

# *City of Kingsville, Texas*

---

## **AGENDA CITY COMMISSION**

**MONDAY, APRIL 22, 2013  
REGULAR MEETING**

**HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS  
CITY HALL/200 EAST KLEBERG AVENUE  
6:00 P.M.**

### **I. Preliminary Proceedings.**

#### **OPEN MEETING**

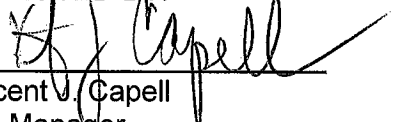
**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

#### **MINUTES OF PREVIOUS MEETING(S) – Required by Law**

Regular Meeting – March 25, 2013

Regular Meeting – April 8, 2013

APPROVED BY:

  
\_\_\_\_\_  
Vincent J. Capell  
City Manager

### **II. Public Hearing - (Required by Law).<sup>1</sup>**

### **III. Reports from Commission & Staff.<sup>2</sup> (City Manager's Staff Report Attached).**

*"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor. No formal action can be taken on these items at this time."*

### **IV. Public Comment on Agenda Items.<sup>3</sup>**

1. Comments on all agenda and non-agenda items.

**V.**

**Consent Agenda**

**Notice to the Public**

*The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.*

**CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:**

*(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration)*

1. Consider final passage of an ordinance amending the Fiscal Year 2012-2013 Utility Fund Budget for water treatment operations and modified permit penalties imposed by TCEQ. (Director of Finance).
2. Motion to approve out-of-state travel for City Commission and Staff to attend the National League of Cities - Congress of Cities and Exposition 2013 Conference on November 13-16, 2013, in Seattle, WA. (Commissioner Pecos).

**REGULAR AGENDA**

**CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:**

**VI. Items for consideration by Commissioners.<sup>4</sup>**

3. Consider resolution authorizing the City Manager to enter into a Memorandum of Understanding between the Kingsville Fire Department and U.S. Customs and Border Protection Office of Border Patrol, Rio Grande Valley Sector. (Fire Chief).
4. Consider introduction of an ordinance amending the Fiscal Year 2012-2013 Budget in Fund 065 Co 2011- General Fund for the Fire Department improvements to Fire Station #2. (Finance Director).
5. Consider introduction of an ordinance amending the Fiscal Year 2012-2013 Budget for the Building Security Fund and Municipal Court Technology Fund to purchase security cameras for Municipal Court and Collections departments, to update network load balancing, and to purchase a receipting machine and laptop computer for Municipal Court. (Finance Director).
6. Consider introduction of an ordinance abandoning an alley and retaining an easement for utility purposes in Block 34 of the Original Townsite of the City of Kingsville (alley is between Henrietta Ave & Yoakum Ave by the Epiphany School). (City Engineer/Public Works Director).
7. Consider accepting donation of surplus overhead canopy from the local HEB store. (Tourism Director).
8. Consider accepting a donation of large art print from the Art Department at Texas A&M University-Kingsville. (Tourism Director).
9. Consider resolution authorizing the Mayor to enter into a Second Amendment and Extension of the Kingsville Industrial District Agreement No. 92-02 between the City of

Kingsville and Ticona Polymers, Inc. (f/k/a Hoeschst Celanese or Celanese Engineering Resins, Inc.). (Director of Planning and Development Services).

## VII. Adjournment.

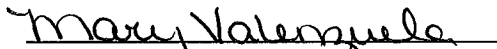
1. No person's comments shall exceed 5 minutes. Cannot be extended by Commission.
2. No person's comments shall exceed 5 minutes without permission of majority of Commission.
3. Comments are limited to 3 minutes per person. May be extended or permitted at other times in the meeting only with 5 affirmative Commission votes. The speaker must identify himself by name and address.
4. Items being considered by the Commission for action except citizens comments to the Mayor and Commission, no comment at this point without 5 affirmative votes of the Commission.

### NOTICE

This City of Kingsville and Commission Chambers is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 361/595-8002 or FAX 361/595-8024 or E-Mail mvalenzuela@cityofkingsville.com for further information. Braille Is Not Available. The City Commission reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.086 (Certain Public Power Utilities: Competitive Matters), and 551.087 (Economic Development).

I, the undersigned authority do hereby certify that the Notice of Meeting was posted on the bulletin board in the City Hall, 200 East Kleberg, of the City of Kingsville, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time:

April 18, 2013 at 11:30 A.M. and remained so posted continuously for at least 72 hours preceding the schedule time of said meeting.

  
Mary Valenzuela  
City Secretary  
City of Kingsville, Texas

This public notice was removed from the official posting board at the Kingsville City Hall on the following date and time: \_\_\_\_\_

By: \_\_\_\_\_  
City Secretary's Office  
City of Kingsville, Texas

# **MINUTES OF PREVIOUS MEETING(S)**

**MARCH 25, 2013**

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, MARCH 25, 2013 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 6:00 P.M.**

**CITY COMMISSION PRESENT:**

Sam Fugate, Mayor  
Dianne Leubert, Commissioner  
Noel Pena, Commissioner  
Al Garcia, Commissioner  
Arturo Pecos, Commissioner

**CITY STAFF PRESENT:**

Vincent J. Capell, City Manager  
Courtney Alvarez, City Attorney  
Mark Rushing, Finance Director  
Mike Kellam, Director of Planning & Development Services  
David Mason, Purchasing/IT Director  
Bill Donnell, Asst. Public Works Director  
Emilio Garcia, Health Director  
Ruthie Valdez, Interim Library Director  
Willie Vera, Task Force Commander  
Rose Morrow, Municipal Court Manager  
Melissa Perez, Risk Manager  
Joey Reed, Fire Chief  
Diana Medina, Collections Manager  
Diana Gonzales, Director of Human Resources

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate called the meeting to order in the City Commission Chamber at 6:00 P.M. and announced quorum as present.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

The invocation was delivered by Mark Rushing, Finance Director followed by the Pledge of Allegiance and the Texas Pledge.

**MINUTES OF PREVIOUS MEETING(S) – Required by Law**

Special Meeting – February 27, 2013  
Special Meeting – March 4, 2013  
Regular Meeting – March 11, 2013

Mayor Fugate asked for a motion to approve the minutes as presented. Commissioner Pecos and Garcia stated that due to their absences on March 11, 2013 they would like to vote on the minutes separately. No objections were made by the Commission.

Mayor Fugate asked for a motion to approve the minutes for February 27, 2013. Motion made by Commissioner Pena to approve the minutes for February 27, 2013 as presented, second by Commissioner Pecos. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena and Fugate voting "FOR".

Mayor Fugate asked for a motion to approve the minutes for March 4, 2013. Motion made by Commissioner Pecos to approve the minutes for March 4, 2013 as presented, second by Commissioner Garcia. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena and Fugate voting "FOR".

Mayor Fugate asked for a motion to approve the minutes for March 11, 2013. Motion made by Commissioner Pena to approve the minutes for March 11, 2013 as presented, second by Commissioner Leubert. The motion was passed and approved by the following vote: Leubert, Pena and Fugate voting "FOR". Garcia and Pecos "ABSTAINED".

## **II. Public Hearing - (Required by Law).<sup>1</sup>**

None

## **III. Reports from Commission & Staff.<sup>2</sup> (City Manager's Staff Report Attached).**

*"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor. No formal action can be taken on these items at this time."*

Mr. Vincent Capell, City Manager stated that he will be on vacation the week of April 1<sup>st</sup>-5<sup>th</sup>, 2013.

Mayor Fugate asked for an update on the Bigger Event that took place on Saturday, March 23<sup>rd</sup>. Mr. Mike Kellam, Director of Planning and Development Service commented that the event was a success. There was a higher count of volunteers this year than last years event and thanked all those that were involved in this event.

Mrs. Courtney Alvarez, City Attorney reminded staff that the deadline for submitting agenda items for the April 8<sup>th</sup> Commission meeting is Thursday, March 28<sup>th</sup>. She further stated that with regards to the EDA agreement with Zarsky Development, the recital on the first page will be modified to show that Mr. Stiffee will file an application for Zarsky Development.

Mayor Fugate presented two proclamations, one for Professional Social Work Month and one to Genaro Alejandro Deleon for Eagle Scout.

Commissioner Pena thanked the Boys Scouts Troop #186 for their Community Service in repainting the fire hydrants.

#### **IV. Public Comment on Agenda Items<sup>3</sup>**

1. Comments on all agenda and non-agenda items.

#### **V.**

##### **Consent Agenda**

##### **Notice to the Public**

*The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.*

##### **CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:**

*(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration)*

**Mayor Fugate asked for a motion to approve the consent agenda as presented. Commissioner Pecos made a motion to approve the consent agenda as presented, second by Commissioner Leubert. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena and Fugate voting "FOR".**

**1. Motion to approve final passage of an ordinance amending the Fiscal Year 2012-2013 Budget for Fund 054 Utility Fund Capital Projects Fund and Solid Waste Capital Projects Fund 087 to utilize Fiscal Year 2011-2012 unexpended funds. (Finance Director).**

**2. Motion to approve final passage of an ordinance amending the Fiscal Year 2012-2013 Budget for Certificate of Obligation Capital Project Fund Budgets for various Public Works Departments to utilize Fiscal Year 2011-2012 unexpended funds. (Finance Director).**

**3. Motion to approve a resolution authorizing the release of Chapter 59 Funds of the Kingsville Police Department for donation to the Palmer Drug Abuse Program (PDAP). (Police Chief).**

## **REGULAR AGENDA**

### **CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:**

#### **VI. Items for consideration by Commissioners.<sup>4</sup>**

##### **4. Consider conditional approval of Preliminary Plat for Wildwood Trails Subdivision located in the 1600 Block of Carlos Truan Blvd as per staff and P&Z recommendations. (Director of Planning & Development Services).**

Mr. Kellam stated the the Planning and Zoning Commission met on March 13, 2013 and recommends conditional approval. The conditions are as follows: 1) Full construction plans must be submitted which include installation of monuments, streets and street lights, sanitary sewers, storm sewers, sidewalks/hike & bike trails, water lines, and other improvements required in Article V of the Subdivision regulations; 2) In the upcoming construction plans and final plat the street currently named Park Drive needs to be changed to a dissimilar name, as a Park Drive already exists within the City's street network; 3) The preliminary plat drawings show the trees on the outer edge of the boulevard, closest to the property line. This placement is incorrect. On the forthcoming construction plans the trees will need to be moved inside the sidewalks, within the grass parkway between the sidewalk and the back of curb. The 11' area the trees are currently within are to be reserved for utility placement. A typical section was provided and is attached to further clarify the needed revision; 4) The area that connects from Laurel Street to the common area/walking trail needs to be labeled as common area/open space. Currently it is not labeled as such. This shall be included in the construction plan drawings and also the final plat; 5) The Caesar ditch culvert will be reviewed further once the construction plans are submitted to ensure the design can accommodate the off-site flow plus the flow from the site. The design should include the culvert, wingwalls, concrete rip-rap along the bottom and the banks and guard rails; 6) The Codes, Covenants and Restrictions (CCR's) requiring the ongoing maintenance of the common areas and open space to be carried out by the CCR's and the Homeowners Association, among other things, shall be filed with Kleberg County, which clearly state this, and a copy shall be provided to the City for their records. The applicant is agreeable to the conditions and stated its willingness to comply.

Commissioner Garcia opposed a question regarding the Caesar egest having a culvert within the area. Mr. Kellam stated that it will be off on both sides. Comissioner asked if there would only be one access from Caesar. Mr. Kellam responded there will be one access off of Caesar Street and Carlos Truan which is sufficient for fire protection.

**Motion made by Commissioner Garcia to consider conditional approval of preliminary plat for Wildwood Trails Subdivision located in the 1600 block of Carlos Truan, second by Commissioner Pecos. The motion was passed**



and approved by the following vote: Garcia, Leubert, Pecos, Pena and Fugate voting "FOR".

**5. Consider variance request from Economic Development Agreement Guidelines for minimum square footage in The Parks section of the Wildwood Trails Subdivision. (Director of Planning & Development Services).**

Mr. Kellam stated that the Economic Development Guidelines which were adopted by Commission, establishes a minimum square footage within a single family residence development to be 1300sqft, in order for it to be eligible for Economic Development incentives. The current plan shows 950sqft, the developer has agreed to increase to 1100sqft which include 2 car garages.

Commissioner Leubert opposed a question to Mr. Kellam as to why change from 1300sqft to 1100sqft.

Mayor Fugate asked Ms. Ricki Cunningham to address the Commission as to the change of square footage.

Ms. Ricki Cunningham 1210 Cypher, local real estate broker and represents the developer of Paulson Falls. She stated that the Frank Dodds Act requires borrowers to make their minimum credit scores higher. The medium house price in Kingsville range from \$110,000 to \$115,000. Homes over \$150,000 will sell and homes that are under \$150,000 are people who buy these homes within this price range and are locked out of being able to get financed. Homes that are 1100sqft will sell for about \$114,000.

Commissioner Leubert asked how many beds and baths are these homes. Ms. Cunningham stated that they will be 3 bedrooms with 2 baths and 2 car garage. Commissioner Leubert stated Kingsville is loosing Navy Personnel to Corpus Christi due to housing shortage. There is a high demand for homes in Kingsville.

Mr. Capell stated that the average size of homes will be 1200sqft and larger.

**Commissioner Pena made a motion to approve the variance with a minimum 1100 square feet and two car garage, second by Commissioner Leubert. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena and Fugate voting "FOR".**

**6. Consider resolution authorizing the Mayor to enter into an Economic Development Agreement with Zarsky Development Company, L.L.C. (for Wildwood Trails Subdivision). (Director of Planning & Development Services).**

Mr. Kellam explained the terms of the Economic Development Agreement between the City of Kingsville and Zarsky Development Company, LLC. He stated that the Commission approving the variance of 1100 square feet within The Parks of the Wildwood Trails Subdivision, 1400sqft within the Estates and 2200sqft within the Grande. The road construction and re-construction are to be done by Zarsky Development Company, LLC within the Wildwood Trails Phase I, II, III, & IV in Kingsville, Texas. This agreement is for a 5 year term with the option to extend for an additional 5 years upon the request of the developer. The

agreement meets Economic Development Agreement Guidelines that were adopted by the City Commission in January 2013. The terms of the agreement are for a total incentive package of \$820,750 through the City of that being \$300,000 in cash with the combination usage of reimbursements of money over what could be a ten (10) year period, but may payout quicker depending on the rate of development equaled to the M&O portion of the ad valorem city taxed paid on real property. The combination of cash and monetary incentives are never to exceed \$820,750 for a term no longer than ten (10) years. The City will pay \$300,000 cash upon verification of final plat recording and full financing of the development is shown. This will insure that the City is the last partner and safeguard tax payers funds. The reimbursement of monetary incentives will be disbursed once each year on March 1<sup>st</sup> for the term of the agreement, equal to that of the M&O portion of the city paid advalorem taxes provided by the new homes constructed within the development area. This will be paid out annual based on the number of homes that are built. The city will provide labor and equipment for the final overlay of the streets in Phases I, II, III, & IV of the Wildwood Trails Subdivision subject to certain conditions. These conditions are that the developer will pay for compaction and core sample testing of the roads in Phase I, II, III, & IV and will provide all of the materials needed for infrastructure assistance, the city will only be providing the labor. City Engineer will determine the location for all of the road testing done in Wildwood Trail Phases I, II, III, & IV. The City Engineer will be provided with a copy of the core sample testing and compaction testing results. At that time the City Engineer must be satisfied that the subgrade and base meet the City's road construction standards before any final overlay is placed on the roads in Phase I, II, III, & IV. Caliche based will only be allowed if a geotechnical engineering report states the acceptable specifications for use of a caliche base, instead of the prererred limestone base, and those specificaitons are followed. If the geothecnical report does not allow for a caliche base, or if the report does allow for a caliche base but the the specifications are not followed, then in either case a limestone base will be used for roadways in the subdivision. A homeowners association must be created to carry out the codes, covenants, and restrictions throughout the subdivision, which must include but not limited to maintenance of the common areas, boulevard landscape/trees, and the detention pond. The developer shall be responsible for carrying out the codes, covenants, and restrictions shall be submitted to the City for review and approval prior to application for final plat/or recording of the plat. City will assume responsibility for the water cost for drip irrigation in the mdians of the main boulevard of the subdivision until homeowner occupancy reaches 60% of the 184 lots or until December 31, 2018, whichever comes first, at which time the homeowners association shall assume responsibility for said water costs, maintenance of the boulevard landscape/trees. City will look into possible methods of ensuring conformance with maintenance of the common areas that are to be addressed in the codes covenants, and restrictions in the event the homeowners association fails to perform them. Should Kleberg County decide not to participate in any economic incentives with Zarsky Development Company, LLC for the Wildwood Trails Subdivision, then the City will also not provide any incentives for the project.

Commissioner Garcia asked if Kleberg County has agreed to this incentive agreement. Mr. Kellam stated that there has been some discussion with the County but no agreement has been formally made.

Mr. Capell commented that Kleberg County has not taken an official action on this issue.

Mayor Fugate asked what fund the \$300,000 would be coming from. Mr. Capell responded from Fiscal Year 2012 additional budget savings. Mayor Fugate asked how much money will be used on streets for the next paving period. Mr. Capell stated that \$900,000 will be used for four miles of work.

Mr. Kellam stated that the City will receive additional revenue once the subdivision is constructed.

Commissioner Pena stated that by allowing the City to partner with the developer, does this set precedence to other developers to come in and expect the City to use tax payers money for any future development within the City of Kingsville.

Mr. Kellam responded that it will depend on the economic activity of our city. Although we are a city government, the city is still in a competitive business and that would be to attract developers to come into our city and develop. As the development occurs, and demand catches up with the supply, the Commission has the opportunity to determine what is needed and how public funds should be used.

Mrs. Alvarez stated that the Commission has the flexibility to offer it or not. Its market driven and there would not be anything in the guidelines specifically stating that because it's done for one does not mean it will be done for the next.

Mayor Fugate stated that in the past it has been hard to bring in developers to come into Kingsville to build homes without the City and County getting involved. There are some citizens that don't understand as to why the City is getting into this partnership. The biggest problem that Kingsville has is shortage of homes which makes us loose citizens to our neighboring cities. There are benefits from having this development done in Kingsville. This will give our city more water connections, sales tax revenue and have citizens that will come into our community that will get involved in projects and possibly serve on boards.

**Motion made by Commissioner Leubert to authorize the Mayor to enter into an Economic Development Agreement with Zarsky Development Company, LLC, second by Commission Pena. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena and Fugate voting "FOR".**

**Mayor Fugate called for a five minute recess at 7:12 P.M.**

**Mayor Fugate called the meeting back into session at 7:20 P.M.**

**7. Consider resolution authorizing the Mayor to enter into a contract for Municipal Court Fines & Fees Collection Services with Linebarger Goggan Blair and Sampson, LLP (RFP# 13-07). (Director of Purchasing & IT).**

Mr. David Mason, Purchasing/IT Director reported that this item will approve the contract for municipal court collections with Linebarger Goggan Blair & Sampson, LLP. Approval was given to negotiate the contract at the March 11, 2013 Commission meeting. The only difference in the contract is the effective date, which will be April 1, 2013.

Commissioner Pena asked if there had ever been a contract in the past for Municipal Court.

Mrs. Alvarez commented that there had been a contract in place back in 2002 or 2003 that lasted for one or two years but since then, there has not been one in place.

**Motion made by Commissioner Garcia to authorize the Mayor to enter into a contract for Municipal Court Fines & Fees Collection Services with Linbarger Goggan Blair and Sampson, LLP, second by Commissioner Pena. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena and Fugate voting "FOR".**

**8. Consider resolution authorizing the Mayor to enter into a Pre-Event Contract for Disaster Recovery Services with AshBritt, Inc. for emergency debris removal services. (Director of Purchasing & IT).**

Mayor Fugate asked if this was the same contract as previously done in 2008. Mrs. Alvarez stated that this contract is a bit different but the terms are the same.

**Motion made by Commissioner Garcia to approve this resolution, second by Commissioner Pecos. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena, and Fugate voting "FOR".**

**9. Consider authorizing the purchase and installation of trees in the medians on West Santa Gertrudis corridor landscaping project (between Seale Street and Hwy. 141) by Border Link, LLC as per staff recommendation. (Director of Purchasing & IT).**

Mr. Mason reported that this item will approve the purchase and installation of fifty-eight (58) Cedar Elm trees to be evenly planted in the median on West Santa Gertrudis between Seale Street and Highway 141. Quotes were requested on or about February 18, 2013. A total of eleven (11) requests for quotes were sent to potential vendors locally and regionally. One quote was received, that of Border Link, LLC for a total \$36,930.00. It is recommended the corridor landscaping contract be awarded to Border Link, LLC, 1409 N. Stuart Place Rd., Suite A, Harlingen, TX 78552. This contractor provided and planted the palms along General Cavazos Boulevard and has a successful track record with the City of Kingsville. Along with the quote amount of \$36,930.00 we are requesting an additional ten percent (10%), in the amount of \$3,693.00, to serve as a contingency amount which brings the total request to \$40,623.00 for the project. These funds will come from surplus for Fiscal Year 2011-2012.

Commissioner Leubert asked if this is the best time to plant new trees due to the drought conditions.

Mr. Kellam stated that fall is the best time nationwide but after talking to the contractor, these types of trees can be planted in a drought condition but must

have a proper watering schedule which is in place already. Some research has been done on Cedar Elm trees which are a native tree and drought tolerant.

Commissioner Leubert stated that these trees will enhance the corridor within this area.

Commissioner Garcia asked what the canopy radius and asked for the height of these trees.

Mr. Kellam stated they are 40ft wide and 50ft in height at full maturity and in perfect condition.

**Motion made by Commissioner Pecos to authorize the purchase and installation of trees, second by Commissioner Garcia. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena and Fugate voting "FOR".**

**10. Consider introduction of an ordinance amending the Fiscal Year 2012-2013 Budget for Community Appearance to fund the purchase and installation of trees for the West Santa Gertrudis corridor landscaping project. (Finance Director).**

Mr. Rushing stated that this budget amendment corresponds with agenda item 9.

**Introduction item only.**

**11. Consider introduction of an ordinance amending Section 15-1-56, adopting the 2011 Edition of the National Electric Code, & Section 15-1-62, repealing owners permits. (Director of Planning and Development Services).**

Mr. Kellam stated that this is an update to the National Electric Code that was adopted by the City in 2005. There are certain design standards in the 2011 code that were not in 2005 regarding safety features. The current code language allows for untrained residents to take an electrical exam administered by the City in order to perform electrical work within their own home. This section is proposed to be removed from the ordinance due to several safety concerns and problems that were arising in the field such as incorrect and unsafe installation of electric service by the home owners causing extreme fire hazards if not detected by the inspectors during installation. The effective date in which we will begin utilizing the aforementioned NEC Code will be April 8, 2013.

Commissioner Leubert stated that her concerns are, that if an individual passes the electrical exam provided by the city they are allowed to perform their own electrical work within their home. If the city removes this section, the homeowner will be required to hire an electrical contractor which could cost the homeowner more money.

**Introduction item only.**

**12. Consider authorizing award of Dumpster Enclosures Project Phase 2 to Mendez Welding & Contracting as per staff recommendation. (Bid #13-09). (Director of Purchasing & IT).**

Mr. Kellam stated that this phase is the remainder of the dumpster project that is in a major thoroughfare which includes 121 dumpsters that will be enclosed. The enclosure is a three sided enclosure for all dumpsters.

Commissioner Leubert asked for the dollar breakdown for each dumpster enclosure. Mr. Kellam responded around \$525.

Mr. Mason stated that due to the estimates being over \$50,000, the City advertised for sealed bids on February 24, 2013 and March 3, 2013 as well as posting on our website. Three companies responded with bids as referenced in the bid tab. The apparent low bidder, Olivarez Parking Lot Striping Co. did not include a Bid Bond, so it is recommended the Bid be awarded to Mendez Welding & Contracting for the base project price of \$63,749.00.

**Motion made by Commissioner Garcia to authorize award of Dumpster Enclosures Project Phase 2 to Mended Welding & Contracting as per staff recommendation, second by Commissioner Pecos. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena and Fugate voting "FOR".**

**13. Consider introduction of an ordinance amending the Fiscal Year 2012-2013 budget for the Planning Department's Community Appearance Division to fund the second phase of the Dumpster Enclosure Project utilizing FY12 Fund Surplus. (Director of Finance).**

Mr. Rushing stated that this ordinance corresponds with agenda item 12 which will be paid from fiscal year 2012.

Commissioner Pecos asked about painting the dumpster enclosures.

Mr. Capell stated that a letter was mailed to all customers with a dumpster to not alter the dumpster and enclosure.

Mr. Kellam stated that notification will be sent to customers stating that it is their responsibility to keep the area clean and dumpster enclosures are not to be altered.

**Introduction item only.**

**14. Consider introduction of an ordinance amending the Fiscal Year 2012-2013 Certificate of Obligation Capital Project Funds budgets for various Public Works Departments to utilize Fiscal Year 2011-2012 unexpended funds & General Fund to utilize auction revenues. (Director of Finance).**

Mr. Rushing reported that \$186,153 was appropriated for last fiscal year fund 091 and initially there was \$269,378 of which \$80,000 was spent leaving a balance of \$189,093 last year. This fiscal year \$186,153 is needed to finish Ailsie Street. Second portion that is also coming from fund 091 is relating to the welding shed \$22,822 and for the canopy \$24,537 for a subtotal of \$47,359. Money was appropriated last year on the welding shed that had \$23,080 budgeted and expended only \$257.12. Projects from 062 fund budget remaining for the influent valve is \$20,000 which expended only \$10,000 of that money. In the building maintenance of the shed roof, \$8,000 and blower building repairs of \$18,200 for a subtotal of \$56,200 to finish those projects that were initially setup for last year

that would need to be completed this fiscal year. In the general fund where assests were sold that relate to street, sanitation and landfill, what staff is doing is budgeting those original revenues in appropriating additional expenditures correspondingly with those departments which will be \$30,000 on vehicle maintenance for the street department, \$5,525 for rollouts, extended warranty on the compactor is \$16,877 for a subtotal of \$52,402.

**This item is an introduction item only.**

**15. Consider authorizing the construction of a new pump house for Water Well #19 (RFP# 13-08) by Rusty Van Fleet Construction as per staff recommendation. (Director of Purchasing & IT).**

Mr. Mason reported that this item will authorize the construction of the new pump house for Water Well #19. The design of the current pump house with below grade location of the pump allows for the submersion of the pumps in flood or near flood conditions. Preliminary analysis done by Ferrell/Brown Architects in January 2012 estimates the cost to restore the pump house to bring the pumps, piping, fittings, electrical, etc. These costs are estimated to be at least \$100,000 or more. Also, Well #19 is the best well in terms of water quality and quantity capable of pumping 900gpm. For these reasons it was decided to seek bids on a new well house complete with new pumps, piping, fixtures, electrical, etc. Also, this allows for possible adaptive reuse of the building by the Volunteer Fire Department to park the antique La France Fire Truck as well as other uses consistent with the surrounding area's features such as the garden and park. The City of Kingsville was assisted in the design and bid process by Mr. Homero Castillo, P.E. of Alpha Engineering in this project. Advertisement for this proposal was done on January 13, 2013 and January 20, 2013, as well as posting the information on the City of Kingsville website. A prebid meeting was held Tuesday, January 29, 2013 at 10:00 a.m. with site visitation. A total of eleven persons including City staff attended the meeting. It is recommended the bid be awarde to local contractor, Rusty Van Fleet Construction. As viewed on the attached bid tabulation, Rusty Van Fleet is low bidder at \$287,000. This will expend \$287,000 from fund 054, Capital Projects. Fund 54 capital projects are cash funded from utility revenues.

**Motion made by Commissioner Pecos to authorize the construction of a new pump house for Water Well #19, second by Commissioner Garcia. The motion was passed and approved by the following vote: Garcia, Luebert, Pecos, Pena and Fugate voting "FOR".**

**16. Consider introduction of an ordinance amending the Fiscal Year 2012-2013 budget for Water Departments to fund well house #19. (Director of Finance).**

Mr. Rushing stated this budgetment is in two sections. The first section is restoring the fund balance of \$200,000 appropriated in FY 2013 in error. This occurred on 2 different line items as follows, 054-5-600.2-720.19 Water Well for \$200,000 and 054-5-600.2-720.20 Well House for \$200,000. This error occurred when using the new budget listing Incode software and turnover in the Accounting Manager position.

Introduction item only.

**17. Consider resolution authorizing the City Manager to enter into a Marketing Agreement with Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America ("SLWA"). (Commissioner Garcia).**

Brian Davis, National League of Cities Service Line Warranties of America Program stated that this program will benefit the citizens of Kingsville. The program offers external sewer and external water line warranties at a 12% discount from its standard rates to the citizens of the City of Kingsville. Homeowners can take advantage of this service line warranty for a little less than \$8.00 per month for sewer line and less than \$6.00 for water line. The discount is offered at a low rate due to the City not opting to take the 12% royalty and would rather pass the discount to their citizens. There is a 30 day wait period after citizens register into the program. The coverage is for \$4,000 per incident for citizens that register into this program.

Commissioner Leubert asked if NLC or the City sent any letters to the citizens notifying them of this service and what is the average cost per resident.

Mr. Davis stated that no letters have been sent out on behalf of NLC. The average cost is \$5.50 per month for water line and \$7.50 per month for sewer line.

Mayor Fugate asked how this company is associated with the National League of Cities.

Mr. Davis stated that NLC has an exclusive partnership program with 5 or 6 companies for this type of program and his company is one of them.

Commissioner Garcia asked if this coverage is offered to all property owners.

Mr. Davis responded that only owner occupied households and for any rental properties that the occupants may want to sign up for the program.

**Motion made by Commissioner Garcia to authorize the City Manager to enter into a Marketing Agreement with Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America, second by Commissioner Pecos. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena voting "FOR". Mayor Fugate voting "AGAINST".**

**VII. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 8:27 P.M.

---

Sam R. Fugate, Mayor

ATTEST:

---

Mary Valenzuela, City Secretary



**APRIL 8, 2013**

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, APRIL 8, 2013 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS 200 EAST KLEBERG AVENUE AT 6:00 P.M.**

**CITY COMMISSION PRESENT:**

Sam Fugate, Mayor  
Dianne Leubert, Commissioner  
Noel Pena, Commissioner  
Al Garcia, Commissioner  
Arturo Pecos, Commissioner

**CITY STAFF PRESENT:**

Vincent J. Capell, City Manager  
Mary Valenzuela, City Secretary  
Courtney Alvarez, City Attorney  
Tony Verdin, Information Systems Technician  
Mark Rushing, Finance Director  
Mike Kellam, Director of Planning & Development Services  
Bill Donnell, Interim Public Works Director  
Emilio Garcia, Health Director  
Ruthie Valdez, Interim Library Director  
Melissa Perez, Risk Manager  
Joey Reed, Fire Chief  
Daniel Ramirez, Building Official  
Jennifer Bernal, Community Appearance Supervisor  
Ricardo Torres, Chief of Police  
Bob Trescott, Tourism Director  
Cynthia Martin, Downtown and Volunteer Manager  
Dionicio Perez, Building Inspector

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate called the meeting to order in the City Commission Chamber at 6:00 P.M. and announced quorum as present.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

The invocation was delivered by Mark Rushing, Finance Director followed by the Pledge of Allegiance and the Texas Pledge.

**MINUTES OF PREVIOUS MEETING(S) – Required by Law**

NONE

**II. Public Hearing - (Required by Law).<sup>1</sup>**

**1. Public hearing regarding condemnation proceeding for structures located at 1107 W. Kenedy, Kingsville, Texas. (Director of Planning & Development Services).**

Mayor Fugate opened this public hearing at 6:02 P.M.

Mrs. Courtney Alvarez, City Attorney commented that Commission would have to hear from staff first, then allow individuals from the public to speak to Commission after staff presents their report on behalf of these condemnations.

Mr. Mike Kellam, Director of Planning & Development Services reported that the structure located on 1107 W. Kenedy has had some notices of violation. The condition report shows that there is a lot of issues with the structure that make it unsafe and delapidated. The structure is beyond repair over 50% of the value of the structure. The roof and walls have collapsed and windows are broken it also houses rodents, rats, and snakes and other vermouth. This structure has not had water services since May, 2005. Tax statements show that the taxes have been kept up to date as of 2012. Staff has provided proper notices and public hearing notices and recommends for this structure to be placed for a demolition order by the city due to its current delapidated state.

Ms. Sandy Gutierrez, 8220 Robin Rest Drive San Antonio, stated that she is representing her father Evan Gutierrez who is the property owner and is here to address the issues with the structure located at 1107 W. Kenedy. She stated that she understands the disrepair that this structure is in but, would like the opportunity to fix the structure and therefore is asking the Commission for 30 days to repair the roof, replace subflooring, broken windows and install a fence around structure.

Commissioner Pena stated that the City goes through a process of mailing notices to property owners and asked Mrs. Gutierrez if she had received any of those notices.

Ms. Gutierrez stated that her mom receives Mr. Evan Gutierrez's mail but does not open it since they are separated. She stated that her mom called her to notify her of this issue.

Commissioner Leubert asked how long this structure has been unoccupied.

Ms. Gutierrez responded around 10 years.

Commissioner Leubert asked if anyone in the family had ever accessed the property.

Ms. Gutierrez stated that due to her father having a heart surgery 8 years ago, nobody has been by the property since. She further stated that they have hired help to mow the grass and keep up with the yard. She stated that after walking through the property today, she noticed that garbage in the backyard and stated that she can rent dumpster and have it cleaned up.

Mayor Fugate stated that for 10 years, neighbors within this location have had to look at this property and would like for something to be done.

Ms. Gutierrez stated that if Commission would allow her the 30 days, she can improve the property and then allow the city to reinspect the property, if not, she will demolish the structure herself.

Commissioner Leubert asked what she would do within those 30 days.

Ms. Gutierrez stated that she would retrieve roofing permits, hire a crew to clean the yard, build a fence around the structure to control the surrounding area then start work on the interior of the structure.

Commissioner Garcia asked what type of material is used on the side of the house.

Mr. Kellam responded that the material is wood planks.

Mayor Fugate stated that it should not have to come to this point for property owners to clean up their property.

Mayor Fugate closed this public hearing at 6:15 P.M.

**2. Public hearing regarding condemnation proceeding for structures located at 619 E. Lee, Kingsville, Texas. (Director of Planning & Development Services).**

Mayor Fugate opened this public hearing at 6:15 P.M.

Mr. Kellam reported that this property has numerous notices of violation for the past year which is when Community Appearance has taken over. There are existing nuisance and notice of violations when the operation was underneath the Health Department. The condition of the building has broken windows, consistent high grass and no water account since 2006. It also has unstable foundation issues and decomposed interior due to termites and mold. This property has back taxes since 2004 in the amount of \$3,200. Staff has provided proper notices and public hearing notices and recommends for this structure to be placed for a demolition order by the city due to its current state of the structure.

Commissioner Pecos asked if staff has received any contact from the property owner of this structure.

Mr. Kellam stated that staff has not had any contact with the property owner.

Mayor Fugate closed this public hearing at 6:20 P.M.

**3. Public hearing regarding condemnation proceeding for structures located at 512 E. Alice, Kingsville, Texas. (Director of Planning & Development Services).**

Mayor Fugate opened the public hearing at 6:20 P.M.

Mr. Kellam reported that the original inspection was done July 30, 2012. There is no roof on the structure and no water service since 2003. The structure is unsecure and abandon with no plumbing or sanitary utilities are provided within the structure and has back taxes since 2007 with a balance of \$2,300. Staff has provided proper notices and public hearing notices and recommends for this structure to be placed for a demolition order by the city due to its current state of disrepair.

Commissioner Pecos asked if staff has received any contact with the property owner of this structure.

Mr. Kellam responded that there has been no contact from the property owners.

Mayor Fugate closed this public hearing at 6:23 P.M.

**4. Public hearing regarding condemnation proceeding for structures located at 330 W. Nettie, Kingsville, Texas. (Director of Planning & Development Services).**

Mayor Fugate opened this public hearing at 6:23 P.M.

Mr. Kellam reported that this structure has a consistent violation history. City has abated this property at least once and has no water services since 2005. The structure has delapidated walls and cracked foundation.

Mayor Fugate asked if staff has received any contact from the property owner.

Mr. Kellam stated that there has been no contact from the property owners.

Mayor Fugate closed this public hearing at 6:25 P.M.

**5. Public hearing regarding condemnation proceeding for structures located at 400 E. Caesar, Kingsville, Texas. (Director of Planning & Development Services).**

Mayor Fugate opened this public hearing at 6:25 P.M.

Mr. Kellam reported that this is the old County Hospital next to Saint Gertrude Catholic Church and Elementary School. This structure has had no water services since April 2010 and has had notice of violations since June 7, 2012. The City has abated this property for high weeds and noxious matter in December 18, 2012. The structure has also had 2 electrical fire calls and back taxes since 2009 for an amount of \$18,000. Staff has provided proper notices and public hearing notices and recommends for this structure to be placed for a demolition order by the city due to its current delapidated state.

Commissioner Pecos stated that with this structure being so large, will this take a lot of space in the landfill.

Mr. Kellam stated that it has been taken into consideration and an environmental testing will need to be done for asbestos. Staff is working on bids as to the cost for this demolition, upon Commission approval.

Mrs. Debbie Hickman Schlomach stated that the building is not all in disrepair and is asking Commission to allow her 6 months to repair what is salvageable of this structure and possibly sale the property. This structure was used for a storage for the past 33 years.

Commissioner Leubert asked if anything has been done in the last 5 years.

Mrs. Schlomach stated that nothing has been done in the last 3 years.

Commissioner Leubert asked if anyone has had any interest in this property.

Mrs. Schlomach stated that no one has had any interest in this property.

Commissioner Garcia asked what is going to become of this structure if Commission allows the additional time requested.

Mrs. Schlomach stated that she would try selling the property.

Commissioner Pecos asked Mrs. Schlomach if she understands that if the City demolishes this building, she is responsible for the cost of the demolishing and if the expenses are not paid back to the City, the City will file a property lien on the property.

Mrs. Schlomach asked if the cost would be divided upon her family.

Mayor Fugate stated that she would need to consult with her attorney with regards to dividing cost amongst the family.

Terry Schlomach, 316 E. Fordyce, stated that he has been maintaining the building for the past 10 years. He further stated that the building is secure and to have someone come into the building it would take tools to break into the building. The two fires in the past were from individuals who have broken into the building. He is asking for Commission to allow him 60 days to board up the building and actively pursue selling it.

Mayor Fugate closed this public hearing at 6:40 P.M.

### **III. Reports from Commission & Staff.<sup>2</sup> (City Manager's Staff Report Attached).**

*"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor. No formal action can be taken on these items at this time."*

Mr. Capell, City Manager, reported that Mr. Charlie Cardenas, new City Engineer will begin working with the City of Kingsville on April 15, 2013. He further reported that during this week he will be emailing some information on a retreat session.

Mrs. Alvarez reported that the next Commission meeting is scheduled for April 22, 2013 and deadline for agenda items is Friday, April 12, 2013.

### **IV. Public Comment on Agenda Items<sup>3</sup>**

1. Comments on all agenda and non-agenda items.

Mr. Terry Schlomack, 316 E. Fordyce, commented about the service provided by the local cable company in Kingsville and asked for Commission to look into the poor service provided.

Rami Garza, 2801 S. Brahma Blvd. stated that he is also unhappy with the services provided by CMA Cable Company. He would like for the City to allow other cable companies into the area.

Tad (unclear of lastname) 2801 S. Brahma Blvd., stated that he is also unhappy with the services provided by CMA Cable Company and would like to see other cable companies offered in Kingsville.

V.

### **Consent Agenda**

### **Notice to the Public**

*The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.*

### **CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:**

*(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration)*

Mayor Fugate asked for a motion to approve the consent agenda as presented. Commissioner Garcia made a motion to approve the consent agenda as presented, second by Commissioner Pecos. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena and Fugate voting "FOR".

**1. Consider final passage of an ordinance amending the Fiscal Year 2012-2013 Budget for Community Appearance to fund the purchase and installation of trees for the West Santa Gertrudis corridor landscaping project. (Finance Director).**

**2. Consider final passage of an ordinance amending the Fiscal Year 2012-2013 budget for the Planning Department's Community Appearance Division to fund the second phase of the Dumpster Enclosure Project utilizing FY12 Fund Surplus. (Director of Finance).**

**3. Consider final passage of an ordinance amending the Fiscal Year 2012-2013 Certificate of Obligation Capital Project Funds budgets for various Public Works Departments to utilize Fiscal Year 2011-2012 unexpended funds & General Fund to utilize auction revenues. (Director of Finance).**

**4. Consider final passage of an ordinance amending the Fiscal Year 2012-2013 budget for Water Departments to fund well house #19. (Director of Finance).**

**5. Consider approval of a resolution authorizing participation in the Bullet Proof Vest Partnership Program FY2013 with the U.S. Department of Justice for bulletproof vests for the Kingsville Police Department; authorizing the Chief of Police to act on the City's behalf with such program. (Chief of Police).**

## **REGULAR AGENDA**

### **CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:**

#### **VI. Items for consideration by Commissioners.<sup>4</sup>**

**6. Consider condemnation of structures located at 1107 W. Kenedy, Kingsville, Texas. (Director of Planning & Development Services).**

Mayor Fugate opposed a question to Mr. Kellam, if Ms. Sandy Gutierrez can rehabilitate the property within thirty days.

Mr. Kellam responded unfortunately no. He stated that there will be a lot of engineering cost for an assessment which is going to take more than thirty days. He stated that he understands that Ms. Gutierrez has just become aware of this issue, but several notices were sent since June, 2012. He stated that he understands what the family is trying to do, but staffs professional opinion is that this structure is not savable.

Ms. Gutierrez stated that within her family members, she has professional engineers who can make an assessment of the structure to see if it's even worth fixing. She further stated that if it's not fixable she would demolish the property herself.

**Motion made by Commissioner Leubert to allow the family thirty (30) days to work with city staff for the structure located at 1107 W. Kenedy to see if they can come up with something, and within the thirty (30) days make a decision on whether the structure is salvageable or condemned, second by Commissioner Pecos.**

Mayor Fugate recommended for Commission to pass on this item and allow the property owner thirty (30) days to make an assessment regarding this property. He further stated that he would like for this item to be placed back on the agenda for the May 28, 2013 meeting.

**Commissioner Leubert and Commissioner Pecos withdrew their motion.**

**7. Consider condemnation of structures located at 619 E. Lee, Kingsville, Texas. (Director of Planning & Development Services).**

**Commissioner Pecos made a motion finding not able to repair building or structure is unsafe; and present condition is a violation of ordinances; and cannot be corrected without substantial reconstruction; then declare the building or structure to be a public nuisance and order its demolition by owner/agent/person in charge within thirty (30) days (city shall abate in any manner it deems necessary and proper), second by Commissioner Leubert. The motion was passed and approved by the following vote: Leubert, Pecos, Pena, Garcia and Fugate voting "FOR".**

**8. Consider condemnation of structures located at 512 E. Alice, Kingsville, Texas. (Director of Planning & Development Services).**

Commissioner Pecos made a motion finding not able to repair building or structure is unsafe; and present condition is a violation of ordinances; and cannot be corrected without substantial reconstruction; then declare the building or structure to be a public nuisance and order its demolition by owner/agent/person in charge within thirty (30) days (city shall abate in any manner it deems necessary and proper), second by Commissioner Garcia. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, Leubert and Fugate voting "FOR".

**9. Consider condemnation of structures located at 330 W. Nettie, Kingsville, Texas. (Director of Planning & Development Services).**

Commissioner Pecos made a motion finding not able to repair building or structure is unsafe; and present condition is a violation of ordinances; and cannot be corrected without substantial reconstruction; then declare the building or structure to be a public nuisance and order its demolition by owner/agent/person in charge within thirty (30) days (city shall abate in any manner it deems necessary and proper), second by Commissioner Pena. The motion was passed and approved by the following vote: Pena, Garcia, Leubert, Pecos and Fugate voting "FOR".

**10. Consider condemnation of structures located at 400 E. Caesar, Kingsville, Texas. (Director of Planning & Development Services).**

Mr. Kellam stated that the reuse of this building would be impossible. There is evidence showing that this facility is not a viable option or it would still be moving forward in that direction.

Mayor Fugate stated that there has to be a purpose for these types of structures and he can't see any purpose to keep this building.

Commissioner Pecos made a motion finding not able to repair building or structure is unsafe; and present condition is a violation of ordinances; and cannot be corrected without substantial reconstruction; then declare the building or structure to be a public nuisance and order its demolition by owner/agent/person in charge within thirty (30) days (city shall abate in any manner it deems necessary and proper), second by Commissioner Garcia. The motion was passed and approved by the following vote: Garcia, Leubert, Pecos, Pena and Fugate voting "FOR".

**11. Consider final passage of an ordinance amending Section 15-1-56, adopting the 2011 Edition of the National Electric Code, & Section 15-1-62, repealing owners permits. (Director of Planning and Development Services).**

Mr. Kellam stated that this ordinance is to formally recongnize the 2011 NEC verses the 2005 and also repealing section 15-1-62 regardin owners permit and testing.

Commissioner Leubert stated that by brining this code up to the 2011 edition is fine, but she has a concern repealing the owners permit. She stated that it's the



city burden for not keeping up with the test. She asked how hard would it be bring that test up to date.

Mr. Kellam stated that the test isn't the issue, it's that the majority of the permits issued are based on the owners test and the owners permit, where they do the work and it was unsafe and wouldn't call back for an inspection.

**Motion made by Commissioner Garcia to adopt final passage of this ordinance adopting the 2011 Edition of the National Electrical Code and repealing owners permits, second Commissioner Pecos. The motion was passed and approved by the following vote: Pecos, Pena, Garcia, and Fugate voting "FOR". Leubert voting "AGAINST".**

**12. Consider introduction of an ordinance amending the Fiscal Year 2012-2013 Utility Fund Budget for water treatment operations and modified permit penalties imposed by TCEQ. (Director of Finance).**

Mr. Rushing stated that this is an introduction of an ordinance for the TCEQ penalties. He stated that there has been a reduction on the penalty fee from \$34,040 to \$30,533 which is a reduction of \$3,507.

Commissioner Leubert asked if the penalty will be paid or is the City doing an SEP.

Mrs. Alvarez stated that the SEP will be used.

**Introduction item only.**

**VII. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 7:12 P.M.

---

Sam R. Fugate, Mayor

ATTEST:

---

Mary Valenzuela, City Secretary

# **PUBLIC HEARING(S)**

# **CONSENT AGENDA**

# **AGENDA ITEM #1**

ORDINANCE NO. 2013-

**AN ORDINANCE AMENDING THE FISCAL YEAR 2012-2013 UTILITY FUND BUDGET FOR WATER TREATMENT OPERATION AND MODIFIED PERMIT PENALTIES IMPOSED BY TCEQ.**

**WHEREAS**, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2012-2013 budget be amended as follows:

CITY OF KINGSVILLE  
DEPARTMENT EXPENSES  
BUDGET AMENDMENT

Dept. No.	Department Name:	Account Name:	Account Number:	Budget Increase	Budget Decrease
<hr/>					
<b>Fund 51 Utilities Fund</b>					
<u>Capital</u>					
2	Fund Balance	Unreserved Fund Balance	610.00		<u>\$30,533</u>
					<u>\$30,533</u>
<u>Expenses</u>					
5-700.1	North Plant	State Fees-TCEQ Penalties	321.10	\$26,390	
5-700.3	Sewer Constr.	State Fees-TCEQ Penalties	321.10	<u>\$4,137</u>	
				<u>\$30,533</u>	

[To budget for Waste Water Treatment operation and modified permit penalties imposed by TCEQ.]

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the \_\_\_ day of \_\_\_\_\_, 2013.

**PASSED AND APPROVED** on this the \_\_\_ day of \_\_\_\_\_, 2013.

EFFECTIVE DATE: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

ATTEST:

\_\_\_\_\_  
Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Courtney Alvarez, City Attorney

## Mark Rushing

---

**From:** Mark Rushing  
**Sent:** Thursday, April 04, 2013 10:28 PM  
**To:** James Bryson  
**Cc:** Mark Rushing  
**Subject:** Fwd: Wastewater NOE documents  
**Attachments:** 3-15-13\_PAL.pdf; ATT00001.htm; SEPrespondent-10-01-10.docx; ATT00002.htm

We may need to revise for Monday

Sent from my iPhone

Begin forwarded message:

**From:** "Bill Donnell" <[wdonnell@cityofkingsville.com](mailto:wdonnell@cityofkingsville.com)>  
**To:** "Vincent J. Capell" <[vcapell@cityofkingsville.com](mailto:vcapell@cityofkingsville.com)>  
**Cc:** "Courtney Alvarez" <[calvarez@cityofkingsville.com](mailto:calvarez@cityofkingsville.com)>, "Mark Rushing" <[mrushing@cityofkingsville.com](mailto:mrushing@cityofkingsville.com)>  
**Subject:** FW: Wastewater NOE documents

Mr. Capell,

I am requesting the final NOE calculation report from TCEQ, the penalty was reduced by \$3,507.00 and should reflect a reduction on the budget amendment line item 5-700.1-321.10. I will work on the attached SEP forms. Thanks

From: Jeremy Escobar [<mailto:jeremy.escobar@tceq.texas.gov>]  
Sent: Thursday, April 04, 2013 2:29 PM  
To: Bill Donnell  
Subject: RE: Wastewater NOE documents

Mr. Donnell,

After reviewing the documents, my management did agree to the compliance date changes you and Mr. Garcia proposed. The new assessed penalty amount is \$30,533. Attached is the SEP application and a list of the pre-approved SEPs that are available. Please fill out the application and return it to me so I can forward the case to our SEP coordinator. Thank you for your continued cooperation.

Jeremy Escobar, Coordinator  
Enforcement Division  
Texas Commission on Environmental Quality  
Ph. (361) 825-3422 Fax (361) 825-3437

From: Bill Donnell [<mailto:wdonnell@cityofkingsville.com>]  
Sent: Monday, March 11, 2013 3:51 PM  
To: Jeremy Escobar  
Cc: Naim Khan; Courtney Alvarez



# ENGINEERING

DATE: March 12, 2013

TO: Vincent Capell, City Manager

FROM: Naim Khan, City Engineer/Director of Public Works

SUBJECT: TCEQ - Notice of Enforcement Action for effluent violations

Texas Commission on Environmental Quality conducted an investigation on October 1 through October 9, 2012 for the City's wastewater effluent compliance. They documented several violations.

- a. There was an unauthorized discharge of untreated wastewater caused by a broken sewer collection line at the intersection of Lee Avenue and 17<sup>th</sup> Street that allegedly killed approximately 33 fish in Tranquitas Creek;
- b. The City was not submitting the total copper attainment progress reports on a quarterly basis to TCEQ for the period of October 2010 through October 2012;
- c. Staff was using arithmetic average rather than geometric mean for the bacteria calculation for the daily average concentration of Enterococci bacteria;
- d. The annual sludge report submitted by the City for the monitoring period ending July 31, 2012 did not include the following required information: identity of sludge hauler and identification number, owner of disposal site, location of disposal site and dates of disposal.

The City receives notice of violations from TCEQ on December 11, 2012. The Executive Director of TCEQ recognizes that the City has already implemented the following:

- a. On October 1, 2012 the City crews used a Jet-vac truck to remove the wastewater, properly disposed of the dead fish, and replaced the 80 foot section of damaged sewer main;
- b. On October 09, 2012 the staff submitted documentation demonstrating that staff had been trained on calculating the geometric mean for daily average concentration of Enterococci bacteria;
- c. On October 22, 2012 began submitting the total copper attainment progress reports on a quarterly basis; and
- d. On January 30, 2013 submitted a revised annual sludge report for the monitoring period ending July 31, 2012.

However TCEQ has assessed an administrative penalty of \$34,040 for the above violations. The penalties for the items are as follows:



- a. Although the ruptured pipe on Lee Avenue and 17<sup>th</sup> Street was repaired immediately, TCEQ believes the City failed to prevent the unauthorized discharge of untreated wastewater to the creek so they penalized the City \$7,650;
- b. Since in the past the City failed to correctly calculate the daily average bacteria concentration, TCEQ fined \$256;
- c. In September 2010, TCEQ implemented the requirement of quarterly submittal of copper attainment progress report. The City's permit was modified to meet this requirement. The staff failed to submit the report to TCEQ from October 2010 to September 2011 and October 2011 to September 2012 although all the required tests were done. TCEQ fined \$10,200 for not submitting the report for 1<sup>st</sup> four quarters of 2010-2011 and \$15,300 for 2<sup>nd</sup> four quarters of 2011-2012. TCEQ also fines \$318 for not submitting the quarterly report to Corpus Christi office and TCEQ Enforcement Division by October 1 of October 2012.
- d. Total fines for failing to submit complete annual sludge report are \$318.

Courtney Alvarez, William Donnell, Frank Garcia and I talked to TCEQ yesterday morning. Some of the reports which were sent to Austin office have been sent to Corpus Christi office today along with a letter from William Donnell. The staff respectfully requested TCEQ to review and adjust the findings and the Penalty Compliance Worksheet to reflect the additional quarter of compliance and to see what other reductions might be allowable. The City's desire to perform a Supplemental Environment Project (SEP) in lieu of straight monetary payment of assessed fines was also mentioned in the letter.

Bryan W. Shaw, Ph.D., *Chairman*  
Carlos Rubinstein, *Commissioner*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



wastewater -  
TCEQ

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 30, 2012

**CERTIFIED MAIL 91 7199 9991 7031 0286 0571**  
**RETURN RECEIPT REQUESTED**

The Honorable Sam Fugate, Mayor  
City of Kingsville  
P.O. Box 1458  
Kingsville, TX 78364

Re: Notice of Violation for Comprehensive Compliance Inspection at:  
Kingsville One MGD Wastewater Treatment Facility, located north of FM Road 1717,  
approximately 1.5 miles east of the intersection of FM Rd. 1717 and US Highway 77,  
Kingsville (Kleberg County), Texas  
Regulated Entity No.:101612877, TCEQ ID No.:WQ0010696-004, EPA ID No.:  
TX0117978, Investigation No.: 1034494

Dear Mayor Fugate,

On October 1, and 9, 2012, Ms. Kelsey McGill of the Texas Commission on Environmental Quality (TCEQ) Corpus Christi Region Office conducted an investigation of the above-referenced regulated entity to evaluate compliance with applicable requirements for wastewater treatment. Enclosed is a summary which lists the investigation findings. During the investigation, some concerns were noted which were alleged non-compliances that have been resolved as Areas of Concern based on subsequent corrective action. In addition, certain outstanding alleged violations were identified for which compliance documentation is required. Please submit to this office by December 30, 2012, a written description of corrective action taken and the required documentation demonstrating that compliance has been achieved for each of the outstanding alleged violations.

In the listing of the alleged violations, we have cited applicable requirements, including TCEQ rules. Please note that both the rules themselves and the agency brochure entitled *Obtaining TCEQ Rules* (GI 032) are located on our agency website at <http://www.tceq.texas.gov> for your reference. If you would like a hard copy of this brochure mailed to you, you may call and request one from either the Corpus Christi Region Office at (361) 825-3100 or the Central Office Publications Ordering Team at 512-239-0028.

The TCEQ appreciates your assistance in this matter. Please note that the Legislature has granted TCEQ enforcement powers which we may exercise to ensure compliance with environmental regulatory requirements. We anticipate that you will resolve the alleged violations as required in order to protect the State's environment. If you have additional information that we are unaware of, you have the opportunity to contest the violations documented in this notice.

The Honorable Sam Fugate, Mayor

Page 2

November 30, 2012

Should you choose to do so, you must notify the Corpus Christi Region Office within 10 days from the date of this letter. At that time, a manager will schedule a violation review meeting to be conducted within 21 days from the date of this letter. However, please be advised that if you decide to participate in the violation review process, the TCEQ may still require you to adhere to the compliance schedule included in the attached Summary of Investigation Findings until an official decision is made regarding the status of any or all of the contested violations.

If you or members of your staff have any questions, please feel free to contact Ms. McGill in the Corpus Christi Region Office at (361) 825-3100.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melanie Edwards', written in a cursive style.

Melanie Edwards, Water Section Work Leader  
Corpus Christi Region Office  
Texas Commission on Environmental Quality

ME/KAM/jmc

Enclosure: Summary of Investigation Findings

## Summary of Investigation Findings

CITY OF KINGSVILLE ONE M WASTEWATER TREATMENT PLANT Investigation #  
1034494  
Investigation Date: 10/01/2012  
KLEBERG COUNTY  
Additional ID(s): TX0117978  
WQ0010696004

### OUTSTANDING ALLEGED VIOLATION(S) ASSOCIATED TO A NOTICE OF VIOLATION

Track No: 484288 Compliance Due Date: 12/30/2012

30 TAC Chapter 305.125(1)

PERMIT WQ0010696004, Sludge Provisions, Sect. III G (1-9)

The permittee shall report annually to the TCEQ Regional Office and Water Quality Compliance Monitoring Team of the Enforcement Division by September 30 of each year the following information: TCLP Results, annual sludge production, amount of sludge disposed in a landfill, amount of sludge transported interstate, certification that sludge meets 30 TAC 330, identity of sludge hauler and ID#, owner of disposal site, location of disposal site, and dates of disposal.

**Alleged Violation:**

Investigation: 1034494

Comment Date: 11/29/2012

Failed to submit all information required in the annual sludge report to the TCEQ Region Office and Enforcement Division by September 30 of each year.

Specifically, an investigation which took place on October 1 and 9, 2012 at the City Kingsville 1.0 MGD WWTP revealed that the facility's 2012 sludge report had not been submitted to the TCEQ Region 14 office or the Enforcement Division by September 30, 2012. A copy of the report was received by Region 14 on October 22, 2012; however, the report lacked the following information: identity of sludge hauler and ID#, owner of disposal site, location of disposal site, and dates of disposal.

**Recommended Corrective Action:** Submit a complete copy of the annual sludge report to Water Quality Compliance Monitoring Team of the Enforcement Division. Send an additional copy to:

TCEQ Region 14  
Attn: Kelsey McGill  
6300 Ocean Dr. NRC Bldg.  
Suite 1200, Unit 5839  
Corpus Christi, TX 78412-5839

Track No: 484293 Compliance Due Date: 12/30/2012

30 TAC Chapter 319.11(d)

**Alleged Violation:**

Investigation: 1034494

Comment Date: 11/30/2012

Failed to conform to the flow measurements, equipment, installation, and procedures prescribed in the Water Measurement Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C., or methods that are equivalent as approved by the executive director.

Specifically, an investigation conducted on October 1 and 9, 2012 revealed that the staff gauge was installed on the face of the weir plate. The staff gauge must be "located four to six times the measuring head upstream from the center of the weir blade." Additionally, both the staff gauge and ultra-sonic meter were located in an aerated basin subject to high turbulence at the point of measurement.

The device (staff gauge) for measuring the head should be placed upstream at a distance of at least four times the maximum expected head on the weir and should be located in a quiet section of the channel away from all disturbances.

**Recommended Corrective Action:** To achieve compliance, the permittee shall conform to the flow measurements, equipment, installation, and procedures prescribed in the Water Measurement Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C., or methods that are equivalent as approved by the executive director. To verify compliance, please send documentation indicating compliance with this requirement to:

TCEQ Region 14  
Attn: Kelsey McGill  
6300 Ocean Dr. NRC Bldg.  
Ste. 1200 Unit 5839  
Corpus Christi, TX 78412-5839

## AREA OF CONCERN

Track No: 484294

### 30 TAC Chapter 305.125(1)

#### PERMIT WQ0010696004, Definitions & Std. Permit Cond. 2.e.

**Bacteria concentration-** The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month.

#### PERMIT WQ0010696004, Monitoring and Reporting Req. 2.a.

Measurements, tests, and calculations shall be accurately accomplished in a representative manner.

#### Alleged Violation:

Investigation # 1034494

Comment Date: 11/30/2012

Failed to accurately accomplish measurements, tests, and calculations in a representative manner.

Specifically, an investigation which took place on October 1 and 9, 2012 at the City of Kingsville 1.0 MGD WWTP revealed that the facility was calculating an arithmetic mean instead of a geometric mean for the daily average concentration of E. coli.

**Resolution:** On November 20, 2012, Mr. Garcia faxed compliance documentation to Region 14, which included a signed statement, dated October 19, 2012, indicating that the E. coli daily average is now calculated using a geometric mean.

Track No: 485235

### 30 TAC Chapter 305.125(5)

#### PERMIT WQ0010696004, OPERATIONAL REQUIREMENTS (1)

The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.

#### Alleged Violation:

Investigation: 1034494

Comment Date: 11/29/2012

Failed to at all times sure that the facility and all of its systems of collection, treatment and disposal are properly operated and maintained.

Specifically, an investigation conducted on October 1 and 9, 2012 revealed the fencing at the 1717 lift station was missing three strands of barbed wire. Spools of barbed wire were at the lift station, but facility personnel had failed to install the new strands.

**Resolution:** On November 20, 2012, Mr. Garcia faxed compliance documentation to Region 14, which included photographs of the 1717 lift station with three strands of barbed wire. A document signed by Mr. Garcia, dated October 19, 2012, indicated that the fencing had been repaired on the date of the investigation.

## **AGENDA ITEM #2**



## Congress of Cities and Exposition

**DATE:** November 13, 2013 - November 16, 2013

**LOCATION:** Seattle, WA

**CATEGORY:** Annual Conference

### Overview

The Congress of Cities and Exposition will be held in Seattle, WA from November 13 through November 16. The Conference will bring together local leaders from cities across the United States. Participants will find a range of learning and networking opportunities highlighting successful programs from the City of Seattle and communities across the country.

**The Congress of Cities and Exposition will feature:**

### Dynamic Workshops

A wide ranging selection of workshops designed to engage participants and share the most promising skills, strategies, and best practices to continue to keep the nation's cities and towns prosperous.

### Mobile Workshops

Host city Seattle will offer off-site workshops, free of charge to registered delegates, to showcase collaborative solutions to issues facing local government.

### Governance Activities

Throughout the conference, NLC member-city officials will participate in the important work of governing the association. Most of the governance meetings listed will be open to the public and you are encouraged to stop in to observe and consider how you might become involved.

### Leadership Training Seminars

Educational seminars are crafted so participants obtain current resources, develop strategies, build skills, and engage in small group discussions and exercises with their peers from other communities.

### Spouse & Guest Tours

Special tours created each year by the host city offer spouses and guests the chance to explore the city for its educational value.

## Exhibit Hall Opportunities

Exhibitors can increase their visibility among attendees by investing in an exhibit hall opportunity. These opportunities, exclusive to exhibitors, will give your company/organization expanded recognition during the two days of the exposition.

## REGISTRATION

**REGISTER**

## EARLY REGISTRATION RATES

Early bird registration rate ends May 15, 2013. Congressional City Conference attendees use your conference registration number to receive a discount.

## EXHIBITOR REGISTRATION

**EXHIBITOR  
REGISTRATION**

## SPOTLIGHT

2012 Congress of Cities Opening General Session - Part 1  
More Videos

## STAFF CONTACT

Member Services  
(877) 827-2385  
memberservices@nlc.org

© 2013 National League of Cities | 1301 Pennsylvania Avenue NW Suite 550, Washington, DC 20004







## Congress of Cities and Exposition

**DATE:** November 13, 2013 - November 16, 2013

**LOCATION:** Seattle, WA

**CATEGORY:** Annual Conference

### Hotel/Travel

#### Washington State Convention Center

Seattle, WA  
(206)461-5800

#### Hotels:

##### Sheraton Seattle (Headquarter Hotel)

1400 Sixth Avenue  
Seattle, WA 98101  
Rate: \$262/night

##### Grand Hyatt

721 Pine Street  
Seattle, WA 98101  
Rate: \$ 242/night

##### Hyatt at Olive 8

1635 8th Avenue  
Seattle, WA 98101  
Rate: \$232/night

##### Seattle Hilton Hotel

1301 Sixth Avenue  
Seattle, WA 98101  
Rate: \$179/night

##### The Paramount Hotel

724 Pine Street  
Seattle, WA 98101  
Rate: \$149

Crowne Plaza Seattle Downtown  
1113 Sixth Avenue  
Seattle, WA 98101  
Rate: \$179/night

Book your room

## REGISTRATION

**REGISTER**

## EARLY REGISTRATION RATES

Early bird registration rate ends May 15, 2013. Congressional City Conference attendees use your conference registration number to receive a discount.

## EXHIBITOR REGISTRATION

**EXHIBITOR  
REGISTRATION**

## SPOTLIGHT

2012 Congress of Cities Opening General Session - Part 1  
More Videos

## STAFF CONTACT

Member Services  
(877) 827-2385  
memberservices@nlc.org

© 2013 National League of Cities | 1301 Pennsylvania Avenue NW Suite 550, Washington, DC 20004

# **REGULAR AGENDA**

# **AGENDA ITEM #3**

**RESOLUTION #2013-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BETWEEN THE KINGSVILLE FIRE DEPARTMENT AND U.S. CUSTOMS AND BORDER PROTECTION, OFFICE OF BORDER PATROL, RIO GRANDE VALLEY SECTOR; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Kingsville Fire Department has been approached by the Border Patrol to conduct a program of clinical education or field work experience at the Fire Department to help train the agency's Emergency Medical Technicians and Emergency Medical Technician students;

**WHEREAS**, the Department is agreeable to conduct the training under the guidelines stated in the attached agreement;

**BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City Manager is authorized and directed as an act of the City of Kingsville, Texas to enter into a Memorandum of Understanding between the Kingsville Fire Department and U.S. Customs and Border Protection, Office of Border Patrol, Rio Grande Valley Sector in accordance with Exhibit A hereto attached and made a part hereof.

II.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

III.

**THAT** this Resolution shall be and become effective on and after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 25th day of June, 2012.

---

Sam R. Fugate, Mayor

ATTEST:

\_\_\_\_\_  
Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Courtney Alvarez, City Attorney

**Memorandum of Understanding**  
*Between:*  
**KINGSVILLE FIRE DEPARTMENT**  
**and**  
**U.S. Customs and Border Protection,**  
**Office of Border Patrol, Rio Grande Valley Sector**

**I. PARTIES.** The parties to Memorandum of Understanding (“Agreement”) are the Department of Homeland Security, U.S. Customs and Border Protection, Office of Border Patrol, Rio Grande Valley Sector (“Border Patrol”) and KINGSVILLE FIRE DEPARTMENT .

**II. PURPOSE.** The purpose of this Agreement is to set forth the terms by which the Border Patrol seeks to obtain a program of clinical education or field work experience at KINGSVILLE FIRE DEPARTMENT for its Emergency Medical Technicians and Emergency Medical Technician students and by which the KINGSVILLE FIRE DEPARTMENT is willing to provide such experiences. Both the Border Patrol and KINGSVILLE FIRE DEPARTMENT hereby agree to cooperate and work in good faith with each other to provide program(s), whereby students may obtain certifications as Emergency Medical Technicians, or enhance their skills as Emergency Medical Technicians, as a result of the clinical work or field experience gained at KINGSVILLE FIRE DEPARTMENT (“Program”).

**III. RESPONSIBILITIES.**

**A. JOINT RESPONSIBILITIES.**

1. The clinical training provided in the Program shall include those services, which are mutually agreed upon between the parties.
2. Consideration for this Agreement shall consist of the mutual promises contained herein, the parties agreeing that monetary compensation shall neither be expected nor received by either party.

**B. BORDER PATROL.** The Border Patrol agrees to fulfill the following obligations during the term of this Agreement:

1. Comply with the educational standards of the appropriate accreditation bodies.
2. Communicate with KINGSVILLE FIRE DEPARTMENT, through the KINGSVILLE FIRE DEPARTMENT’S Program Supervisor, on all items pertinent to the Program.

3. Notify KINGSVILLE FIRE DEPARTMENT through KINGSVILLE FIRE DEPARTMENT'S Program Supervisor, of the planned schedule of student assignments, including the names of the students, each student's level of academic preparation, and length and dates of each student's assignment in the Program.
4. Refer to KINGSVILLE FIRE DEPARTMENT only students who have satisfactorily completed the prerequisite didactic portion of the curriculum applicable to KINGSVILLE FIRE DEPARTMENT .
5. Ensure that each student has provided proof of vaccination for, or serologic immunity to Measles, Mumps, Rubella, annual negative TB skin test or chest x-ray; and; Tetanus/Diphtheria inoculation within previous ten years.
6. Ensure that each student provide evidence of being immunized for Hepatitis B/Chickenpox or provide a written formal refusal of the vaccine.
7. Ensure that the students and the Border Patrol faculty support and follow KINGSVILLE FIRE DEPARTMENT 'S policies, rules and regulations.
8. Require that the students and Border Patrol faculty dress in a professional manner and wear a visible name tag identifying their level of training and name.
9. Implement a mechanism to notify KINGSVILLE FIRE DEPARTMENT if a student is unable for any reason to report for training.
10. Provide faculty that are approved by the certifying or accrediting agencies to supervise the clinical aspects of the Program. Such faculty member(s) retain(s) the ultimate responsibility of monitoring and supervising the students.
11. Make provisions for the Border Patrol faculty to engage in continuing communication and periodic evaluation and planning meetings with KINGSVILLE FIRE DEPARTMENT personnel involved with student learning, including preceptors, if assigned. Any problems arising from student training and the involvement of preceptors will be handled as they arise by the supervising Border Patrol faculty member and KINGSVILLE FIRE DEPARTMENT staff member(s). In the event of continued difficulty, the problem will be referred to the appropriate KINGSVILLE FIRE DEPARTMENT Administrator and the Border Patrol Administrator or equivalent.



12. Instruct the students and Border Patrol faculty to maintain the confidentiality of all information about KINGSVILLE FIRE DEPARTMENT 's patients/customers, including information about KINGSVILLE FIRE DEPARTMENT 's, diagnosis, evaluation, treatment of such patients, financial condition, or services rendered as required by applicable State and Federal laws and KINGSVILLE FIRE DEPARTMENT 's bylaws, rules and regulations. If, during the course of the Program and in conjunction with the Program requirements, employees and agents of KINGSVILLE FIRE DEPARTMENT are informed of or possess records of any student, KINGSVILLE FIRE DEPARTMENT shall comply with the confidentiality requirements of all federal and State laws and regulations in the handling of such records.

**C. KINGSVILLE FIRE DEPARTMENT** . KINGSVILLE FIRE DEPARTMENT agrees to fulfill the following obligations during the term of this Agreement:

1. Maintain standards for appropriate health care services that are conducive to sound educational experiences for the students.
2. Assign a designee, with the required credentials, who will be responsible for facilitating the fieldwork/clinical experience of the students.
3. Make available to the students and Border Patrol faculty library facilities, appropriate records and equipment, classroom and conference space.
4. Provide orientation for the students and Border Patrol faculty to the physical facilities, policies and procedures of the KINGSVILLE FIRE DEPARTMENT .
5. Provide emergency medical care for students and Border Patrol faculty in the event of an illness or accident during his/her participation in the Program, the costs of which shall be borne by the individual student or Border Patrol faculty member or such individual's worker's compensation carrier, as applicable.
6. Advise the Border Patrol of any deficits noted in the ability of an assigned student to progress toward achievement of stated Program objectives in writing, and assist the Border Patrol and the student in attempting to correct these deficits. It will be the mutual responsibility of the student, the Border Patrol faculty, the fieldwork/clinical educator, and the academic fieldwork/clinical coordinator to develop a plan by which the student may be assisted to achieve the stated Program objectives.
7. Permit, upon written request from the Border Patrol, the inspection of the facilities, fieldwork, and services by the accrediting agencies.
8. KINGSVILLE FIRE DEPARTMENT shall notify the Border Patrol of the number of students it can accommodate during a given period of time.

9. KINGSVILLE FIRE DEPARTMENT has the right to recommend termination of any student's participation in the Program when such student's health or performance is a detriment to a patient's well-being, or to the achievement of the stated objectives of the Program. KINGSVILLE FIRE DEPARTMENT shall provide written documentation specifying the facts and circumstances necessitating such request for recommending termination of the student. The Border Patrol shall have the opportunity to review and to evaluate said student's health or conduct necessitating the termination.

**IV. POINTS OF CONTACT.** All notices or other communications provided for in this Agreement shall be directed to the parties at the addresses below. Either party may change this address by providing written notice to the other party at the address listed below.

Border Patrol:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

KINGSVILLE FIRE DEPARTMENT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**V. LIABILITY INSURANCE.** KINGSVILLE FIRE DEPARTMENT acknowledges that the Border Patrol is a government agency within the Department of Homeland Security and that, as such, the Border Patrol is self-insured under the Federal Tort Claims Act with respect to liability for property damage, personal injuries, or accidents caused by its employees in the course of official business. This includes medical training, which has been assigned to specific agents as part of their job description and/or collateral duty. In addition, Border Patrol employees are covered by the U.S. Department of Labor's Office of Worker's Compensation Programs with respect to injuries suffered in the course of federal employment or training. Such student will be responsible for providing the required documentation directly to KINGSVILLE FIRE DEPARTMENT.

**VI. PARTIES' RELATIONSHIP.** It is understood and agreed that the parties are independent contractors and this Agreement shall not create any relationship of agency, partnership, joint venture or create an employment relationship between KINGSVILLE FIRE DEPARTMENT, the students or the Border Patrol faculty. It is understood and agreed that KINGSVILLE FIRE DEPARTMENT retains the ultimate responsibility for patient record keeping and for patient care while the Border Patrol and the students retain the obligations and limitations expressly stated in this Agreement.

**VII. OTHER PROVISIONS.** Nothing in this Agreement is intended to conflict with current law or regulation or the directives of the Department of Homeland Security, U.S. Customs and Border Protection, Border Patrol or KINGSVILLE FIRE DEPARTMENT. If a term of this Agreement is inconsistent with such authority, then that term shall be

invalid, but the remaining terms and conditions of this Agreement shall remain in full force and effect.

**VIII. EFFECTIVE DATE.** This Agreement will become effective on the date on which it is mutually entered into by the Border Patrol and KINGSVILLE FIRE DEPARTMENT (the “Effective Date”).

**IX. TERM.** The initial term of this Agreement shall be for one (1) year from the Effective Date. At the end of the initial term, this Agreement shall automatically renew for one (1) additional term of two (2) years, unless terminated as hereinafter provided. Notwithstanding the terms specified herein, this Agreement may be terminated by either party as provided in Section XI of this Agreement. This Agreement is subject to annual review as required by both parties and external licensing entities.

**X. MODIFICATION.** This Agreement contains the entire understanding of the parties and shall be modified only by an instrument in writing signed on behalf of each party.

**XI. TERMINATION.** This Agreement may be terminated prior to the expiration of the term hereof by mutual agreement of the parties; or by either party, without cause, upon thirty (30) days written notice to the other party; however, no such termination shall be effective upon any student enrolled in the Program, until the expiration of the then current course for such student.

**XII. GOVERNING LAW AND JURISDICTION.** This Agreement shall be governed in all respects by, and be construed in accordance with, the laws of the United States.

**XIII. CLAIMS OR ACTIONS.** That with respect to any claim or action arising out of any activities performed under or pursuant to this Agreement, pursuant to paragraph V, each party shall be liable for payment of that portion of any and all claims, liability, costs, expenses, demands, settlements, or judgments resulting from the negligence, actions, or omissions of itself or its own directors, representatives, and employees. The parties agree to notify each other, in writing, immediately upon receipt of any incident, occurrence, or claim arising out of or in connection with this Agreement, which could result in a liability or claim of liability to the other party.

**XIV. COUNTERPART SIGNATURE.** This Agreement may be executed in one or more counterparts (facsimile transmission or otherwise), each counterpart shall be deemed an original and all of which shall constitute but one Agreement.

**XV. NO WAIVER.** No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting with regard to any breach of any provision of this Agreement shall be construed to be a waiver of such breach.

**XVI. RIGHTS IN PROPERTY.** All title to KINGSVILLE FIRE DEPARTMENT supplies, equipment, furnishings, fiscal records, client charts, and client records shall remain the sole property of the KINGSVILLE FIRE DEPARTMENT.

**XVII. AUTHORIZATION OF AGREEMENT.** Each party represents and warrants to the other that the execution of this Agreement has been duly authorized and that this Agreement constitutes a valid and enforceable obligation of such party according to its terms.

**XVIII. SECTION HEADINGS.** The headings of sections contained in this Agreement are for convenience only and they shall not, expressly or by implication, limit, define, extend, or construe the terms or provisions of the sections of this Agreement.

**XIX. NO PRIVATE RIGHT CREATED.** This document is an internal agreement between KINGSVILLE FIRE DEPARTMENT and the Border Patrol and does not create or confer any right or benefit on any other person or party, private or public. Nothing in this Agreement, addenda, attachments or other associated documents restricts the authority of either party to act as provided by law, statute, or regulation, nor does it restrict either party from enforcing any laws or taking any action within its authority or jurisdiction.

**XX. NO PUBLICATION.** Neither the Border Patrol nor KINGSVILLE FIRE DEPARTMENT shall submit for publication any material relating to the Program without prior written approval of the non-submitting party.

**XXI. NON-EXCLUSIVITY.** Each party shall have the right to enter into similar agreements with other parties.

**XXII. NON-DISCRIMINATION.** The Border Patrol and KINGSVILLE FIRE DEPARTMENT mutually agree to make no distinction among students, on the basis of race, color, sex, creed, age, sexual orientation, marital status, or national origin. For the purpose of this Agreement, in addition to the aforementioned, a student shall not be denied any service or benefit that is different, is provided in a different manner or at a different time from the service provided to other students under this Agreement. A student may not be subjected to segregation or separate treatment in any manner related to receipt of any advantage or privilege enjoyed by others receiving the same service or benefit; or any other requirement or condition that individuals must meet in order to be provided any service or benefit.

**XXIII. WAIVER OF CONSTRUCTION AGAINST DRAFTER.** Both parties have contributed to the review and drafting of this Agreement, with the assistance of their respective legal counsel. Therefore, both parties waive the rule of construction against the drafter.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

KINGSVILLE FIRE DEPARTMENT and the Border Patrol hereby agree that all oral or written agreements between them that were made prior to the execution of this Agreement have been reduced to writing and are contained herein. By signing below, each party acknowledges they are executing an interagency agreement based on the conditions and definitions contained in this Agreement.

IN WITNESS WHEREOF, KINGSVILLE FIRE DEPARTMENT and the Border Patrol have executed this Agreement, in multiple originals, to be effective as of the date on which this Agreement is fully executed.

UNITED STATES BORDER PATROL,  
RIO GRANDE VALLEY SECTOR

\_\_\_\_\_  
Rosendo Hinojosa, Chief Patrol Agent  
U.S. Border Patrol, Rio Grande Valley Sector

Date\_\_\_\_\_

CITY OF KINGSVILLE FIRE DEPARTMENT

\_\_\_\_\_  
Joey Reed, Fire Chief, City of Kingsville Fire Department

Date\_\_\_\_\_

CITY OF KINGSVILLE REPRESENTATIVE

\_\_\_\_\_  
Name/Title (Printed)

\_\_\_\_\_  
Signature

Date\_\_\_\_\_



# KINGSVILLE FIRE DEPARTMENT

Joey Reed  
Fire Chief  
P.O. Box 1458  
Kingsville, Texas 78364  
(361) 592-6445

April 10, 2013

TO: VINCE CAPELL, CITY MANAGER

FROM: JOEY REED, FIRE CHIEF

SUBJECT: **BORDER PATROL AGREEMENT**

The United States Border Patrol has requested an agreement with the City of Kingsville that would allow their personnel to ride along with Kingsville Fire Department ambulance personnel for the purpose of gaining direct emergency medical service field experience. Border Patrol personnel participating in the program would already be certified as at least Emergency Medical Technicians or have completed the didactic portion of Emergency Medical Technician training.

There would be no expense to the City of Kingsville for providing this educational experience to the Border Patrol. Kingsville personnel would provide guidance and oversee ride along personnel while performing their regular duties. Kingsville Fire Department personnel improve their skills when teaching or evaluating others. This program has been provided to the Border Patrol in years past.

Any combined operations or training that can be developed between public safety agencies is usually of benefit to both agencies and the public. It will allow greater interaction on emergency scenes and helps break down any organizational or jurisdictional barriers that might be perceived. The Border Patrol will soon be opening a large operations center here in Kingsville and this would be a great opportunity to start working more closely with that agency.

Thank you.

# **AGENDA ITEM #4**



**ORDINANCE NO. 2013-\_\_\_\_\_**

**AN ORDINANCE AMENDING THE FISCAL YEAR 2012-2013 BUDGET IN FUND 065 CO 2011- GENERAL FUND FOR THE FIRE DEPARTMENT IMPROVEMENTS TO FIRE STATION #2.**

**WHEREAS**, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2012-2013 budget be amended as follows:

**CITY OF KINGSVILLE  
DEPARTMENT REVENUES AND EXPENSES  
BUDGET AMENDMENT**

Dept. No.	Department Name:	Account Name:	Account Number:	Budget Increase	Budget Decrease
-----------	------------------	---------------	-----------------	-----------------	-----------------

**Fund 065 CO 2011 General Fund**

<u>Capital</u>					
2 – 000.0	Fund Balance		610.00		<u>\$29,563</u>
					<u>\$29,563</u>
<u>Expenses</u>					
5-220.00 Fire Dept.	Building		713.00	\$26,390	
5-220.00 Fire Dept.	Building G. F.		713.01	<u>\$6,587</u>	
				<u>\$29,563</u>	

[To provide funding for the Fire Station #2 Remodeling Project. The project was funded in FY12. This will utilize the FY12 unexpended balance of those funds designated for this purpose.]

# CITY OF KINGSVILLE



P. O. BOX 1458 – KINGSVILLE, TEXAS 78364

April 12, 2013

Vince Capell  
City Manager  
City of Kingsville  
P.O. Box 1458  
Kingsville, Texas 78364

Re: Fund 065 – CO 2011 General Fund FY 13 Budget Amendment – Fire Station #2  
Remodeling

Mr. Capell,

Fire Chief, Joey Reed is requesting the use of unexpended FY12 funds for the Fire Station # 2 Remodeling Project. Of the \$202,283 budget in FY12, \$172,720 was expended leaving a \$29,563 unexpended balance at the end of FY12.

Sincerely,

Mark A. Rushing

# **AGENDA ITEM #5**

ORDINANCE NO. 2013-\_\_\_\_\_

**AN ORDINANCE AMENDING THE FISCAL YEAR 2012-2013 BUDGET FOR THE BUILDING SECURITY FUND AND MUNICIPAL COURT TECHNOLOGY FUND TO PURCHASE SECURITY CAMERAS FOR MUNICIPAL COURT AND COLLECTIONS DEPARTMENTS, TO UPDATE NETWORK LOAD BALANCING, AND TO PURCHASE A RECEIPTING MACHINE AND LAPTOP COMPUTER FOR MUNICIPAL COURT.**

**WHEREAS**, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2012-2013 budget be amended as follows:

CITY OF KINGSVILLE  
DEPARTMENT REVENUES AND EXPENSES  
BUDGET AMENDMENT

Dept. No.	Department Name:	Account Name:	Account Number:	Budget Increase	Budget Decrease
--------------	---------------------	------------------	--------------------	--------------------	--------------------

**Fund 025 Building Security Fund**

<u>Capital</u>					
2 – 000.0	Fund Balance		610.00		<u>\$5,000</u>
					<u>\$5,000</u>
<u>Expense</u>					
5-180.3	Municipal Court- Computer & Assoc. Equip.		226.00	<u>\$5,000</u>	
				<u>\$5,000</u>	

Dept. No.	Department Name:	Account Name:	Account Number:	Budget Increase	Budget Decrease
--------------	---------------------	------------------	--------------------	--------------------	--------------------

**Fund 031 Municipal Court Technology**

<u>Capital</u>					
2 – 000.0	Fund Balance		610.00		<u>\$10,700</u>
					<u>\$10,700</u>
<u>Expense</u>					
5-180.3	Municipal Court- Computer & Assoc. Equip.		226.00	<u>\$10,700</u>	
				<u>\$10,700</u>	

[To provide funding to purchase additional building security cameras and upgrading wiring and internet switches for enhanced productivity. This amendment also includes funding for an additional receipting machine and laptop computer in the Municipal Court Department.]

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the 22<sup>nd</sup> day of April, 2013.

**PASSED AND APPROVED** on this the \_\_\_\_ day of May, 2013.

EFFECTIVE DATE: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

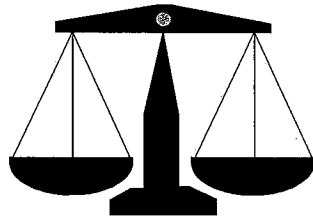
ATTEST:

\_\_\_\_\_  
Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# CITY OF KINGSVILLE MUNICIPAL COURT



## Interoffice Memorandum

**To:** Mr. Mark Rushing, Director of Finance  
**From:** Rose Morrow, Municipal Court Manager  
**Date:** Thursday, April 11, 2013  
**Re:** Budget Admendment

---

Mr. Rushing,

I have enclosed the specifications of the equipment that the court needs to upgrade the wiring and internet switches to enhance the productivity of work, which includes the exports process for Omnibase and Linebarger network systems and the security that is required for auditing/safety purposes. I am also requesting extra funds to purchase a receipt backup printer for the front office.

The Technology Fund withdraw amount would be \$10,700.00 (Technology Fund at this time has an active balance of \$38,491.58).

1. For the labor/equipment to update the court's network and wiring.
2. To purchase the Tyler Technology printer
3. Laptop to work at home.

The Building Security withdraw amount would be \$5,000.00 (Building Security Fund at this time as an active balance of \$81,198.84)

1. For the labor/equipment to install new security camera for the court department and collection department.

Thank you,

*Rose Morrow*

# MUNICIPAL BUDGET AMENDMENT

## FD 025 Building Security Fund

Building Security Cameras	4	@	\$1,250.00	<u>\$5,000.00</u>
<b>Fund Total</b>				<u><b>\$5,000.00</b></u>

## FD 031 Municipal Court Technology Fund

Switch	1	@	\$2,500.00	\$2,500.00
Wiring	1	@	\$4,000.00	\$4,000.00
Interface	2	@	\$400.00	\$800.00
Switch Warranty	2	@	\$188.00	\$376.00
Shipping & Misc	1	@	\$171.00	\$171.00
Register / Printer	1	@	\$1,050.00	\$1,050.00
Register / Printer Maintenance Agreement	1	@	\$203.00	\$203.00
Laptop for Municipal Court Manager	1	@	\$1,600.00	\$1,600.00
<b>Fund Total</b>				<u><b>\$10,700.00</b></u>

# CITY OF KINGSVILLE



P. O. BOX 1458 – KINGSVILLE, TEXAS 78364.

April 18, 2013

Vince Capell  
City Manager  
City of Kingsville  
P.O. Box 1458  
Kingsville, Texas 78364

Re: Budget Amendment – Municipal Court

Mr. Capell,

Of the attached combined budget amendment for Municipal Court in the amount of \$15,700, only \$4,000 for the wiring would not be portable if we were to move to a new building. A majority of the \$4,000 wiring cost is for connectivity to send/receive OMNI, OCA, and Linebarger data submissions.

Sincerely,

*Mark A. Rushing*

Mark A. Rushing



# **AGENDA ITEM #6**

**ORDINANCE NO. 2013-\_\_\_\_\_**

**AN ORDINANCE ABANDONING AN ALLEY AND RETAINING AN EASEMENT FOR UTILITY PURPOSES IN BLOCK 34 OF THE ORIGINAL TOWNSITE OF THE CITY OF KINGSVILLE (ALLEY IS BETWEEN HENRIETTA & YOAKUM AVES. BY EPIPHANY SCHOOL); REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, an alley right of way lies between lots 1-6 to the west and lots 7-24 to the east (between Henrietta Avenue and Yoakum Avenue) all in block 34 of the Original Townsite of the City of Kingsville;

**WHEREAS**, Epiphany Episcopal Church and School own all of the lots contiguous to the alley and they now desire the alley right of way be closed for public use for the safety of students and staff;

**WHEREAS**, AEP, AT&T, CMA, Center Point and the City water and sewer departments have verified there are existing utilities running through the alley right of way, for which they would need continued access;

**WHEREAS**, staff recommends the alley right of way be vacated but a utility easement be maintained, with the alley being equally split among the adjoining property owners (Epiphany Episcopal School/Church);

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:**

1.

**THAT** the City of Kingsville abandons and relinquishes any and all interest in the following described property as an alley to the adjoining property owners, but retains an easement for utility purposes. All documentation of the vacating of the land and retention of the utility easement will be appropriately recorded by the new property owner at the Kleberg County Clerk's Office pursuant to state law with the property owner being responsible for any and all filing fees.

Said property to be abandoned being a part of an alley platted as part of the Original Townsite to the City of Kingsville (Block 34, East of Lots 1-6) and the Original Townsite to the City of Kingsville (Block 34, West of Lots 7 & 24) as recorded in the Kleberg County Map Records.

**BEGINNING** at the Southwest Corner of Lot 24, Block 34, Original Townsite to the City of Kingsville as it exists in November, 1904, Kleberg County, Texas;

**THENCE** East for a distance of 20 feet to the Southeast Corner of Lot 1, Block 34, Original Townsite to the City of Kingsville, Kleberg County, Texas;

THENCE North for a distance of 300 feet to a point being the Northeast Corner of Lot 6, Block 34, Original Townsite to the City of Kingsville, Kleberg County, Texas;

THENCE West for a distance of 20 feet to Northwest Corner of Lot 7, Block 34, Original Townsite to the City of Kingsville, Kleberg County, Texas;

THENCE South for a distance of 300 feet to a point being the Southwest Corner of Lot 24, Block 34, Original Townsite to the City of Kingsville, Kleberg County, Texas, said point also being the POINT OF BEGINNING.

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the 22<sup>nd</sup> day of April, 2013.

**PASSED AND APPROVED** on this the \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2013.

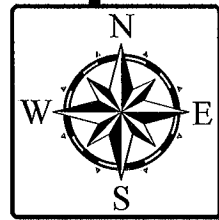
\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney



***W Henrietta***

Dedicated  
Alley to be  
abandoned

***N 4th***

***N 3rd***

***W Yoakum***



## ***Engineering Department***

361-595-8007

361-595-8035 Fax

DATE: April 5, 2013

TO: City Commission through City Manager

FROM: Engineering Department

SUBJECT: Closure and Discontinuance of Dedicated Alley Right-of-Way for Public Use in the Original Townsite to the City of Kingsville, while Retaining a Utility Easement.

### **SUMMARY**

This item authorizes the City to close and discontinue the right-of-way to the dedicated alley-way for public use lying between Lots One (1) through Six (6) to the West and Lots Seven (7) and Twenty-Four (24) to the East and also lying between Henrietta Avenue and Yoakum Avenue all in Block Thirty-Four (34) of the Original Townsite to the City of Kingsville, but keeping the Utility Easement.

### **BACKGROUND**

The Plat of the Original Townsite of Kingsville, Texas was filed by the Kleberg County Clerk on the 3<sup>rd</sup> day of November 1904. The head of the Epiphany Episcopal School, Peggy DeRouen, is requesting the closure and discontinuance for public use of the 20' x 300' dedicated alley right-of-way described above for the safety of the students and faculty. The Epiphany Episcopal Church/School owns all of the contiguous lots and has verified that there are no neighboring property owners whose access will be negatively affected by this action. City of Kingsville staff has contacted AEP, AT&T, CMA, Center Point and the City's Water and Sanitary Sewer Departments and has verified that there are existing utilities running through this alley.

### **RECOMMENDATION**

Staff recommends that the requested dedicated alley-way be discontinued at the same time keeping the utility easement for continued access by the utility entities.

### **FINANCIAL IMPACT**

No financial impact to the City of Kingsville. Staff requires that all documentation of the vacating of the land and retaining an utility easement be appropriately recorded by the property owner at the Kleberg County Clerk's Office pursuant to state law with the property owner being responsible for any and all filing fees.

Approved

---

Vincent Capell, City Manager

# **AGENDA ITEM #7**

## Courtney Alvarez

---

**From:** Robert Trescott  
**Sent:** Friday, April 12, 2013 3:59 PM  
**To:** David Mason; Melissa Perez; Courtney Alvarez; Vincent J. Capell  
**Subject:** HEB Letter

I just received the following email:

To: City of Kingsville  
Attn: Bob Trescott, Tourism Director  
Subject: Donation of Surplus Overhead Canopy from the HEB Store in Kingsville Texas

When the H-E-B store in Kingsville was rebuilt years ago, it included an approximately 25 feet by 100 all-steel overhead shade canopy that extended perpendicularly from the front of the building westward into the parking lot. It was outfitted with tables and some coin-operated rides for small children.

Store management did a study and determined that removal of the canopy would result in 20-plus close-in parking places. The original proposal was for the demolition, removal and scrapping of the steel canopy structure.

When store management inquired of the City's downtown manager about landscaping and other issues related to the repaving that the proposed project would entail, the Downtown Manager (now tourism director) inquired as to whether H-E-B would consider allowing the canopy to be removed as a whole and donated as is to a downtown City property for use as a shade pavilion.

H-E-B agreed and in October of 2012 a house mover detached the structure from its anchors and from its attachment to the store building, placed it on wheels as a unit and moved it several blocks to a City-owned lot – at City expense. The City would maintain, support, and be responsible for the canopy on an on-going basis.

H-E-B is happy to contribute to our many loyal Kingsville customers and we enjoy participating in downtown events and projects.

Thank you,  
Regina Garcia  
Public Affairs Manager- Gulf Coast Region

Bob Trescott  
Director of Tourism  
City of Kingsville  
200 East Kleberg Avenue  
Kingsville TX 78364  
Office: 361-592-8516  
Cell: 361-219-8827  
[rtrescott@cityofkingsville.com](mailto:rtrescott@cityofkingsville.com)

# **AGENDA ITEM #8**





## **Transfer of TAMUK Art Department “Kingsville” Print**

**April 17, 2013**

Last fall, we started an initiative to stretch iconic and popular local events into multi-day celebrations to build hotel stays. We began with the 22<sup>nd</sup> annual Ranch Hand Breakfast. We had downtown festivities to complement the King Ranch traditional camp breakfast.

We had a number of important and generous partners for the downtown efforts. This memo will address one of them.

WE have partnered with the TAMUK Art Department before but this time they came through in a really big way, making a huge commitment of time and effort. They produced art, they got up in the middle of the night for TV appearances and they produced and displayed art in the downtown. Notably, they partnered with public works to produce “Steamroller” Art, creating large woodcuts that were laid out on the concrete Kleberg Avenue and run over with the City pavement roller to set ink on the art medium.

The process and the results were very popular.

We continue to collaborate with the College in in many ways.

At the City Commission Meeting on April 22, 2013, the College of Arts & Sciences, the Department of Arts, Communications & Theater, and the Art Program want to express their appreciation for that collaboration by presenting to the City a large canvas print for display in the City Hall lobby or other prominent location.



Bob Trescott, Tourism & Heritage Department

# **AGENDA ITEM #9**

**RESOLUTION #2013-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A SECOND AMENDMENT AND EXTENSION OF THE KINGSVILLE INDUSTRIAL DISTRICT AGREEMENT NO.92-02 BETWEEN THE CITY OF KINGSVILLE AND TICONA POLYMERS, INC. (F/K/A HOECHST CELANESE OR CELANESE ENGINEERING RESINS, INC.); REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kingsville established a Kingsville Industrial District in 1992 and entered into a Kingsville Industrial District Agreement No.92-02 ("the Agreement") with Celanese in 1992;

**WHEREAS**, the two parties agreed to an amendment and extension of the Agreement via Resolution No.97026 on August 11, 1997, which is set to expire in April 2013;

**WHEREAS**, Hoechst Celanese subsequently became Celanese Engineering Resins, Inc. and is now Ticona Polymers, Inc. ("Ticona");

**WHEREAS**, the two parties desire to enter into a second amendment and extension of the Industrial District Agreement as it is in the best interest of both of the parties, which shall extend the modified agreement for an additional fifteen year (15) period as allowed by Texas Local Government Code Section 42.044(d);

**WHEREAS**, the City Commission approved a draft agreement on February 25, 2013, which Ticona has recently requested changes to, primarily to update the legal description of the plant;

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the Mayor is authorized and directed as an act of the City of Kingsville, Texas to enter into the Second Amendment and Extension of the Kingsville Industrial District Agreement No.92-02 between the City of Kingsville and Ticona Polymers, Inc. (f/k/a Celanese Engineering Resins, Inc.), in accordance with Exhibit A hereto attached and made a part hereof.

II.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

III.

**THAT** this Resolution shall be and become effective on and after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 22nd day of April, 2013.

\_\_\_\_\_  
Sam R. Fugate, Mayor

ATTEST:

\_\_\_\_\_  
Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Courtney Alvarez, City Attorney

AMENDED AND RESTATED  
INDUSTRIAL DISTRICT AGREEMENT

THE STATE OF TEXAS

COUNTY OF NUECES

This Amended and Restated Industrial District Agreement (the "Agreement") is made and entered into by and between the City of Kingsville, Texas, a Municipal Corporation (the "City"), and Ticona Polymers, Inc. (f/k/a Celanese Engineering Resins, Inc.) a Delaware corporation ( "Celanese"). The Agreement amends and restates that certain Industrial District Agreement entered into by the City and Celanese effective as of May 1, 1992, as amended August 11, 1997 (the "Original Agreement").

WITNESSETH:

WHEREAS, it is the established policy of the City Commission of the City to adopt reasonable measures permitted by law which will tend to enhance the economic stability and growth of the City and its environs, and which attract the location of new industries and expansion of existing industries therein; and

WHEREAS, Celanese is the owner of certain land, more particularly described in ~~Exhibit~~Attachment "A" attached hereto and incorporated herein for all purposes ("Celanese's Land"), a portion of which is presently within the extraterritorial jurisdiction of the City, known as Kingsville Industrial District No. 92-02; and

WHEREAS, the Original Agreement guaranteed the extraterritorial status of the industrial district and its immunity from annexation for a period not to exceed seven years in return for good and valuable consideration; and

REDLINED COPY: REVISED 4/8/13

WHEREAS, in order to promote the general welfare of the citizens of the City and those in its environs who use and enjoy the emergency response resources of the City, and in consideration of the agreement of the City to protect the extraterritorial status of the industrial district and its immunity from annexation during the term of this agreement, Celanese shall make payments to the City hereinafter specified; and

WHEREAS, to preserve its rights and options, the City desires to obtain from Celanese an agreement that Celanese will not request that the City of Bishop expand its extraterritorial jurisdiction or its corporate city limits to include the remainder of Celanese's Land or any part thereof presently outside the City's extraterritorial jurisdiction, but will cooperate with the City in the expansion of its extraterritorial jurisdiction to include the remainder of Celanese's Land in the event that the City of Bishop attempts to include such land within its corporate limits or extraterritorial jurisdiction.

NOW, THEREFORE, in consideration of the premises, the mutual agreements of the parties herein contained, and pursuant to the authority granted under the provisions of former Article 970a, Revised Civil Statutes of Texas, known as The Municipal Annexation Act, recodified as Local Government Code, Chapter 42, Extraterritorial Jurisdiction of Municipalities and Chapter 43, Municipal Annexation; the City and Celanese agree as follows:

Celanese agrees that during the term of this Agreement, it will not request that the City of Bishop expand its extraterritorial jurisdiction or its corporate city limit to include all or any part of Celanese's Land and will not consent to any such action by the City of Bishop. Celanese acknowledges that, in the event of a purported request made, or consent given to the City of Bishop in violation of this Agreement, the financial damages to the City would be extremely difficult, if not impossible, to calculate and that the City would lack an adequate remedy at law. Celanese acknowledges that its obligation not to make a request, or to give consent to the City of Bishop in violation of this Agreement, and the invalidity of any

3149833541v1

Formatted: Font: Times New Roman

Formatted: Font: Times New Roman

purported request or consent it might give in violation of this Agreement, shall be specifically enforceable by the equitable powers of a court of appropriate jurisdiction, including, but not limited to, the powers of injunction, mandamus, or declaratory judgment.

I.

Celanese further agrees to promptly request that the City extend and expand its extraterritorial jurisdiction to include the remainder of Celanese's Land outside, but contiguous to, the existing extraterritorial jurisdiction of the City to the extent permitted by applicable laws in the event:

- (a) the City of Bishop, Texas, initiates proceedings to extend or expand its extraterritorial jurisdiction or its corporate limits in a manner which would place all or any part of Celanese's Land presently outside the extraterritorial jurisdiction of the City within either the city limits or the extraterritorial jurisdiction of the City of Bishop; or
- (b) the City of Bishop, Texas, initiates proceedings to become a Home Rule City under Texas law; or
- (c) any change in Texas law occurs after the date of this Agreement granting General Law cities the power to unilaterally or otherwise extend their boundaries or extraterritorial jurisdiction without the petition, vote or request of the landowners in the area affected.

For the purposes of this Agreement, the term "initiates proceedings" means the first official action, such as the adoption of a resolution providing for public hearings, the advertising of public hearings or the holding of public hearings. The term "promptly" as used herein means within five (5) calendar days after notice to Celanese of the occurrence of any of the events described in paragraphs (a), (b) or (c) above exclusive of Saturdays, Sundays or legal holidays.

Celanese acknowledges that, in the event it fails to make such request to the City as required by this Agreement, the financial damages to the City would be extremely difficult, if not impossible, to calculate and that the City would lack an adequate remedy at law for such violation of this Agreement. Celanese acknowledges that its obligation to make such request to the City as required by this Agreement

shall be specifically enforceable by the equitable powers of a court of appropriate jurisdiction, including, but not limited to, the powers of injunction, mandamus, or declaratory judgment.

II.

(a) The City and Celanese agree that during the term of this Agreement the City may extend its extraterritorial jurisdiction as allowed by the Municipal Annexation Act. However, the City guarantees the continuation of the extraterritorial status of Industrial District No. 92-02 and its immunity from annexation by the municipality during the term of this Agreement.

(b) If during the term of this Agreement, all or any part of the remainder of Celanese's Land presently outside the extraterritorial jurisdiction of the City becomes part of the City's extraterritorial jurisdiction as a result of the extension or expansion thereof pursuant to Article I hereof or otherwise, then Celanese's Land presently outside the extraterritorial jurisdiction of the City shall become part of Industrial District No. 92-02 and shall be immune from annexation, and the City agrees not to initiate proceedings to annex same during the term, of this Agreement.

III.

Celanese will make annual payments to the City during the term of this Agreement as follows:

- a) \$100, 000 each year during the fifteen (15)-year term of this Agreement.
- b) For total payments of \$1,500,000
- c) Payments will begin on September 15, 2013, and like payments being due and payable on or before September 15<sup>th</sup> each year thereafter through and including September 15, 2027.

The City shall be entitled to a lien on said land and improvements in the event of default in such payment, which may be enforced by the City in the same manner as provided by law for the collection of delinquent ad valorem taxes.

IV.

During the term of this Agreement, the City shall not require compliance by Celanese with its rules and regulations governing (a) zoning and platting; (b) building, electrical, plumbing or inspection



codes; or (c) the method of operation of Celanese's business and facilities. The City shall not provide or be required by Celanese to provide firefighting services or any other services to Celanese's Land.

V.

The term of this Agreement shall be (15) years, beginning on May 1, 2013, and continuing until April 30, 2028, and may be extended upon mutual written consent of Celanese and the City as provided by the Municipal Annexation Act.

VI.

Celanese agrees to provide the City, at Celanese's expense, with a metes and bounds survey and description of Celanese's Land together with a separate survey and description of the land presently within the City's extraterritorial jurisdiction, such metes and bounds descriptions to be attached hereto and to be a part of this Agreement as Exhibits "A" and "B", respectively.

VII.

The benefits accruing to and the obligations imposed on Celanese under the terms of this Agreement shall also extend to and bind Celanese's parent corporations and any affiliates and subsidiaries thereof, as well as Celanese's successors and assigns. The agreements herein contained shall be covenants running with the land for so long as the Agreement or any extension or renewal thereof remains in force.

VIII.

In the event any one or more words, phrases, clauses, sentences, paragraphs, sections, articles or other parts of this Agreement, or the application thereof to any person, firm, corporation or circumstances, shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity, or unconstitutionality thereof shall be deemed to be independent of and separable from the remainder this Agreement, and the validity of the remaining parts of this Agreement shall not be affected thereby except when such construction would operate as an undue hardship to the City or Celanese or constitute a substantial deviation from the general intent and purpose of the parties as reflected in this Agreement.

IX.

REDLINED COPY: REVISED 4/8/13

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

X.

The obligations and undertakings of the City and Celanese shall be performable in Nueces County, Texas.

ENTERED into this \_\_\_\_\_ day of \_\_\_\_\_, 2013, but effective as of May 1, 2013.

TICONA POLYMERS, INC.

By: \_\_\_\_\_  
Name: Benjamin Clark  
Title: Assistant Secretary  
Address: 222 W. Las Colinas Blvd., #900N  
Irving, TX 75039

THE CITY OF KINGSVILLE, TEXAS

By: \_\_\_\_\_  
\_\_\_\_\_, City Manager

By: \_\_\_\_\_  
Sam Fugate, Mayor

APPROVED:

\_\_\_\_\_  
\_\_\_\_\_, City Attorney

3149833541v1

Formatted: Font: Times New Roman

Formatted: Font: Times New Roman

LEGAL DESCRIPTION OF BISHOP PLANT

To the best knowledge and belief of Celanese, the stated ownership entity and property legal description is correct, but Celanese has been unable to verify this information from the public records or otherwise and does not by its inclusion warrant or verify the accuracy.

Formatted: Font: 11 pt

From time to time, as and when requested by the City, Celanese shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as Celanese may reasonably deem necessary or desirable to consummate the transaction contemplated by this Amended and Restated Agreement, so long as such additional documents, instruments and actions are taken at the cost and expense of the City and do not increase or create liability of Celanese

Formatted: Font: Times New Roman

Formatted: Indent: First line: 0.5"

A description of properties owned by ~~Hoechst Celanese Corporation~~ Ticona Polymers, Inc. out of this portion of the Palo Alto grant to Marias Garcia and embraces portions of the F.Z. Bishop Subdivision of the Weil Ranch and properties out of the Jeremiah Hannon Survey, Patent No. 172, Vol. 9 A-128, Kleberg County, Texas, said properties being situated approximately one and one-half miles Southwest of the City of Bishop, Nueces County, Texas; said properties being more particularly described as follows:

297.51 acres of land being all that part of Sections 147 and 148 of the F.Z. Bishop Subdivision of the Weil Ranch, West of the right-of-way of the Union Pacific Railway.

594.07 acres of land being all of Section 155 of the F.Z. Bishop Subdivision of the Weil Ranch, Nueces County, Texas;

182.19 acres of land being all of the E ½ of Section 157 of the F.Z. Bishop Subdivision of the Weil Ranch, Nueces County, Texas;

160.02 acres of land being the South half of Section 154 of the F.Z. Bishop Subdivision of the Weil Ranch, Nueces County, Texas;

20 acres of land laying in the South portion of the West one-half of Section 149 of the F.Z. Bishop Subdivision of the Weil Ranch, Nueces County, Texas;

62.78 acres of land being all of fractional Section 156 of the F.Z. Bishop Subdivision of the Weil Ranch, Nueces County, Texas;

62.29 acres of land out of the Jeremiah Hannon Survey, Patent No. 172, Vol. 9 A-128, Kleberg County, Texas;

44.72 acres of land being the fractional part of the South one-half of the Southeast one-quarter of section 149 of the F.Z. Bishop Subdivision of the Weil Ranch situated West of the Union Pacific Railway right-of-way, Nueces County, Texas;

The above described lands being in Nueces and Kleberg Countries and being 1423.58 acres, more or less.

Formatted: Font: Times New Roman

Formatted: Font: Times New Roman

REDLINED COPY: REVISED 4/8/13

THE STATE OF TEXAS  
COUNTY OF NUECES

Permit No. HW-50123  
Attachment A  
Sheet 2 of 3

A metes and bounds description of a 1423.58 acre tract of land being 1361.29 acres out of Section 147, 148, 149, 154, 155, 156 and 157 of the F.Z. Bishop Subdivision of the Weil Ranch, Nueces County, Texas as shown and recorded in the Nueces County Map Records Book 2, Pages 6 and 7, and 62.29 acres out of the northeast portion of the J. Hannon Survey, A-128, Kleberg County, Texas said 1423.58 acre tract being more particularly described by metes and bound as follows;

Beginning at a point marking the southeast corner of said Section 147 lying west of the Union Pacific Railway right-of-way, and southeast corner of Hoechst Celanese's Corporation's property, said point also being in the Kleberg and Nueces county line;

Thence N. 45°38'E. along the southeast property line of Hoechst Celanese Corporation and the northeast right-of-way line of the Union Pacific Railway a distance of 8454.82 to a point for the northeast corner of said tract, and also being the northeast corner of the south 44.72 acre of the southeast one-quarter of Section 149, F.Z. Bishop Subdivision of the Weil Ranch;

Thence N. 72°42'W. a distance of 1832.14 feet to a corner;  
Thence S. 17°18'W. a distance of 990 feet to a corner;

Thence N. 72°42'W. parallel to and 330.0 feet north of said centerline of County Road No. 4 and north line of said Section 148 a distance of 2640 feet to a point in the centerline of a north/south Nueces County road and the west line of said Section 149;

Thence N. 17°18'E. along said centerline and west section line a distance of 2310.00 feet to the northeast corner of a 160 acre tract and the northeast corner of the southeast one-quarter of said Section 154;

Thence N. 72°42'W. along the north line of said 160.0 acre tract and southeast one-quarter of Section 154 a distance of 2640.35 feet to a point for the northwest corner of said 160.0 acre tract and southeast one-quarter section;

Thence S. 17°17' 22"W. along the west line of said 160.0 acre tract and southeast one-quarter section a distance of 2639.99 feet to a point in the centerline of Nueces County Road No. 4 and the north/south section line of Section 155 and 154 respectively, said point also being the southwest corner of said 160.0 acre tract;

EXHIBIT A

Permit No. HW-50123  
Attachment A  
Sheet 3 of 3

3149833541.v1

Formatted: Font: Times New Roman

Formatted: Font: Times New Roman

Thence N.72°42'W. along the centerline of said county road and section line , at 2640.0 feet the common corner for sections 154, 155, 157, and 158 of said Bishop Subdivision; continuing N.72°42'W. 2640.0 feet for a total distance of 5280.0 feet to a point for the most westerly northwest corner of Hoechst Celanese Corporation's property and the east one-half of fractional Section 157 of said Bishop Subdivision;

Thence S.17°18'W. along said company's west property line and west line of said east one-half of fractional Section 157 a distance of 2018.5 feet to a point for the southwest corner of said property and fractional one-half section, said point being in the centerline of San Fernando Creek and the county line between Nueces and Kleberg Counties, Texas;

Thence in a southeasterly direction along the meanders of said creek and county line to a point for the northwest corner of said 62.69 acre tract out of the J. Hannon Survey; A-128, Kleberg County, Texas;

Thence S. 17°18'W. along the west line of said 62.69 acre tract a distance of 578.0 feet to a point in the north fence line of Mrs. H. M. King's Portrero pasture and the south corner of said 62.69 acre tract.

Thence S.32°12'E. along said north fence line and south property line of said 62.69 acres tract a distance of 513.0 feet to a point of the fence;

Thence S.40°22'E. along said north fence line and south property line a distance of 2660.0 feet to a point in the fence;

Thence S.40°14'10"E. along said north fence and south property line a distance of 438.03 feet to a point in the fence;

Thence N.88°07'40"E. along said north fence and south property line a distance of 543.68 feet to a point in the centerline of San Fernando Creek and the county line between Nueces and Kleberg Counties, Texas;

Thence in a southwesterly direction along the centerline of said creek and county line to a concrete monument marking the southwest corner of Section 156 of said subdivision, said monument being located and marking the county line between Nueces and Kleberg Counties, Texas;

Thence N.89°39'E. along the south lines of Section 156 and 157 of said subdivision and the north fence line of said King pasture and county line a distance of 2729.65 feet to the point of beginning and containing 1423.58 acres of land, more or less.

EXHIBIT A

REDLINED COPY: REVISED 4/8/13

Field notes of a survey 431.63 acres of land embracing portions of Sections 147, 148, 155 and 156 of the F.Z. Bishop Subdivision of the Weil Ranch as shown and recorded in Nueces County Map records, Book 2, Pages 6 and 7, and two tracts located in Kleberg County, both being out of the Jeremiah Hannon Survey, Patent No. 172, Vol. 9 Abstract No. 128, said 431.63 acre tract being that portion of the Celanese Chemical Company's property that falls within the City of Kingsville's 2 mile Extra Territorial Jurisdiction, said survey being more particularly described by metes and bounds as follows:

Beginning at a point marking the southeast corner of said Section 147 lying west of the Missouri Pacific Railway rights-of-way, and the southeast corner of Celanese Chemical Company's property, said point being located in county line between Nueces and Kleberg Counties, Texas;

Thence N.45°38'E. along the southeast property line of Celanese Chemical Company and the northwest rights-of-way line of the Missouri Pacific Railway a distance of 4268.40 feet to a 1" iron rod marking the point of intersection of said property and rights-of-way line with the City of Kingsville's two mile Extra Territorial Jurisdiction line, said point bears N.61°36'07"E. a distance of 10,560 feet from an iron rod marking the point of intersection of the projected city limits line of the City of Kingsville along the south rights-of-way of Sage Road and the northwest rights-of-way line of U.S. 77 Bypass.

Thence in a westerly direction along said Extra Territorial Jurisdiction line and the centerline of a curve having a radius of 10,560 feet, a central angle of 18°05'21", a tangent of 1681.23 feet, a distance of 3334.13 feet to the point of tangent of said curve;

Thence S.89°08'48"W. along said Extra Territorial Jurisdiction line, crossing Sections 148 and 155 of the said F.Z. Bishop Subdivision of the Weil Ranch, a distance of 4654.19 feet to a point in the west line of said Section 155;

Thence S. 17°18'W along said west line of Section 155, a distance of 325.96 feet to the southwest corner of a 62.29 acre tract out of the before mentioned Jeremiah Hannon Survey, Kleberg County, Texas;

Thence S.32°12'E. along said north fence line and south property line of said 62.29 acre tract a distance of 513.0 feet to a point in the fence;

Thence S. 40°22'E. along said north fence line and south property line a distance of 2660.0 feet to a point in the fence;

Thence S. 40°14'10"E. along said north fence and south property line a distance of 438.03 feet to a point in the fence;

Thence N.88°07'40"E. along said north fence and south property line a distance of 543.68 feet to a point in the centerline of San

3149833541.v1

Formatted: Font: Times New Roman

Formatted: Font: Times New Roman

REDLINED COPY: REVISED 4/8/13

Fernando Creek and the county line between Nueces and Kleberg Counties, Texas;

Thence in a southwesterly direction along the centerline to a concrete monument marking the southwest corner of Section 156 of said subdivision, said monument being located and marking the county line between Nueces and Kleberg Counties, Texas;

Thence N.89°39'E. along the south lines of Section 156 and 157 of said subdivision and the north fence line of said King pasture and county line a distance of 2729.65 feet to the point of beginning and containing 431.63 acres of land more or less.

EXHIBIT B

2149833541v1

Formatted: Font: Times New Roman

Formatted: Font: Times New Roman