

CITY OF BASTROP

RESOLUTION NO. R-2019-49

**TCEQ AGREED ORDER**

**A RESOLUTION OF THE CITY OF BASTROP, TEXAS, AUTHORIZING THE CITY TO RESOLVE A CIVIL ADMINISTRATIVE ENFORCEMENT ACTION OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) AT A COST OF \$66,420.00 (SIXTY-SIX THOUSAND FOUR HUNDRED TWENTY DOLLARS AND 00/100 CENTS); AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE.**

**WHEREAS,** the City Council of the City of Bastrop, Texas has appointed the City Manager as the Chief Administrative Officer of the City; and

**WHEREAS,** the City Manager is responsible for the proper administration of all affairs of the City; and

**WHEREAS,** the City Council of the City of Bastrop, Texas has the steadfastness to ensure the quality of our City water supply; and

**WHEREAS,** the Texas Commission on Environmental Quality (TCEQ) is authorized by the Texas Legislature to administer and enforce the requirements of the Texas Water Code and to promulgate, administer and enforce regulations to implement those requirements; and

**WHEREAS,** TCEQ has issued the Bastrop Wastewater Facility (Facility) Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0011076001 (Permit); and

**WHEREAS,** the Permit has been in full force and effect between October 2, 2018 and the date of this Resolution; and

**WHEREAS,** the TCEQ conducted an investigation of the Facility on October 3 and 4, 2019; and

**WHEREAS,** the TCEQ conducted a review of the City's effluent discharge records on January 30, 2019; and

**WHEREAS,** on April 16, 2019 TCEQ sent the City for settlement purposes a Proposed Agreed Order (Order); and

**WHEREAS**, the City received the Order on April 18, 2019; and

**WHEREAS**, TCEQ has alleged that the City has violated four requirements of the Permit and has assessed a penalty in the amount of \$83,025.00; and

**WHEREAS**, TCEQ has acknowledged in the Order that the City has implemented corrective measures at the Facility that have satisfactorily addressed two of the four Allegations set out in the Order; and

**WHEREAS**, the City's implementation of those corrective actions have provided assurances to TCEQ that discharges in excess of the City's Permit limits will not occur; and

**WHEREAS**, the actual discharge of pollutants in excess of the Permit cannot be remedied, and therefore cannot be mitigated *per se*; and

**WHEREAS**, TCEQ anticipates that it will revise the Order to acknowledge the City's satisfactory correction of the alleged failure after the predecessor TPDES Multi-Sector General Permit ("MSGP") that expired on November 14, 2016 to have secured and maintained authorization to discharge stormwater under Permit TXR050000 and to comply with all applicable requirements thereunder; and

**WHEREAS**, the TCEQ is proposing a one-time offer to defer \$16,605.00 of the penalty if the City complies with all ordering provisions with a specific time frame, which will reduce the penalty to \$66,420.00.

**NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bastrop:**

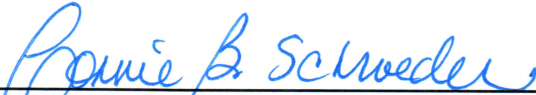
**Section 1:** That the City Manager is hereby authorized to execute an Agreed Order with the Texas Commission on Environmental Quality for violations discovered during an investigation conducted October 3 and 4, 2019, and a subsequent January 30, 2019 record review, and process payment into an SEP in the amount of \$66,420.00.

**Section 2:** All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

**Section 3:** That this Resolution shall take effect immediately upon its passage, and it is so resolved.

**DULY RESOLVED AND ADOPTED** by the City Council of the City of Bastrop this 14<sup>th</sup> day of May, 2019.

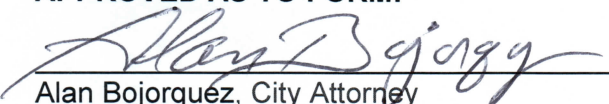
**APPROVED:**

  
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Connie B. Schroeder, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

  
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Alan Bojorquez, City Attorney