

EXHIBIT 2

Response to Public Comment Amendments to Chapter 82, Travis County Development Regulations May 17, 2016

Public Outreach to Solicit Comment:

Travis County's Environmental Quality Program (EQP) provided notice to the public of proposed amendments through notice of Commissioners Court public meetings that included agenda items on the subject. These meetings occurred October 13, 2015 and February 25, 2016 and were open to the public. A notice of a Commissioners Court public hearing on _____ to hear input on the proposed rules was also provided.

On January 13, February 8, and February 12, 2016, emails to stakeholders representing a broad spectrum of interests were notified of a February 11, 2016 meeting at which time the amendments were discussed and verbal comments were accepted. On these four dates, Travis County indicated it would also accept written comments for about a 30-day period following the stakeholder meeting (ultimately set as March 14). Several comments were received during the stakeholder meeting and several written comments on the proposal were also received.

Travis County's EQP also solicited feedback from the public during its day-to-day interaction and meetings with trade associations, governmental partners, the development community, and through similar informal interactions.

Summary of Comments and Responses:

Comments 1 – 16 were received from Clean Water Action (CWA), Greater Austin Contractors & Engineers Association (ACEA), Texas Engineering Solutions (TES), City of Austin (Austin), Save Our Springs Alliance (SOSA), Hill Country Alliance (HCA), and Baer Engineering.

Comment 1: CWA commented in support of changes that make Travis County rules consistent with the City of Austin's exemplary Watershed Protection Ordinance, by requiring an increased volume of storm water to be retained on on-site to reduce the threat of erosion. CWA also supports expansion of flexibility to allow for implementing green infrastructure. TES thanks Travis County for improving flexibility in the rules and consistency with City of Austin. SOS supports most of the changes that either clarify or strengthen the requirements.

No response to these general comments is necessary.

Comment 2: Austin indicated the proposed revisions to the definition in Section 82.002 of "construction activity" could be perceived as vague and overly broad.

Travis County proposed to expand the definition to include development of less than one acre and to require an ESC Plan in some instances when a SWP3 would not be applicable. However, we agree it would be vague and difficult to implement. In response, the proposed changes to

the definition were deleted. The requirement for a pre-construction inspection (Section 82.950) and an ESC Plan and inspections (Section 82.951) for certain smaller than one acre projects will accomplish Travis County's intent, without changing the definition of construction activity.

Comment 3: Austin commented on revisions proposed to define "erosion hazard zone" in Section 82.002 and recommended that wastewater lines be prohibited in Section 82.941(j)(3) in such zones.

In response, Travis County has made the requested changes.

Comment 4: TES and ACEA are concerned with revisions to Section 82.401, that the fiscal surety amount for cleanup of sediment releases of \$5000 per acre of disturbance is too high. They point to the amount of \$3000 per acre that the City of Austin requires for surety before project initiation. TES also indicates that fiscal surety should only be required for public infrastructure that Travis County will own.

In response to the first comment, the rule has been revised to the amount of \$3000 per acre. A site or off-site cleanup of sediment may have various rates of cost depending on unique circumstances. Therefore, an amount more justifiable than \$3000/acre would be difficult to derive. Since Travis County generally seeks to keep storm water management requirements for development consistent with other jurisdictions like the City of Austin, it can accept this amount.

Travis County disagrees with the comment that fiscal surety should only be required for public infrastructure that Travis County will own. Fiscal surety requirements for temporary erosion and sediment controls and permanent stabilization were not proposed for amendment in this rule making. Travis County believes this type of fiscal surety is an important compliance tool to ensure that not only infrastructure and structures are completed, but that the requirements to completely stabilize land disturbance occurs.

Comment 5: TES and ACEA commented that permanent water quality controls for residential subdivisions be maintained by either Travis County, a water utility, or similar public district. The concern is that in the absence of a public entity, a homeowner or condominium association may be unsuccessful in accomplishing what is often an expensive and recurring cost. ACEA suggests that the requirements for maintenance of permanent water quality controls in Section 82.917 apply to only large subdivisions of perhaps 50 or more lots.

Travis County declines to address the comment with revisions. In 2012 when this comment arose when the maintenance requirements were first proposed, the Commissioners Court directed staff to proceed with adoption of the requirements. Travis County obtains contractual services to maintain the permanent water quality controls it owns, associated with its facilities and roadway. It is a larger policy issue, beyond the scope of this rule making, to take on maintenance responsibilities for privately-owned homeowner or condominium association structures. At this time, staff continues to inspect privately-owned structures, issue notices of

violation when maintenance is deficient, and to require corrective actions. The program is still “ramping up” without sufficient data to see trends of compliance or to confirm the concern of the commenters.

Comment 6: TES commented on Section 82.917 that permanent water quality controls not be required to have an annual inspection coupled with an annual renewal and renewal application fees.

Travis County responds that these are requirements in Section 82.917(c) and (f) that were revised earlier and shown in the draft shared with stakeholders. The frequency for maintenance must be established in the permanent water quality control’s maintenance plan certified by a professional engineer, rather than setting a specific one-year frequency. Also, the term of the permits Travis County issues is now three years. At renewal, an application fee will not be assessed.

Comment 7: SOSA raised concerns with Section 82.917(j), stating that excluding a development project from a Travis County permanent WQC permit should not be allowed when a “similar” permit is required by another entity since the permits may not be equivalent.

In response, Travis County revised the word “similar” to the phrase “permanent WQC” to ensure another entity is permitting the same operations and maintenance. This phrase is explicitly defined in Section 82.002.

Comment 8: TES and ACEA commented that revisions to Section 82.931(g)(4) do not consider circumstances when a Notice of Termination (NOT) is submitted when responsibilities in subdivision construction transfer from the developer to a homebuilder. This type of transfer may occur prior to the certificate of compliance being issued at the end of the subdivision completion.

Travis County understands this type of predicament and responds by altering the wording in Section 82.931(g)(4) to track the TCEQ requirement for when NOTs can be submitted.

Comment 9: TES and ACEA commented that revisions to Section 82.936(d)(2), that outline new construction sequencing details and use of temporary sediment ponds allow some flexibility when a portion of drainage on a construction site does not drain to a primary pond.

Travis County agrees that some flexibility can be granted and has revised the requirement to allow for case-by-case exceptions that may be granted in consideration of topographic breaks on the site that isolate an area of small proportion or surface area from capture by the temporary sediment basin(s) primarily draining the site.

Comment 10: Austin suggested that Section 82.941(e) not be revised to delete the word “hiking” from “hiking trail” when referring to what can be placed within a CEF setback. Austin is concerned that multi-use trails should not be allowed in these sensitive areas.

Travis County proposed striking the word since the definition of “trail” in Section 82.002 is restrictive enough to prohibit activities other than hiking and similar passive uses. Nonetheless, to keep the restrictions of usage even clearer, the revision to delete “hiking” is no longer proposed.

Comment 11: Austin advised that certain minor floodplain modifications be allowed under Section 82.941(j)(6)(C), based on feedback from the stakeholder group involved in the recent Watershed Protection Ordinance effort by the city. The suggested allowance relates to development pre-existing in a waterway setback.

Travis County agrees with the recommendation and has added “or that are necessary for pre-existing development already allowed in the waterway setback” so that the County Executive can allow for such modifications on a case-by-case basis.

Comment 12: SOSA raised concerns with the proposal in Section 82.942(d) that would allow Travis County to waive submittal of an Environmental Resource Inventory, indicating the circumstances for waiver were not specific.

Travis County had proposed that it would consider waiver based upon the inventory being “unnecessary because of the scope, nature, or known site conditions”. In response to the comment, the justification requirements and circumstances are made clearer by tracking existing waiver considerations allowed by the Austin. Essentially, a waiver or partial waiver will be based upon the absence of critical environmental features and aquatic sites on or near the site.

Comment 13: On Section 82.951, SOSA and Baer Engineering disagreed with the proposal to eliminate post-rainfall SWP3 inspections citing the need to quickly determine the adequacy of BMPs. Baer also commented that early assessment of BMP damage from a storm needed repair as soon as possible in case another significant storm occurred.

Travis County proposed the change to address a logistical issue wherein 3rd party SWP3 inspectors are having difficulty inspecting all sites under their purview within 48 hours and then returning again to conduct the ordinary weekly SWP3 inspection. It was not the intent of Travis County to eliminate all post-rainfall site monitoring; only the SWP3 inspections. In response, the regulation now more clearly identifies that the site owner, operator, or a designee must conduct a post-rainfall inspection, commence corrective action, and provide the findings to the SWP3 inspector.

Comment 14: SOSA also commented that the requirement in Section 82.952 to submit the SWP3 inspection reports to Travis County not be eliminated.

Travis County did not eliminate this requirement. In fact, the submittal under current requirements makes submittal at the discretion of a County inspector. Under the proposal in Section 82.152, the weekly SWP3 reports must be submitted.

Comment 15: HCA commented on the definition of “restoration” recommending that restoring disturbed soil should include seeding and stabilization using native vegetation.

In response, the definition was revised to indicate use of native vegetation whenever feasible.

Comment 16: HCA commented on an exception to the development intensity requirements for a proposed subdivision using groundwater in Section 82.216(a)(1)(A). The exception from is from an impervious cover limit of 45% for a commercial development that has access to a state highway. HCA is concerned that an excessive quantity of groundwater could be used.

Travis County adopted this exception in early 2012 after an extensive stakeholder process in 2011 relating to groundwater availability. Revising the groundwater availability requirements other than the rule citation corrections is outside the scope of this current rule making.