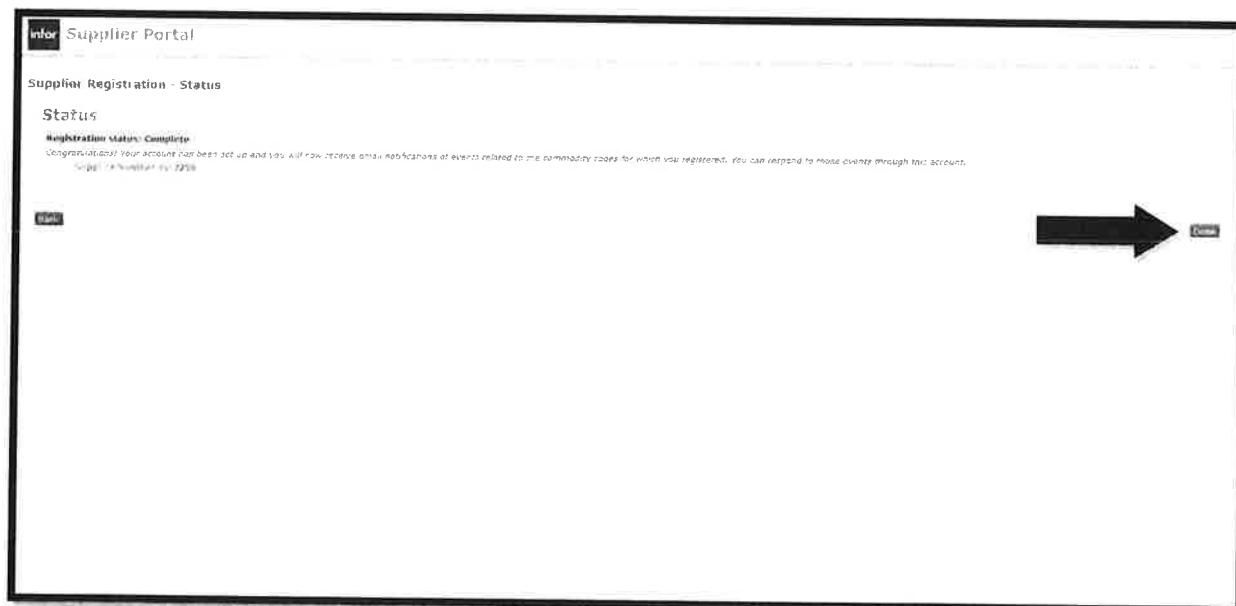
See message on the upper right hand corner: *Supplier Source Notify Group Created.*

Click on the **Continue** button to proceed to the next screen.



Your supplier registration is now complete.

Click the **Done** button.



At this point you are logged in as a registered supplier and you can view and respond to open events.
Click on **Logout** to exit screen.

