



Travis County Commissioners Court Agenda Request

Meeting Date: 9/11/12

Prepared By/Phone Number: Thomas Weber Phone #: 4-4629

Division Director/Manager: Jon A. White, Natural Resources and Environmental Quality Division

Carol B. J. J. J.
Department Head: Steven M. Manilla, P.E., County Executive-TNR

Sponsoring Court Member: County Judge Sam Biscoe

AGENDA LANGUAGE: Consider and take appropriate action to approve an Interlocal Agreement for Storm Water Management Programs of the City of Pflugerville and Travis County.

BACKGROUND/SUMMARY OF REQUEST:

The Interlocal Agreement (ILA) fulfills a requirement of the City of Pflugerville's Storm Water Management Program (SWMP) for the purpose of implementing more cooperative and coordinated storm water management within the City's Extra Territorial Jurisdiction (ETJ) where both parties to the agreement share jurisdiction.

The agreement facilitates implementation of TCEQ-required program components. These include sharing public education materials, processes to coordinate on storm water rule and guidance as it is developed, and assigning inspection lead responsibilities for matters within the ETJ to better fill resource gaps. The areas of environmental inspection covered by the agreement include construction on land development sites, post-construction water quality ponds, industrial facilities, spill response, and county facilities within the ETJ.

On August 22, 2012, the Pflugerville City Manager approved the agreement. It is now ready for consideration and action by Travis County.

STAFF RECOMMENDATIONS:

TNR recommend approval of the ILA and signature by County Judge Sam Biscoe of each copy of the document for distribution to the parties. .

ISSUES AND OPPORTUNITIES:

For many inspection-related matters, the City will defer to TNR to be the lead agency for implementation. This is consistent with the scope of Pflugerville's storm water ordinances which apply only within the City's corporate boundaries. The City's ETJ covers a significant part of the County's jurisdiction and an area where substantial

growth and development occurs. With effective coordination, a strong local storm water program can address the many challenges of managing the potential water quality impacts in this area.

FISCAL IMPACT AND SOURCE OF FUNDING:

None identified.

ATTACHMENTS/EXHIBITS:

The proposed Interlocal Agreement

REQUIRED AUTHORIZATIONS:

Cynthia McDonald	Financial Manager	TNR	854-4239
Steve Manilla	County Executive	TNR	854-9429
Jon White	Director, NREQ	TNR	854-7212

CC:

Julie Joe	Staff Attorney	Co Attorney's Office	854-4835
Thomas Weber	Env. Program Mgr	TNR	854-4629
Dave Fowler	SWMP Project Mgr	TNR	854-7590

: :
0801 - NREQ - 15-01

**INTERLOCAL COOPERATION AGREEMENT FOR STORM WATER
MANAGEMENT PROGRAMS FOR THE CITY OF PFLUGERVILLE
EXTRATERRITORIAL JURISDICTION AND TRAVIS COUNTY**

This Interlocal Cooperation Agreement, hereinafter referred to as "Agreement" is made and entered into by and between the City of Pflugerville, Texas (the "City") and Travis County, Texas (the "County"), hereinafter collectively referred to as the "Parties," upon the premises and for the consideration stated herein.

WHEREAS, the County has certain responsibilities and authority pursuant to Chapter 573 of the Texas Local Government Code for protecting the health and safety of the public and for protecting the environment through the management of storm water in Travis County, outside the incorporated limits but within the City of Pflugerville's extraterritorial jurisdiction ("ETJ"); and,

WHEREAS, the City has authority to adopt ordinances to extend its regulatory authority into its ETJ and has adopted Chapter 158: relating to Storm Water Pollution Control to apply within its corporate boundaries; and,

WHEREAS, effective May 4, 2009, the County's coverage under the Texas Commission on Environmental Quality (TCEQ) issued Phase II MS4 General Permit (TXR040000) was approved (authorization number TXR040327), thus establishing the County's role as a regulatory authority for the protection of water quality within unincorporated Travis County; and,

WHEREAS, effective February 8, 2008, the City's coverage under the TCEQ-issued Phase II MS4 General Permit (TXR040000) was approved (authorization number TXR040078), thus establishing the City's role as a regulatory authority for the protection of water quality within the incorporated areas of the City of Pflugerville; and,

WHEREAS, the Parties desire to cooperate closely in the City's ETJ to implement effective standards that protect water quality through administering both the City's Storm Water Management Program ("SWMP") and the County's SWMP; and,

WHEREAS, Travis County has adopted a SWMP that overlaps the City's ETJ; and,

WHEREAS, both Parties have adopted Subdivision Regulations affecting the Pflugerville ETJ that include design and construction standards for transportation, drainage, and the environment; and,

WHEREAS, the Parties desire to eliminate duplication, reduce administrative costs, clarify responsibility, and expedite implementation of their respective SWMPs in that part of the City's ETJ that is located within Travis County, including the City's limited purpose annexation areas; and,

WHEREAS, the City and County continue to collaborate using its single office provisions to develop mutually agreeable post construction water quality protection measures.

WHEREAS, the Parties intend to conform this Agreement in all respects with the Interlocal Cooperation Act, Texas Government Code Section 791.001, et seq.;

NOW, THEREFORE, the Parties agree to clarify and describe in this Agreement the specific SWMP tasks each Party will implement through their respective storm water management programs in the City of Pflugerville ETJ.

A. Acronyms Used in this Agreement

- 1) BMP - Best Management Practice
- 2) ESCP - Erosion and Sediment Control Plan
- 3) ETJ - Extraterritorial Jurisdiction
- 4) GIS - Geographic Information System
- 5) GPS - Global Positioning System
- 6) IDDE - Illicit Discharge Detection and Elimination
- 7) I-Plan - Implementation Plan
- 8) LDC - Land Development Code
- 9) MS4 - Municipal Separate Storm Sewer System
- 10) MUD – Municipal Utility District
- 11) ORI - Outfall Reconnaissance Inventory
- 12) OSSF - On-Site Sewage Facilities
- 13) SFR - Single Family Residential
- 14) SWMP - Storm Water Management Program
- 15) SWP3 - Storm Water Pollution Prevention Plan
- 16) TCEQ - Texas Commission on Environmental Quality
- 17) TMDL - Total Maximum Daily Load
- 18) WCID – Water Control and Improvement District

B. Purpose

- 1) The parties agree to work cooperatively with the goal of efficient and effective coordination to implement the City's SWMP in concert with the County's SWMP.
- 2) These cooperative efforts will address the implementation of the Program Elements and Best Management Practices ("BMPs") specified in the City's and County's respective Phase II MS4 General Permits that are relevant to the City's ETJ.
- 3) Sections C through H of this Agreement describe the specific tasks, coordination, and responsibilities of each Party and taken together demonstrate their intent of the Parties to effectively exercise their power and authority to meet the storm water management goals established in their respective Phase II MS4 General Permits.
- 4) Unless otherwise specifically noted, the Parties agree that this Agreement applies to the ETJ of the City of Pflugerville that is located within Travis County, Texas, including the City's limited-purpose annexation areas, specific areas subject to non-annexation development agreements, and to no other areas in either jurisdiction.

C. Public Education and Public Participation Program

- 1) General. The Parties agree to work cooperatively to implement certain public education, public outreach, public involvement, and public participation programs.
- 2) Watershed Signs. The County will install and maintain Watershed Signs on County roads as described in the County SWMP, consistent with formats as mutually agreed and revised in the future.
- 3) Storm Inlet Markers.
 - (a) The County agrees to continue its efforts that result in installation of storm inlet markers as described in the County SWMP, consistent with current formats as mutually agreed and revised in the future.
 - (b) The City agrees to annually report to the County the number of inlet markers installed, per paragraph (a) through known volunteer efforts or efforts initiated or coordinated by City staff or programs.
- 4) Education and Outreach.
 - (a) The parties agree to continue to collaborate and cooperate regarding existing public education and outreach program efforts to improve environmental awareness by residents, and to periodically review, adjust, or expand these efforts to be effective and consistent with the respective storm water programs.
 - (b) The Parties agree to cooperate on regional training and outreach efforts to assist businesses and construction site personnel to improve compliance with Pflugerville/Travis County standards for development permits, construction Storm Water Pollution Prevention Plans ("SWP3s"), and Erosion and Sediment Control Plans ("ESCPs").

- (c) The Parties agree to share the content of existing storm water, SWP3, and ESCP educational materials (with each Party bearing the reproduction costs for the materials it produces) and consultation resources.
- (d) The County will provide such materials to customers and applicants of the County's Development Services Division, as appropriate.
- (e) The Parties agree to consult with one another to assist on storm water related program content for each Party's storm water program websites and to include, as appropriate, hyperlinks to the other Party's website on each of its own program websites.
- (f) The City agrees to include the County's storm water related materials and announcements in the City's SWMP broadcasts or website, if requested by the County.

5) Implementation Plan Coordination.

- (a) The Parties agree to coordinate and share data as much as feasible to ensure that provisions described in Implementation Plans (I-Plans) associated with a Total Maximum Daily Load (TMDL) are implemented.
- (b) The Parties agree to participate in any public process to modify the Gilleland Creek I-Plan and to work cooperatively to ensure that modifications to the Gilleland Creek I-Plan that are proposed in the public process are effective and reasonable.

D. Illicit Discharge Detection and Elimination

1) General. The Parties agree to work cooperatively to implement Illicit Discharge Detection and Elimination (IDDE) programs to reduce or eliminate illicit discharges to the MS4s and surface waters in the State.

2) MS4 Map.

- (a) The Parties agree to coordinate and share data as much as feasible to ensure the development of an accurate, up-to-date, comprehensive MS4 map (each party will bear its own respective reproduction costs).
- (b) The County will lead the production of the MS4 map on behalf of both Parties using a GIS geo-database with Global Positioning System ("GPS") survey data of the drainage structures.
- (c) At a minimum, the County MS4 map will include all above-ground drainage structures, ponds, outfalls, and features as described in the County's SWMP.
- (d) The County will consider the inclusion of additional features, such as underground storm sewers and private and commercial site ponds and outfalls, if additional funding and resources are approved in the future.

3) Compliance Evaluations of Illicit Discharges.

- (a) The County agrees to lead implementation of an inspection and enforcement program that identifies illicit discharges and seeks corrective actions by responsible parties, with a focus upon previously-identified dischargers, commercial and industrial operations covered under TCEQ

- requirements, and responding to public complaints of pollution.
- (b) The City will refer certain illicit discharge complaints or requests for assistance to the County for investigation, including mal-functioning on-site sewage facilities (OSSF) and problems regarding discharges associated with development subject to County-issued permits.
 - (c) The Parties agree to regularly share information on illicit discharges from commercial and industrial activities and facilities. Information shared will include inventories of such facilities and results from inspection and monitoring activities.
 - (d) The Parties will routinely exchange up-to-date lists of IDDE-related inspection staff contacts, including assigned roles and territories, whenever these lists are updated.
- 4) Emergency Response.
- (a) The Parties agree to continue the implementation of the Emergency Management Plan to address discharges and dumping of oil, hazardous materials, or other pollutants.
 - (b) The County will maintain its lead role in emergency response to address discharges and dumping of oil, hazardous materials, or other pollutants on a County roadway, County right-of-way, or County-owned property. The City will coordinate with the applicable Travis County Emergency Services District personnel in accordance with the established Emergency Management Plan.
 - (c) The Emergency Management Plan will be maintained by the Parties and will include staff contacts, telephone numbers for 24-hour access, assigned roles and territories, procedures for referral between the Parties, processes for updating contact lists, and convening periodic meetings.
- 5) IDDE Regulations.
- (a) The County staff will recommend adoption of additional IDDE regulations to the County Commissioners' Court.
 - (b) The City will be afforded a meaningful opportunity to negotiate and agree upon proposed revisions to County IDDE regulations, prior to formal proposal of the revisions for public comment.
 - (c) To the extent practicable in consideration of their respective regulatory authority and staff enforcement resources, the Parties will develop lists of allowable non-storm water discharges and conditions for discharges that are the same or similar.
 - (d) Any additional County IDDE regulations and programs implemented must be consistent with City IDDE codes and program activities.
- 6) IDDE Training.
- (a) The City will develop an IDDE training program for city inspectors and staff, as described in the City's SWMP.
 - (b) To the extent practicable, the Parties agree to notify each other of opportunities for IDDE training, such that joint development and implementation of training sessions may be attained and cost effective,

when appropriate.

E. Construction Development Permit Review and Inspection Programs

- 1) General. The Parties agree to work cooperatively to implement and enforce programs to reduce pollutants in storm water runoff from construction activities that result in land disturbance. The Parties agree to undertake efforts to develop and incorporate a subdivision storm water inspection and enforcement program into the single office review and joint city/county code of subdivision regulations as appropriate.
- 2) Final Inspections. The Parties agree to continue coordinated final inspections of new subdivisions.
- 3) Infrastructure Construction Inspection and Monitoring.
 - (a) The County agrees to continue a lead role in the Pflugerville ETJ on behalf of both Parties on review, inspection and enforcement of ESCP and permanent BMPs on construction projects. These projects are still subject to applicable City and County subdivision and site plan permits.
 - (b) Upon request, the County agrees to promptly provide inspection reports of inspections undertaken pursuant to the previous paragraph. The County agrees to develop a data management system that will allow compilation of inspection report information and transmittal to the City at quarterly and annual frequencies.
 - (c) The Parties agree that public interest or other factors may result in the need for the additional involvement of the City for SWP3/ESCP inspection of construction activities as requested.
 - (d) Based upon the nature of an issue and in consideration of the authority of each Party, staff of each Party will promptly refer the matter and share inspection-related information through agreed upon protocols and contacts.
 - (e) The Parties will each provide points of contact for receipt of data, information, or reports from the other Party, in an instance when there is insufficient evidence that a person has commenced a development activity with authorization from either the City of Pflugerville or Travis County.
 - (f) The Parties will routinely exchange up-to-date lists of inspection and related staff contacts, including assigned roles and territories, whenever these lists are updated.
 - (g) Following execution of this Agreement, the Parties will develop and implement more detailed procedures for staff to follow in the ongoing implementation of this Section and this Agreement.
- 4) Construction Site Storm Water Controls Training.
 - (a) The City will develop a construction site storm water controls training program for city inspectors and staff, as described in the City's SWMP.
 - (b) To the extent practicable, the Parties agree to notify each other of opportunities for construction site storm water controls training for City and County inspectors and staff, such that joint development and implementation

- of training sessions may be attained, when appropriate.
- 5) The County agrees to notify the City of the staff contacts who wish to receive notice of draft revisions to technical standards.
 - 6) Single Family Residential Dwelling Construction.
 - (a) In the Pflugerville ETJ, the County will inform single family residential ("SFR") development permit applicants of basic SWP3, and notice of intent requirements through published technical guidelines.
 - (b) In consideration of the requirements for the County to issue a basic development permit to authorize construction of a SFR development, the City will review and provide input on the County's guidelines with the objective of providing SFR builders consistent regulatory direction.
 - (c) Coordination between the Parties on a specific SFR compliance issue will occur when appropriate.
 - (d) The County will assume the role of permit application approval for development and SWP3 regulations in the ETJ.
 - (e) The City will issue building permits within ETJ utility districts by agreement (for example, a MUD or WCID) and assume jurisdictional authority over water and wastewater utility infrastructure to a SFR dwelling in the ETJ.

F. Post-Construction Storm Water Management

- 1) General. The Parties agree to work cooperatively to develop, implement, and enforce programs to reduce post-construction pollutant discharges in storm water runoff from new development and redevelopment.
- 2) Permanent Water Quality Control Monitoring and Enforcement.
 - (a) In the Pflugerville ETJ, the County will continue its existing monitoring and enforcement program for permanent detention and water quality control structures.
 - (b) The County inspection and enforcement program includes detention and water quality controls for residential ponds and commercial site ponds.
 - (c) For water quality control ponds that also serve as flood detention structures and where the detention structure is integral to a County roadway, the County will carry out the inspection and enforcement responsibilities for the combined structures.
 - (d) For flood detention and water quality control structures associated with County land facilities, parks, and preserves, the County will lead in carrying out the inspection and enforcement responsibilities. If the City wishes to inspect such a structure, it will first provide advance notification to the County point of contact, to provide the County the opportunity for joint inspection.
 - (e) The Parties agree to continue their outfall and permanent outfall reconnaissance inventory ("ORI") mapping and monitoring program, as described in both Parties' SWMP.

- (f) The Parties agree to cooperate in this effort where possible, including sharing information, MS4 map data, and records relating to specific water quality control and flood detention structures identified on site plans and design specifications as available, staff contacts, staff roles, staff territories, and the referral of cases between the Parties.
 - (g) The Parties agree to coordinate to ensure comparable information is maintained in their respective pond database inventories in order to most-efficiently perform and coordinate the agreed-on responsibilities.
- 3) Structural Storm Water Controls Training.
- (a) Each party will develop a structural storm water controls training program of structural best management practices constructed for areas of development and redevelopment for inspectors and staff, as described in the respective SWMP.
 - (b) To the extent practicable, the Parties agree to notify each other of opportunities for structural site storm water controls training for inspectors and staff, such that joint development and implementation of training sessions may be attained, when appropriate.
- 4) Maintenance of County Ponds.
- (a) Until annexation by the City, the County will continue to maintain ponds that were installed as water quality control structures associated with County road rights-of-way and easements. The County will continue to maintain these water quality control structures as described in the County SWMP (Minimum Control Measure for Storm Water Pollution Prevention and Good House Keeping) and consistent with the design standards of the constructed BMP.
 - (b) The County will continue to maintain water quality control structures associated with County land facilities, parks, preserves, and Capital Improvement Projects as described in the County SWMP (Minimum Control Measure for Storm Water Pollution Prevention and Good House Keeping) and consistent with the design standards of the constructed BMP.
- 5) Maintenance of County Roads. Until annexation by the City, the County will continue to maintain any accepted County road and right-of-way, in accordance with all related BMPs described in the County SWMP (Minimum Control Measure for Storm Water Pollution Prevention and Good House Keeping.)

G. Coordination and Reporting

- 1) Points of Contact.
- (a) The Parties agree to designate staff points of contact for each of the program areas listed above in Sections C through F to coordinate development and implementation.
 - (b) This information shall include staff-assigned roles and territories, where

appropriate.

- 2) The Parties agree to meet as needed to ensure program coordination.

H. Miscellaneous Provisions

- 1) Liability. To the extent allowed by Texas law, the Parties agree that each entity is responsible for its own proportionate share of any liability for its negligent acts or omissions.
- 2) Financial Obligations. The Party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.
- 3) Force Majeure. In the event that the performance by either Party of any of its obligations or undertakings hereunder is interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God, an act of the common enemy, or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party or privy hereto, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects hereto.
- 4) Notice. Any notice given hereunder by either Party to the other pursuant to any notice provision in this Agreement shall be in writing and may be effected by personal delivery in writing or by registered or certified mail, return receipt requested when mailed to the proper party, at the following addresses:

CITY: Brandon Wade
 City Manager
 P.O. Box 589
 Pflugerville, Texas 78691-0589


WITH COPY TO: George Hyde
 City Attorney
 P.O. Box 589
 Pflugerville, Texas 78691-0589

COUNTY: Steven M Manilla, P.E.
 County Executive, Transportation & Natural
 Resources Dept.
 P.O. Box 1748
 Austin, Texas 78767

WITH COPY TO: David Escamilla
 County Attorney, Travis County Attorney's Office
 P.O. Box 1748
 Austin, Texas 7876

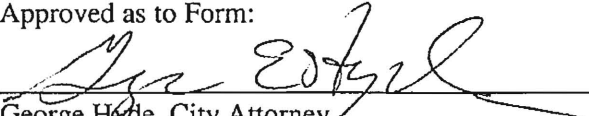
- 5) Number and Gender Defined. As used in this Agreement, whenever the context so indicates, the masculine, feminine, or neuter gender and the singular or plural number shall each be deemed to include the others.
- 6) Entire Agreement.
 - (a) This Agreement contains the complete and entire Agreement between the Parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations, and understanding, if any, between the Parties.
 - (b) This Agreement may be modified, discharged, or changed in any respect whatsoever except by a further agreement in writing duly executed by authorized representatives of the Parties.
 - (c) No official or representative, agent, or employee of Travis County, Texas, has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the Commissioners Court of Travis County, Texas.
 - (d) No official or representative, agent, or employee of the City of Pflugerville, Texas, has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the City Council of the City of Pflugerville, Texas.
 - (e) The recitals set forth above are incorporated herein.
- 7) Effective Date. This Agreement takes effect upon the last date of due execution of the Agreement by the County and the City.
- 8) Other Instruments. The Parties hereto covenant and agree that they will execute other and further instruments and documents as may become necessary or convenient to effectuate and carry out the purposes of this Agreement.
- 9) Invalid Provision. Any clause, sentence, provision, paragraph, or article of this agreement held by a court of competent jurisdiction to be invalid, illegal, or ineffective shall not impair, invalidate, or nullify the remainder of this Agreement, but the effect thereof shall be confined to the clause, sentence, provision, paragraph, or article so held to be invalid, illegal, or ineffective.
- 10) Conflicts with the Phase II MS4 General Permit. If any part of this agreement is found to conflict with the requirements of the Phase II MS4 General Permit (TXR40000), the requirements of the General Permit take precedence. The Parties agree to work cooperatively to rectify any such conflicts, should they arise.
- 11) Current Funds. The party or parties paying for the performance of governmental functions or services shall make payments therefore from current revenues available to the paying party.

CITY OF PFLUGERVILLE, TEXAS

By: 

Brandon Wade, City Manager

Date: 8/22/12

Approved as to Form:


George Hyde, City Attorney

TRAVIS COUNTY, TEXAS

By: _____
Samuel T. Briscoe, County Judge

Date: _____